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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 86-325]

Imported Fire Ant Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the list of generally infested areas under the imported fire ant quarantine and regulations by designating previously nonregulated areas in Arkansas and South Carolina as generally infested areas and by expanding the previously designated generally infested areas in Alabama, Arkansas, Georgia, Mississippi, and South Carolina. In addition, this document makes certain other nonsubstantive, editorial changes. This section is necessary as an emergency measure in order to impose certain restrictions on the interstate movement of regulated articles for the purpose of preventing the artificial spread of the imported fire ant.

DATES: Effective date of this interim rule July 28, 1986. Written comments concerning this interim rule must be received on or before September 26, 1986.

ADDRESSES: Written comments should be submitted to Steven R. Poore, Acting Assistant Director, Regulatory Coordination Group, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728 Federal Building, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86-325. 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: Charles H. Bare, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, Hyattsville, MD 20782, 301-436-8295.

SUPPLEMENTARY INFORMATION:

Background

The imported fire ant (*Solenopsis* spp.) is an insect that interferes with farming operations, can cause damage to certain crops, and is a pest of livestock and pets, as well as of people, in rural and urban areas.

The imported fire ant quarantine and regulations (contained in 7 CFR 301.81 through 301.81-10; referred to below as "the regulations") quarantine the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, and Texas because of the imported fire ant; and restrict the interstate movement of regulated articles from regulated areas in these States in order to prevent the artificial spread of the imported fire ant.

Under the regulations, an area may be designated as a regulated area if it is an area in which the imported fire ant has been found, or in which there is reason to believe that the imported fire ant is present, or which it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Regulated areas are divided into suppressive areas and generally infested areas. Suppressive areas are regulated areas in which eradication of the imported fire ant is undertaken as an objective. Generally infested areas and are regulated areas not designated as suppressive areas. Restrictions are imposed on the interstate movement of regulated articles from both generally infested areas suppressive areas in order to prevent the artificial movement of the imported fire ant into noninfested areas, and to prevent the reinfestation of suppressive areas where the imported fire ant is being eradicated.

Newly Designated Regulated Areas

This document adds previously nonregulated areas in Dallas, Hempstead, Jefferson, Lincoln, Little River, and Nevada, Counties in Arkansas; and Chesterfield, Chester, Saluda, and Union Counties in South Carolina to the list of generally infested areas in § 301.81-2a of the regulations.

This document also amends § 301.81-2a of the regulations by expanding the areas currently listed as generally infested areas in Colbert, Lauderdale, Lawrence, and Marshall Counties in Alabama; Cleveland County in Arkansas; Bartow and Chattooga Counties in Georgia; Lafayette, Panola, Tallahatchie, and Tippah Counties in Mississippi; and Marlboro, McCormick, and Newberry Counties in South Carolina. For the specific geographical description of these areas see the rule portion of this document.

Surveys conducted by inspectors of the United States Department of Agriculture and officials of State agencies have established that the imported fire ant has spread to the areas added as generally infested areas in Alabama, Arkansas, Georgia, Mississippi, and South Carolina. Also, eradication of the infestation is not undertaken as an objective in these areas. Therefore, as an emergency measure, it is necessary to add or expand areas as imported fire ant generally infested areas and impose restrictions on the interstate movement of regulated articles from these areas in order to prevent the artificial spread of the imported fire ant.

Emergency Action

The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergeny situation exists which warrants publication without prior opportunity for a public comment period on this interim rule. Because of the possibility that the imported fire ant could be spread artificially to noninfested areas of the United States, a situation exists requiring immediate action to control the spread of this pest.

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any

amendments required will be published in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

This interim rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will have an estimated annual effect on the economy of approximately $4,700; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause 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.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

The action affects the interstate movement of regulated articles from specified areas in the States of Alabama, Arkansas, Georgia, Mississippi, and South Carolina. There are thousands of small entities that move such articles interstate from the above mentioned States and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the Department, it has been determined that approximately 34 small entities move such articles interstate from the specified areas in those States. Further, the overall economic impact from this action is estimated to be approximately $4,700.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V)

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (agriculture), Quarantine, Transportation, Imported Fire Ant.

PART 301—DOMESTIC QUARANTINE NOTICES

Under the circumstances referred to above, the Imported Fire Ant quarantine and regulations (contained in 7 CFR 301.81 *et seq.*) are amended as follows:

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 301.81–2a is revised to read as follows:

§ 301.81–2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as imported fire ant regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

Alabama

(1) *Generally infested areas.*

Autauga County. The entire county.
Baldwin County. The entire county.
Barbour County. The entire county.
Bibb County. The entire county.
Blount County. The entire county.
Bullock County. The entire county.
Butler County. The entire county.
Calhoun County. The entire county.
Chambers County. The entire county.
Cherokee County. That portion of the county lying south of the north line of T. 9 S.
Chilton County. The entire county.
Choctaw County. The entire county.
Clarke County. The entire county.
Clay County. The entire county.
Cleburne County. The entire county.
Coffee County. The entire county.
Colbert County. The entire county.
Conecuh County. The entire county.
Coosa County. The entire county.
Covington County. The entire county.
Crenshaw County. The entire county.
Cullman County. The entire county.
Dale County. The entire county.
Dallas County. The entire county.
De Kalb County. T. 8 and 9 S., R 5 E; W. ⅓ T. 8 and 9 S., R. 6 E; Secs. 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, and 36. T. 9 S., R. 6 E. T.8 and 9 S., R. 7 E.; T. 8 and 9 S., R. 8 E; Secs. 26 and 35, T. 7 S., R 7 E; Secs. 9, 10, 15 and 16, T. 7 S; R. 8 E.
Elmore County. The entire county.
Escambia County. The entire county.
Etawah County. The entire county.
Fayette County. The entire county.
Franklin County. The entire county.
Geneva County. The entire county.
Greene County. The entire county.
Hale County. The entire county.
Henry County. The entire county.
Houston County. The entire county.
Jefferson County. The entire county.
Lamar County. The entire county.
Lauderdale County. T. 2 S., R. 10, 11, 12, 13, 14 and 15 W.; T. 3 S., R. 9, 10, 11, 12 and 13 W.
Lawrence County. The entire county.
Lee County. The entire county.
Limestone County. S. ½ T. 3 S., R. 6 W.; W. ½ T. 4 S., R. 5 W.; T. 4 S., R. 6 W.; T. 5 S., R. 4 W.
Lowndes County. The entire county.
Macon County. The entire county.
Madison County. T. 6 S., R. 2 and 3 E.; T. 5 S., R. 3 E.
Marengo County. The entire county.
Marion County. The entire county.
Marshall County. That portion of the county lying south of the north line of T. 8 S.; T. 7 S., R. 1, 2 and 3 E.; and T. 6 S., R. 1 and 2 E.
Mobile County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Morgan County. T. 4 S., R. 5 W.; T. 5 S., R. 4 and 5 W.; T. 6 S., R. 4 and 5 W.; and that portion of the county lying south of the north line of T. 7 S.
Perry County. The entire county.
Pickens County. The entire county.
Pike County. The entire county.
Randolph County. The entire county.
Russell County. The entire county.
St. Clair County. The entire county.
Shelby County. The entire county.
Sumter County. The entire county.
Talladega County. The entire county.
Tallapoosa County. The entire county.
Tuscaloosa County. The entire county.
Walker County. The entire county.
Washington County. The entire county.
Wilcox County. The entire county.
Winston County. The entire county.

(2) *Suppressive areas.* None

Arkansas

(1) *Generally infested areas.*

Ashley County. The entire county.
Bradley County. The entire county.
Calhoun County. The entire county.
Chicot County. The entire county.
Cleveland County. The entire county.
Columbia County. The entire county.
Dallas County. That portion of T. 10 S., R. 13 W., and T. 10 S., R 12 W. (West of Moro Creek).
Desha County. That portion of the county lying south of the south line of T. 10 S.
Drew County. The entire county.
Hempstead County. That portion of the county south of Interstate 30 including all of the incorporated city limits of Hope.
Jefferson County. Secs. 30, 31 and that part of secs. 29, 32, and 33 south and east of the Arkansas River of T. 5 S., R. 8 W.; secs. 25 and 36 of T. 5 S., R. 9 W.; secs. 8, 9, 10, 11, 14, 15, 16, and 17 of T. 6 S., R. 8 W.
Lafayette County. The entire county.
Lincoln County. That portion of the county south of State Road 114 and west of State Road 81, including all of the incorporated city limits of Palmyra and Star City.
Little River County. The entire county.
Miller County. The entire county.

Nevada County. That portion of the county, south of the south line of T. 10 S. and the Little Missouri River.
Ouachita County. The entire county.
Union County. The entire county.
(2) *Suppressive areas.* None.

Florida

(1) *Generally infested areas.* The entire State.
(2) *Suppressive areas.* None.

Georgia

(1) *Generally infested areas.*
Appling County. The entire county.
Atkinson County. The entire county.
Bacon County. The entire county.
Baker County. The entire county.
Baldwin County. The entire county.
Barrow County. That portion of the county in Georgia Militia District 316 south of U.S. Highway 29, excluding the corporate city limits of Auburn and Carl.
Bartow County. The entire county.
Ben Hill County. The entire county.
Berrien County. The entire county.
Bibb County. The entire county.
Bleckley County. The entire county.
Brantley County. The entire county.
Brooks County. The entire county.
Bryan County. The entire county.
Bulloch County. The entire county.
Burke County. The entire county.
Butts County. The entire county.
Calhoun County. The entire county.
Camden County. The entire county.
Candler County. The entire county.
Carroll County. The entire county.
Charlton County. The entire county.
Chatham County. The entire county.
Chattachoochee County. The entire county.
Chattooga County. That portion of the county lying within Georgia Militia Districts 925, 961, 968, 1083, 1216, 1484.
Cherokee County. That portion of the county lying within Georgia Militia District 817.
Clarke County. That portion of the county in Georgia Militia District 1467 outside the corporate limits of Athens.
Clay County. The entire county.
Clayton County. The entire county.
Clinch County. The entire county.
Cobb County. The entire county.
Coffee County. The entire county.
Colquitt County. The entire county.
Columbia County. The entire county.
Cook County. The entire county.
Coweta County. The entire county.
Crawford County. The entire county.
Crisp County. The entire county.
Decatur County. The entire county.
De Kalb County. The entire county.
Dodge County. The entire county.
Dooly County. The entire county.
Dougherty County. The entire county.
Douglas County. The entire county.
Early County. The entire county.
Echols County. The entire county.
Effingham County. The entire county.
Emanuel County. The entire county.
Evans County. The entire county.
Fayette County. The entire county.
Floyd County. That portion of the county lying within Georgia Militia Districts 829, 855, 859, 919, 923, 924, 962, 1048, 1059, 1120, 1453, 1478, 1504, 1562, 1688, 1719, and 1822.
Forsyth County. That portion of the county lying within Georgia Militia Districts 879, 1276, and 795.
Fulton County. The entire county.
Glascock County. The entire county.
Glynn County. The entire county.
Grady County. The entire county.
Greene County. The entire county.
Gwinnett County. The entire county.
Hall County. That portion of the county lying within Georgia Militia Districts 413, 1270, and 1419.
Hancock County. The entire county.
Haralson County. The entire county.
Harris County. The entire county.
Heard County. The entire county.
Henry County. The entire county.
Houston County. The entire county.
Irwin County. The entire county.
Jasper County. The entire county.
Jeff Davis County. The entire county.
Jefferson County. The entire county.
Jenkins County. The entire county.
Johnson County. The entire county.
Jones County. The entire county.
Lamar County. The entire county.
Lanier County. The entire county.
Laurens County. The entire county.
Lee County. The entire county.
Liberty County. The entire county.
Lincoln County. That portion of the county lying within Georgia Militia Districts 182, 183, 184, 185, 186, and 269.
Long County. The entire county.
Lowndes County. The entire county.
Macon County. The entire county.
Marion County. The entire county.
McDuffie County. The entire county.
McIntosh County. The entire county.
Meriwether County. The entire county.
Miller County. The entire county.
Mitchell County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Morgan County. The entire county.
Muscogee County. The entire county.
Newton County. The entire county.
Oconee County. The entire county.
Oglethorpe County. That portion of the county lying within Georgia Militia Districts 227, 228, 229, 230, 232, and 234.
Paulding County. The entire county.
Peach County. The entire county.
Pierce County. The entire county.
Pike County. The entire county.
Polk County. The entire county.
Pulaski County. The entire county.
Putnam County. The entire county.
Quitman County. The entire county.
Randolph County. The entire county.
Richmond County. The entire county.
Rockdale County. The entire county.
Schley County. The entire county.
Screven County. The entire county.
Seminole County. The entire county.
Spalding County. The entire county.
Stewart County. The entire county.
Sumter County. The entire county.
Talbot County. The entire county.
Taliaferro County. The entire county.
Tattnall County. The entire county.
Taylor County. The entire county.
Telfair County. The entire county.
Terrell County. The entire county.
Thomas County. The entire county.
Tift County. The entire county.
Toombs County. The entire county.
Treutlen County. The entire county.
Troup County. The entire county.
Turner County. The entire county.
Twiggs County. The entire county.
Upson County. The entire county.
Walton County. The entire county.
Ware County. The entire county.
Warren County. The entire county.
Washington County. The entire county.
Wayne County. The entire county.
Webster County. The entire county.
Wheeler County. The entire county.
Wilcox County. The entire county.
Wilkes County. That portion of the county lying within Georgia Militia Districts 184, 168, 169, 171, 174, 175, 176, and 177.
Wilkinson County. The entire county.
Worth County. The entire county.
(2) *Suppressive areas.* None.

Louisiana

(1) *Generally infested areas.* The entire State.
(2) *Suppressive areas.* None.

Mississippi

(1) *Generally infested areas.*
Adams County. The entire county.
Alcorn County. The entire county.
Amite County. The entire county.
Attala County. The entire county.
Benton County. That portion of the county lying south of the north line of T. 4 S.
Bolivar County. T. 20 N., R. 6, 7, and 8 W.; T. 21 N., R. 5, 6, and 7 W., and S. ½ T. 22 N., R. 6 W.
Carroll County. The entire county.
Calhoun County. The entire county.
Chickasaw County. The entire county.
Choctaw County. The entire county.
Claiborne County. The entire county.
Clarke County. The entire county.
Clay County. The entire county.
Copiah County. The entire county.
Covington County. The entire county.
Forrest County. The entire county.
Franklin County. The entire county.
George County. The entire county.
Greene County. The entire county.
Grenada County. The entire county.
Hancock County. The entire county.
Harrison County. The entire county.
Hinds County. The entire county.
Holmes County. The entire county.
Humphreys County. The entire county.
Issaquena County. The entire county.
Itawamba County. The entire county.
Jackson County. The entire county.
Jasper County. The entire county.
Jefferson County. The entire county.
Jefferson Davis County. The entire county.
Jones County. The entire county.
Kemper County. The entire county.
Lafayette County. That portion of the county lying south of the north line of T. 10 S.; T. 9 S., R. 1, 2, 3, and 4, W.; T. 8 S., R. 1, 2, and 3, W.; T. 7 S., R. 1 W., and S.E. ¼, T. 6 S., R. 3 W.
Lamar County. The entire county.
Lauderdale County. The entire county.
Lawrence County. The entire county.
Leake County. The entire county.
Lee County. The entire county.
Leflore County. That portion of the county lying south of the north line of T. 19 N.; S. ½

of T. 20 N., R. 1 E.; and that portion of T. 20 and 21 N., R. 2 E. lying in the county.

Lincoln County. The entire county.

Lowndes County. The entire county.

Madison County. The entire county.

Marion County. The entire county.

Monroe County. The entire county.

Montgomery County. The entire county.

Neshoba County. The entire county.

Newton County. The entire county.

Noxubee County. The entire county.

Oktibbeha County. The entire county.

Panola County. That portion of T. 10 S., R. 5 W. lying in the county and T. 10 S., R. 6 and 7 W.

Pearl River County. The entire county.

Perry County. The entire county.

Pike County. The entire county.

Pontotoc County. The entire county.

Prentiss County. The entire county.

Rankin County. The entire county.

Scott County. The entire county.

Sharkey County. The entire county.

Simpson County. The entire county.

Smith County. The entire county.

Stone County. The entire county.

Sunflower County. That portion of the county lying south of the north line of T. 19 and 20 N., R. 5 W.

Tallahatchie County. That portion of the county lying south of the north line of T. 24 N., and east of the west line of R. 2 E., and T. 25 N., R. 3 E.

Tippah County. That portion of the county lying south of the north line of T. 3 S., and T. 1 and 2 S., R. 4 E.

Tishomingo County. The entire county.

Union County. The entire county.

Walthall County. The entire county.

Warren County. The entire county.

Washington County. The entire county.

Wayne County. The entire county.

Webster County. The entire county.

Wilkinson County. The entire county.

Winston County. The entire county.

Yalobusha County. The entire county.

Yazoo County. The entire county.

(2) *Suppressive areas.* None.

North Carolina

(1) *Generally infested areas.*

Anson County. That portion of the county bounded by a line beginning at the intersection of State Secondary Road 1756 and the Pee Dee River; then southwesterly along said road to its intersection with State Secondary Road 1744; then southerly along said road to its intersection with State Secondary Road 1730; then west along said road to its intersection with State Secondary Road 1801; then southeasterly along said road to its intersection with State Highway 145; then northeasterly along said highway to its intersection with U.S. Highway 74; then east along said highway to its intersection with State Secondary Road 1748; then north along said road to its intersection with the Pee Dee River; then northwesterly along said river to the point of beginning.

Beaufort County. That portion of the county bounded by a line beginning where U.S. Highway 17 intersects the Beaufort-Craven County line; then north along said highway to its intersection with State Secondary Road 1127; then easterly along said road to its intersection with State Highway 33; then northwesterly along said highway to its intersection with State Secondary Road 1124; then easterly along said road to its intersection with State Secondary Road 1123; then northwesterly along said road to its intersection with State Secondary Road 1177; then northeasterly along said road to the Pamlico River; then southeasterly along said river to Upper Goose Creek; then north along said creek to its intersection with State Secondary Road 1365; then north along said road to its intersection with State Secondary Road 1332; then north along said road to its intersection with State Secondary Road 1331; then easterly along said road to its intersection with U.S. Highway 264; then easterly along said highway to its intersection with Pungo Creek; then southeasterly along said creek to the Pungo River and the Beaufort-Hyde County line; then southeasterly along said county line to its intersection with the Beaufort-Pamlico County line; then westerly, southerly, and northwesterly along said county line to the Beaufort-Craven County line; then northwesterly along said county line to the point of beginning.

Bladen County. That portion of the county bounded by a line beginning at a point where Bladen, Columbus, and Robeson County lines intersect; then northerly along the Bladen-Robeson County line to its intersection with Black Reedy Meadow Creek; then east along said creek to its intersection with State Highway 131; then southeast along said highway to its intersection with State Highway 41; then easterly along said highway to its intersection with U.S. Highway 701; then northeast along said highway to its intersection with the Cape Fear River; then east along said river to its intersection with Turnbull Creek, then northerly along said creek to its intersection with U.S. Highway 701; then easterly and northeasterly along said highway to its intersection with the Bladen-Sampson County line; then southeasterly along said county line to its intersection with the Bladen-Pender County line, then southerly and southwesterly along said county line to its intersection with the Bladen-Columbus County line; then southwest, northwest and west along said county line to the point of beginning.

Brunswick County. The entire county.

Carteret County. The entire county.

Columbus County. The entire county.

Craven County. That portion of the county bounded by a line beginning at a point where State Secondary Road 1266 intersects the Craven-Jones County line; then east along said road to its intersection with State Secondary Road 1262, then northeasterly along said road to its intersection with State Secondary Road 1258; then southeasterly along said road to its intersection with State Secondary Road 1256; then southeasterly along said road to its intersection with State Secondary Road 1251; then northeast along said road to its intersection with State Highway 55; then southeast along said highway to its intersection with Cove Creek; then northerly along said creek to its intersection with the Nuese River; then southeasterly along said river to its intersection with State Secondary Road 1449; then northeast along said road to its intersection with State Secondary Road 1400; then north along said road to its intersection with State Secondary Road 1448; then northeasterly along said road to its intersection with State Secondary Road 1444; then northerly along said road to its intersection with State Secondary Highway 118; then easterly along said road to its intersection with State Secondary Road 1654; then easterly along said road to its intersection with Business U.S. Highway 17; then north along said highway to its intersection with State Secondary Road 1638; then easterly along said road to its intersection with Craven-Beaufort County line; then southeast along said county line to its intersection with the Craven-Pamlico County line; then southerly and easterly along said county line to its intersection with the Craven-Carteret County line; then southeasterly and southwesterly along said county line to its intersection with the Craven-Jones County line; then north and west along said county line to the point of beginning.

Duplin County. That area bounded by a line beginning at the intersection of the Duplin-Sampson County line with State Secondary Road 1130; then east along said road to its intersection with State Secondary Road 1129; then northeast along said road to its intersection with State Highway 41; then southeast along said highway to its intersection with State Highway 11; then northerly along said highway to its intersection with State Secondary Road 1555; then northeast along said road to its intersection with State Secondary Road 1553; then southeasterly along said road to its intersection with State Secondary Road 1551; then east along said road to its intersection with State Secondary Road 1549; then southerly along said road to its intersection with State Highway 11; then east along said highway to its intersection with the Duplin-Lenoir County line; then southerly along said county line to its intersection with the Duplin-Jones County line; then southeast along said county line to its intersection with the Duplin-Onslow County line; then southerly along said county line to its intersection with the Duplin-Pender County line; then west along said county line to its intersection with the Duplin-Sampson County line; then westerly along said county line to the point of beginning.

Jones County. The entire county.

Lenoir County. That portion of the county bounded by a line beginning at a point where State Secondary Road 1165 intersects the Lenoir-Duplin County line; then east along said road to its intersection with State Secondary Road 1111; then south along said road to its intersection with State Secondary Road 1112; then east along said road to its intersection with State Highway 11; then north along said highway to its intersection with State Secondary Road 1116; then east along said road to its intersection with State Secondary Road 1130; then northeasterly along said road to its intersection with State Secondary Road 1136; then east along said road to its intersection with State Secondary Road 1137; then northeasterly along said road to its intersection with State Secondary Road

1925; then east along said road to its intersection with State Secondary Road 1912; then north along said road to its intersection with State Secondary Road 1913; then easterly along said road to its intersection with State Secondary Road 1903; then south along said road to its intersection with State Secondary Road 1915; then southeasterly along said road to the Lenoir-Jones County line; then southerly along said county line to the Lenoir-Duplin County line; then northerly along said county line to the point of beginning.

New Hanover County. The entire county.
Onslow County. The entire county.
Pamlico County. The entire county.
Pender County. The entire county.
Robeson County. That portion of the county bounded by a line beginning at a point where the Seaboard Coastline Railroad intersects the North Carolina-South Carolina State line; then northeast along said railroad to its intersection with the Lumber River; then southeast and east along said river to its intersection with State Secondary Road 1003; then northeast along said road to its intersection with State Highway 211; then east along said highway to its intersection with State Highway 41; then east along said highway to its intersection with the Robeson-Bladen County line; then southeast along the Robeson County line to its junction with the North Carolina-South Carolina State line; then northwest along said State line to the point of beginning.

Sampson County. That portion of the county bounded by a line beginning at a point where U.S. Highway 701 intersects the Sampson-Bladen County line; then east along an imaginary line to the intersection of State Secondary Road 1132 and State Secondary Road 1113; then easterly along State Secondary Road 1133 to its intersection with State Highway 411; then east and south along said highway to its intersection with State Secondary Road 1125; then south along said road to its intersection with State Highway 41; then east along said highway to its intersection with U.S. Highway 421; then north along said highway to the Sampson-Duplin County line; then easterly along said county line to the Sampson-Pender County line; then southwesterly along said county line to the Sampson-Bladen County line; then northwesterly along said county line to the point of beginning.

(2) *Suppressive areas.* None.

South Carolina

(1) *Generally infested areas.*
Aiken County. The entire county.
Allendale County. The entire county.
Bamberg County. The entire county.
Barnwell County. The entire county.
Beaufort County. The entire county.
Berkeley County. The entire county.
Calhoun County. The entire county.
Charleston County. The entire county.
Chesterfield County. The entire county.
Clarendon County. The entire county.
Chester County. That portion of the county bounded by a line beginning at a point where State Primary Highway 72 intersects with the Chester-Union County line; then northeast along said highway to its junction with State Primary Highway 9; then easterly along said highway to its intersection with the Chester-Lancaster County line; then south along said county line to its junction with the Chester-Fairfield County line; then west along said county line to the Union County line; then north along said county line to the point of beginning.
Colleton County. The entire county.
Darlington County. The entire county.
Dillon County. The entire county.
Dorchester County. The entire county.
Edgefield County. The entire county.
Fairfield County. The entire county.
Florence County. The entire county.
Georgetown County. The entire county.
Hampton County. The entire county.
Horry County. The entire county.
Jasper County. The entire county.
Kershaw County. The entire county.
Lancaster County. The entire county.
Lee County. The entire county.
Lexington County. The entire county.
Marion County. The entire county.
Marlboro County. The entire county.
McCormick County. That portion of the county bounded by a line beginning at a point where U.S. Highway 378 junctions with the Clark Hill Reservoir; then northeast along said highway to its intersection with the McCormick-Edgefield County line; then southerly along said county line to its junction with the Savannah River; then northwesterly along said river and Clark Hill Reservoir to the point of beginning.
Newberry County. That portion of the county bounded by a line beginning at a point where U.S. Highway 76 intersects with the Newberry-Laurens County line; then northeasterly, easterly, southerly, and westerly along the Newberry County line to its intersection with State Primary Highway 121; then north along said highway to its junction with State Primary Highway 34; then northeast along said highway to its junction with U.S. Highway 76; then northwest along said highway to the point of beginning.
Orangeburg County. The entire county.
Richland County. The entire county.
Saluda County. The entire county.
Sumter County. The entire county.
Union County. That portion of the county bounded by a line beginning at a point where State Primary Highway 72 intersects with the Union-Newberry County line; then northeast along said highway to its junction with the Broad River; then south along said river to its junction with the Newberry County line; then west and north along said county line to the point of beginning.
Williamsburg County. The entire county.
(2) *Suppressive areas.* None.

Texas

(1) *Generally infested areas.*
Anderson County. The entire county.
Angelina County. The entire county.
Aransas County. The entire county.
Atascosa County. The entire county.
Austin County. The entire county.
Bandera County. That portion of the county bounded by a line beginning at a point where Texas Highway 16 intersects the Bandera-Kerr County line; then southeasterly along said county line to its junction with the Bandera-Kendall County line; then southeasterly along said county line to its junction with the Bandera-Bexar County line; then southwesterly along said county line to its junction with the Bandera-Medina County line; then southwesterly, westerly, northerly, and westerly along said county line to its intersection with Farm to Market Road 689; then northerly along said road to its intersection with Texas Highway 16, then northwesterly along said highway to the point of beginning, including the towns of Bandera and Medina.
Bastrop County. The entire county.
Bee County. That portion of the county bounded by a line beginning at a point where U.S. Highway 59 intersects with the Bee-Live Oak County line; then easterly along said highway to its intersection with Farm to Market Road 351; then southeasterly along said road to its junction with State Highway 202; then easterly along said highway to its intersection with the Bee-Refugio County line; then southwesterly along said county line to its junction with the Bee-San Patricio County line; then southwesterly and northwesterly along said county line to its junction with the Bee-Live Oak County line; then northeasterly and northwesterly along said county line to the point of beginning, but excluding the city of Beeville.
Bell County. The entire county.
Bexar County. The entire county.
Blanco County. The entire county.
Bowie County. That portion of the county bounded by a line beginning at a point where Farm to Market Road 2148 intersects Interstate Highway 30; then easterly along said highway to its intersection with the Texas-Arkansas State line; then southerly along said State line to its intersection with Sulphur River; then northwesterly and westerly along said river to its intersection with U.S. Highway 59; then northerly along said highway to its junction with Farm to Market Road 2148; then northerly along said road to the point of beginning.
Brazoria County. The entire county.
Brazos County. The entire county.
Burleson County. The entire county.
Caldwell County. The entire county.
Calhoun County. The entire county.
Camp County. That area within a circle having a radius of 3 miles with the center at the intersection of loop 238 and State Highway 11.
Cass County. That portion of the county lying east of U.S. Highway 59 including the cities of Atlanta and Queen City, but excluding the city of Linden.
Chambers County. The entire county.
Cherokee County. The entire county.
Collin County. The entire county.
Colorado County. The entire county.
Comal County. The entire county.
Dallas County. The entire county.
Denton County. The entire county.
De Witt County. The entire county.
Ellis County. The entire county.
Falls County. The entire county.
Fayette County. The entire county.
Fort Bend County. The entire county.
Freestone County. The entire county.
Frio County. That portion of the county bounded by a line beginning at a point where Farm to Market Road 462 intersects the Frio-Median County line; then east along said

county line to its junction with the Frio-Atascosa County line; then south along said county line to its junction with the Frio-LaSalle County line; then west along said county line to its intersection with Farm to Market Road 1582; then northwest along said road to its junction with U.S. Highway 81; then northeast along said highway to its intersection with Farm to Market Road 140; then northwesterly along said road to its intersection with Interstate Highway 35; then northerly along said highway to its intersection with Farm to Market Road 462; then northwest along said road to the point of beginning, including the city of Pearsall and the town of Moore.

Galveston County. The entire county.
Gillespie County. The entire county.
Goliad County. The entire county.
Gonzales County. The entire county.
Grayson County. That portion of the county lying south of a line beginning at a point where State Highway 56 intersects the Cooke-Grayson County line; then east along said highway to its junction with U.S. Highway 82; then east along said highway to its intersection with the Grayson-Frannin County line, but excluding the city of Sherman and the towns of Whitesboro, Southmayd, and Bells.
Gregg County. The entire county.
Grimes County. The entire county.
Guadalupe County. The entire county.
Hardin County. The entire county.
Harris County. The entire county.
Harrison County. The entire county.
Hays County. The entire county.
Henderson County. That portion of the county lying east of a line beginning at a point where Farm to Market Road 314 intersects the Van Zandt-Henderson County line; then south along said road to its junction with Farm to Market Road 315; then southwesterly along said road to its junction with the Henderson-Anderson County line, but excluding the cities of Brownsboro, Moor Station and Poynor.
Hill County. The entire county.
Houston County. The entire county.
Jackson County. The entire county.
Jasper County. The entire county.
Jefferson County. The entire county.
Jim Wells County. That portion of the county lying north of a line beginning at a point where Farm to Market Road 2295 intersects the Jim Wells-Duval County line; then southeast and east along said road to its junction with State Highway 141; then east along said highway to its intersection with the Jim Wells-Kelberg County line; but excluding the city of San Diego.
Johnson County. The entire county.
Kendall County. The entire county.
Kerr County. The entire county.
Kleberg County. The entire county.
Lavaca County. The entire county.
Lee County. The entire county.
Leon County. The entire county.
Liberty County. The entire county.
Limestone County. The entire county.
Live Oak County. The entire county.
Madison County. The entire county.
Marion County. The entire county.
Matagorda County. The entire county.
McLennon County. The entire county.
Medina County. That portion of the county bounded by a line beginning at a point where Texas Farm to Market Road 689 intersects the Medina-Bandera County line; then easterly, southerly, and northeasterly along said county line to its junction with the Medina-Bexar County line; then south along said county line to its junction with the Medina-Frio County line; then west along said county line to its intersection with Texas Farm to Market Road 462; then northwest and north along said road to its intersection with U.S. Highway 90; then east along said highway to its junction with Texas Farm to Market Road 689; then northerly along said highway to the point of beginning, excluding the towns of Yancey and Hondo.
Milan County. The entire county.
Montgomery County. The entire county.
Nacogdoches County. The entire county.
Navarro County. The entire county.
Newton County. The entire county.
Nueces County. The entire county.
Orange County. The entire county.
Panola County. The entire county.
Polk County. The entire county.
Rains County. The portion of the county bounded by a line beginning at a point where U.S. Highway 69 intersects the Rains-Hunt County line; then southeasterly along said highway to its junction with Farm to Market Road 47; then southerly and southwesterly along said road to it intersection with the Rains-Van Zandt County line; then northwesterly along said county line to its junction with the Rains-Hunt County line; then northerly and easterly along said county line to the point of beginning, but excluding the city of Point.
Refugio County. The entire county.
Robertson County. The entire county.
Rockwall County. The entire county.
Rusk County. The entire county.
Sabine County. The entire county.
San Augustine County. The entire county.
San Jacinto County. The entire county.
San Patricio County. The entire county.
Shelby County. The entire county.
Smith County. The entire county.
Tarrant County. The entire county.
Travis County. The entire county.
Trinity County. The entire county.
Tyler County. The entire county.
Upshur County. The entire county.
Victoria County. The entire county.
Walker County. The entire county.
Waller County. The entire county.
Washington County. The entire county.
Wood County. The entire county.

(2) *Suppressive areas.* None.

Done at Washington, D.C., this 23rd day of July 1986.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86-16852 Filed 7-25-86; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1204

Administrative Authority and Policy

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: 14 CFR Part 1204 is amended by revising § 1204.503, "Delegation of Authority—To Grant Easements." The text in § 1204.503 is revised to reflect NASA's current organizational setting.

EFFECTIVE DATE: July 28, 1986.

FOR FURTHER INFORMATION CONTACT: James M. Bayne, 202-453-1950.

SUPPLEMENTARY INFORMATION: Since this revision involves only agency and management procedures, no public comment period is required.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of entities.

2. This rule is not a major rule as define in Executive Order 12291.

List of Subjects in 14 CFR Part 1204

Airports, Authority delegations (Government agencies), Federal buildings and facilities, Government contracts, Government employees, Government procurement, Grant programs science and technology, Intergovernmental regulations, Labor unions, Security measures, Small businesses.

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

For reasons set out in the Preamble, 14 CFR Part 1204 is amended as follows:

1. The authority citation for Subpart 5 is revised to read as follows:

Authority: 40 U.S.C. 319 to 319C and 42 U.S.C. 2473.

2. Section 1204.503 is revised to read as follows:

§ 1204.503 Delegation of authority to grant easements.

(a) *Scope.* 40 U.S.C. 319 to 319C authorizes executive agencies to grant, under certain conditions, the easements as the head of the agency determines will not be adverse to the interests of the United States and subject to the provisions as the head of the agency deems necessary to protect the interests of the United States.

(b) *Delegation of authority.* The Associate Administrator for Management and the Director, Facilities Engineering Division, are delegated authority to take actions in connection with the granting of easements.

(c) *Definitions.* The following definitions will apply:

(1) "State" means the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(2) "Person" includes any corporation, partnership, firm, association, trust, estate, or other entity.

(d) *Determination.* It is hereby determined that grants of easements made in accordance with the provisions of this section will not be adverse to the interests of the United States.

(e) *Redelegation.* (1) The Directors of Field Installations with respect to real property under their supervision and management may, subject to the restrictions in paragraph (f) of this section, exercise the authority of the National Aeronautics and Space Act of 1958, as amended, and 40 U.S.C. 319 to 319C to authorize or grant easements in, over, or upon real property of the United States controlled by NASA as will not be adverse to the interests of the United States.

(2) The Directors of Field Installations may redelegate this authority to only two senior management officials of the appropriate field installation.

(f) *Restrictions.* Except as otherwise specifically provided, no such easement shall be authorized or granted under the authority stated in paragraph (e) of this section unless:

(1) The appropriate Director of the Field Installation determines:

(i) That the interest in real property to be conveyed is not required for a NASA program.

(ii) That the grantee's exercise of rights under the easement will not interfere with NASA operations.

(2) Monetary or other benefit, including any interest in real property, is received by the government as consideration for the granting of the easement.

(3) The instrument granting the easement provides:

(i) For the termination of the easement, in whole or in part, and without cost to the government, if there has been:

(A) A failure to comply with any term or condition of the grant;

(B) A nonuse of the easement for a consecutive 2-year period for the purpose for which granted; or

(C) An abandonment of the easement; or

(D) A determination by the Associate Administrator for Management, the Director, Facilities Engineering Division, or the appropriate Director of the Field Installation that the interests of the national space program, the national defense, or the public welfare require the termination of the easement; and a 30-day notice, in writing, to the grantee that the determinatioin has been made.

(ii) That written notice of the termination shall be given to the grantee, or its successors or assigns, by the Associate Administrator for Management, the Director, Facilities Engineering Division, or the appropriate Director of the Field Installation, and that termination shall be effective as of the date of the notice.

(iii) For any other reservations, exceptions, limitations, benefits, burdens, terms, or conditions necessary to protect the interests of the United States.

(g) *Waivers.* If, in connection with a proposed granting of an easement, the Director of a Field Installation determines that a waiver from any of the restrictions in paragraph (f) of this section is appropriate, authority for the waiver may be requested from the Associate Administrator for Management or the Director, Facilities Engineering Division.

(h) *Services of the Corps of Engineers.* In exercising the authority herein granted, the Directors of Field Installations, under the applicable provisions of any cooperative agreement between NASA and the Corps of Engineers (in effect at that time), may:

(1) Utilize the services of the Corps of Engineers, U.S. Army.

(2) Delegate authority to the Corps of Engineers to execute, on behalf of NASA, grants of easements in real property, as authorized in this section, provided that the conditions set forth in paragraphs (f) and (g) of this section are complied with.

(i) *Distribution of documents.* One copy of each document granting an easement interest under this authority, including instruments executed by the Corps of Engineers, will be forwarded for filing in the Central Depository for Real Property Documents to:

National Aeronautics and Space Administration, Real Estate Management Branch (Code NXG), Facilities Engineering Division, Washington, DC 20546

James C. Fletcher,

Administrator.

[FR Doc. 86-16709 Filed 7-25-86; 8:45 am]

BILLING CODE 7510-01-M

14 CFR Part 1204

Administrative Authority and Policy

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: 14 CFR Part 1204 is amended by revising § 1204.501, "Delegation of Authority—To Take Actions in Real Estate and Related Matters." The text in § 1204.501 is revised to reflect the current organizational setting.

EFFECTIVE DATE: July 28, 1986.

FOR FURTHER INFORMATION CONTACT: James M. Bayne, 202-453-1950.

SUPPLEMENTARY INFORMATION: Paragraph (a) of § 1204.501 is revised to identify who is delegated the authority and this eliminates the need for a separate paragraph for this purpose. Paragraph (a)(2) of this section is revised by:

1. Removing subparagraph (a)(2)(viii) regarding the issuing of certificates for housing since that has been discontinued;

2. Adding a new subparagraph (a)(2)(ii) to designate the permit authority found in the National Aeronautics and Space Act of 1958, as amended; and

3. Renumbering the subsequent subparagraphs that follow (a)(2)(ii).

Since this revision involves only agency organization and management procedures, no public comment period is required.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1204

Airports, Authority delegations (Government agencies), Federal buildings and facilities, Government contracts, Government employees, Government procurement, Grant programs science and technology, Intergovernmental relations, Labor unions, Security measures, Small businesses.

PART 1204—[AMENDED]

For reasons set out in the Preamble, 14 CFR Part 1204 is amended as follows:

1. The authority citation for Subpart 5 is revised to read as follows:

Authority: 40 U.S.C. 319 to 319C and 42 U.S.C. 2473.

2. Section 1204.501 is revised to read as follows:

§ 1204.501 Delegation of authority—to take actions in real estate and related matters.

(a) *Delegation of authority.* The Associate Administrator for Management and the Director, Facilities Engineering Division, are delegated authority, in accordance with applicable laws and regulations, and subject to conditions imposed by immediate superiors, to:

(1) Prescribe agency real estate policies, procedures, and regulations;

(2) Enter into and take other actions including, but not limited to, the following;

(i) Acquire (by purchase, lease, condemnation, or otherwise) fee and lesser interests in real property and, in the case of acquisition by condemnation, to sign declarations of taking.

(ii) Use, with their consent, the facilities of Federal and other agencies with or without reimbursement.

(iii) Determine entitlement to and quantum of, financial compensation under, and otherwise exercise the authority contained in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and regulations in implementation thereof.

(iv) Grant easements, leaseholds, licenses, permits, or other interests (wherever located) controlled by NASA.

(v) Grant the use of NASA-controlled real property and approve the acquisition and use of nongovernment owned real property for any NASA-related, nonappropriated fund activity purpose with the concurrence of the NASA Comptroller.

(vi) Sell and otherwise dispose of real property in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471, et seq).

(vii) Exercise control over the acquisition, utilization, and disposal of movable/relocatable structures including prefabricated buildings, commercial packaged accommodations, trailers, and other like items used as facility substitutes.

(viii) Request other government agencies to act as real estate agent for NASA.

(ix) Authorize other NASA officials to take specific implementing action with regard to any real property transaction included in the scope of authority delegated in paragraph (a)(2) of this section.

(b) *Redelegation.* (1) The authority delegated in paragraph (a)(1) of this section may not be redelegated.

(2) The authority delegated in paragraph (a)(2) of this section may be redelegated with power of further redelegation.

(c) *Reporting.* The officials to whom authority is delegated in this section shall ensure that feedback is provided to keep the Administrator fully and currently informed of significant actions, problems, or other matters of substance related to the exercise of the authority delegated hereunder.

James C. Fletcher,

Administrator.

[FR Doc. 86-16708 Filed 7-25-86; 8:45 am]

BILLING CODE 7510-01-M

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14 CFR Part 1251

Nondiscrimination on Basis of Handicap

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is revising 14 CFR Part 1251, "Nondiscrimination on the Basis of Handicap," to reflect the changes in the NASA organizational title from Director of the Office of Equal Opportunity to the Assistant Administrator for Equal Opportunity Programs for NASA.

EFFECTIVE DATE: July 28, 1986.

ADDRESS: Assistant Administrator for Equal Opportunity Programs, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Lynda Sampson, (202) 453-2177.

SUPPLEMENTARY INFORMATION: Since this revision involves only agency organizational changes, no public comment period is required.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1251

Civil rights, Handicapped.

For reasons set forth in the Preamble, 14 CFR Part 1251 is revised to read as follows:

PART 1251—NONDISCRIMINATION ON BASIS OF HANDICAP

Subpart 1251.1—General Provisions

Subpart 1251.2—Employment Practices

Subpart 1251.3—Program Accessibility

Subpart 1251.4—Procedures

Authority: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 374 (29 U.S.C. 794, Executive Order 11914 (41 FR 17871, April 28, 1976)).

Subpart 1251.1—General Provisions

§ 1251.100 Purpose.

This part effectuates section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 1251.101 Application.

This part applies to each recipient of Federal financial assistance from the National Aeronautics and Space Administration and to each program or activity that receives or benefits from such assistance.

§ 1251.102 Definitions.

As used in this part, the term:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(b) "Section 504" means section 504 of the Act.

(c) "Assistant Administrator" means the Assistant Administrator for Equal Opportunity Programs for NASA.

(d) "Recipient" means any state or its political subdivision, any

instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entry, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(e) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by a NASA official or by a recipient as a condition to becoming a recipient.

(f) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(g) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(h) "Handicapped person."

(1) "Handicapped persons" means any person who:

(i) Has a physical or mental impairment which substantially limits one or more major life activities;

(ii) Has a record of such an impairment; or

(iii) Is regarded as having such an impairment.

(2) As used in paragraph (h)(1) of this section, the phrase:

(i) "Physical or mental impairment" means:

(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means:

(A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(C) has none of the impairments defined in this paragraph but is treated by a recipient as having such an impairment.

(i) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(j) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (h) of this section.

§ 1251.103 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) *Discriminatory actions prohibited.*

(1) A recipient, in providing any aid, benefits, or services, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped persons and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Recipients shall take appropriate steps to ensure that no handicapped individual is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination in any program receiving or benefiting from Federal financial assistance because of the absence of auxiliary aids for individuals with impaired sensory, manual, or speaking skills.

(4) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(5) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) That have the effect of subjecting qualified handicapped persons to discrimination of the basis of handicap;

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons; or

(iii) That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(6) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections:

(i) That have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance; or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(7) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(8) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(c) *Programs limited by Federal law.* The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute of Executive order to handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

§ 1251.104 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Assistant Administrator, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to NASA.

(b) *Duration of obligation.*

(1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases, the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.*

(1) Where Federal financial assistance is provided in the form of real property or interest in the property from NASA, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (c)(3) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from NASA, the covenant shall also include a condition coupled with a right to be reserved by NASA to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing facilities on the property for the purposes for which the property was transferred, the Assistant Administrator may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as he or she deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

§ 1251.105 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.*

(1) If the Assistant Administrator finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this part, the recipient shall take such remedial action as the Assistant Administrator deems necessary to overcome the effects to the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Assistant Administrator, where appropriate, may require either or both recipients to take remedial action.

(3) The Assistant Administrator may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action:

(i) With respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred; or

(ii) With respect to handicapped persons who would have been participants in the program had the discrimination not occurred; or

(iii) With respect to handicapped persons presently in the program, but not receiving full benefits or equal and integrated treatment within the program.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.*

(1) A recipient shall, within 1 year of the effective date of this part; or within 1 year of first becoming a recipient:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient that employs 15 or more persons shall, for at least 3 years, follow completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available

for public inspection, and provide to the Assistant Administrator upon request:

(i) a list of the interested persons consulted;

(ii) a description of areas examined and any problems identified; and

(iii) a description of any modifications made and of any remedial steps taken.

§ 1251.106 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient that employs 15 or more persons shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not to be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

§ 1251.107 Notice.

(a) A recipient that employs 15 or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 1251.106(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipient's publication, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this section and this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 1251.108 Administrative requirements for small recipients.

The Assistant Administrator may require any recipient with fewer than 15 employees, or any class of such recipients, to comply with §§ 1251.106 and 1251.107, in whole or in part, when the Assistant Administrator finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

§ 1251.109 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

Subpart 1251.2—Employment Practices

§ 1251.200 Discrimination prohibited.

(a) *General.*

(1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this part applies.

(2) A recipient that receives assistance shall take positive steps to employ and advance in employment qualified handicapped persons in programs assisted under the Act.

(3) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(4) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

(d) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

§ 1251.201 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation

would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include:

(1) Making facilities used by employees readily accessible to and usable by handicapped persons; and

(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 1251.202 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless:

(1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question; and

(2) Alternative job-related tests of criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Assistant Administrator to be available.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 1251.203 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 1251.105(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its Federally assisted program or activity pursuant to § 1251.105(b), or when a recipient is taking affirmative action pursuant to section 504 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, provided that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary of affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, provided that:

(1) All entering employees are subjected to such an examination regardless of handicap; and

(2) The results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

Subpart 1251.3—Program Accessibility

§ 1251.300 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 1251.301 Existing facilities.

(a) *Program Accessibility.* A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirement of paragraph (a) of this section through such means as redesign of equipment; reassignment of classes or other services to accessible buildings; assignment of aides to beneficiaries; home visits; delivery of health, welfare, or other social services at alternate accessible sites; alteration of existing facilities and construction of new facilities in conformance with the requirements of § 1251.302; or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Time Period.* A recipient shall comply with the requirement of paragraph (a) of this section within 60 days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within 3 years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition Plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within 6 months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than 1 year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with inpaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 1251.302 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction (ground breaking) was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standards Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc., (ANSIA117.1–1961 (R1971)),[1] shall constitute compliance with paragraphs (a) and (b) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

Subpart 1251.4—Procedures

§ 1251.400 Procedures for compliance.

The procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§ 1250.106, 1250.108 and 1250.110 of this chapter.

James C. Fletcher,

Administrator.

[FR Doc. 86–16710 Filed 7–25–86; 8:45 am]

BILLING CODE 7510–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9202]

Electro Tech Manufacturing, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Norcross, Georgia manufacturing company to cease falsely representing the claims for its Energy Computer and not to make unsubstantiated claims for any energy-control device.

DATE: Complaint issued Nov. 1, 1985. Order issued July 9, 1986.[1]

FOR FURTHER INFORMATION CONTACT: FTC/B–407, Michael Dershowitz, Washington, DC 20580. (202) 376–8720.

SUPPLEMENTARY INFORMATION: On Monday, April 14, 1986, there was published in the **Federal Register**, 51 FR 12629, a proposed consent agreement with analysis In the Matter of Electro Tech Manufacturing, Inc., a corporation, and Donald Raposo, individually and as an officer of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.170 Qualities or properties of product or service; § 13.170–34 Economizing or saving; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533.45 Maintain records; § 13.533–45(a) Advertising substantiation. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Energy controlling devices, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 86–16814 Filed 7–25–86; 8:45 am]

BILLING CODE 6750–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 145 and 146

Commission Records and Information; Records Maintained on Individuals

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission revises its regulations governing requests for Commission records under the Freedom of Information Act ("FOIA") and petitions for confidential treatment of records submitted to the Commission. The revisions are designed to clarify the procedures for submitting and processing FOIA and confidential treatment requests and to reflect recent

[1] Copies obtainable from American National Standards Institute, 1430 Broadway, New York, NY 10018.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th and Pa. Ave., NW., Washington, DC 20580.

developments in federal case law. The Commission also makes one amendment to its Privacy Act regulations.

EFFECTIVE DATE: August 27, 1986.

FOR FURTHER INFORMATION CONTACT: Daniel S. Goodman, Esq., or Tena Friery, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC, 20581. Telephone (202) 254-9880.

SUPPLEMENTARY INFORMATION: On November 4, 1985 (50 FR 45833) the Commission published for comment in the **Federal Register** proposed amendments to its rules governing requests for records under the Freedom of Information Act and petitions for confidential treatment. The Commission received three comments in response to the proposed revisions. While the comments generally supported the proposed revisions, certain suggestions for change or clarifications were made.

One commentor suggested that the time limitations in the current regulations for initial decisions and decisions on appeal with respect to FOIA requests (17 CFR 145.7(h) and 145.7(i)) be continued in the revised regulations with the exception that they be extended when the request covers documents subject to a petition for confidential treatment. While the FOIA time limits are prescribed by statute, 5 U.S.C. 552(a)(6) (A) and (B), and thus unnecessary to include in the Commission's regulations, the Commission has decided to retain them in the final revised rules. As the statutory deadlines do not recognize any exception for cases involving requests for confidential treatment, however, the Commission has not adopted the proposed exception in this regard. Given the relatively large volume of FOIA requests received by the Commission, which are often complicated by pending petitions for confidential treatment, the Commission's staff is frequently unable to meet the statutory deadlines notwithstanding the commitment of a significant amount of resources to process requests on a first-come, first-served basis. *See Open America* v. *Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976); 5 U.S.C. 552(a)(6)(C). The Commission hopes, however, that certain of the revisions being adopted, particularly those relating to the showings to be made by those who request confidential treatment, will enhance its ability to render prompt decisions on FOIA requests.

Each of the three commentors addressed the proposed revisions concerning requests for confidential treatment (§ 145.9). One commentor sought clarification that when an FOIA request is made submitters of information be required to submit justifications only as detailed as is necessary to permit meaningful assessment by the Commission or a Court upon judicial review. As the Commission stated in proposing the revision in this regard, submitters of information have the burden of providing the information necessary to support their confidential treatment requests, 50 FR 45835 (citations omitted), which must be justified as required by law. *See, e.g., National Parks and Conservation Association* v. *Kleppe*, 547 F.2d 673 (D.C. Cir. 1976) (*National Parks II*).

One commentor objected to what it incorrectly assumed to be a requirement in proposed § 145.9(e)(4) and (g)(7) that affidavits be submitted routinely with a detailed justification in support of a confidential treatment request. Subsection 145.9(e)(4) requires affidavits "only to the extent necessary to establish the facts necessary to satisfy the submitter's evidentiary burden." Subsection (g)(7), along with subsection (g)(4), permits, but does not require, submitters to file affidavits and other documentary evidence on appeal and provides that the General Counsel will decide appeals on the basis of the record evidence. Thus the proposed (and final) rules do not impose an automatic requirement that submitters provide affidavits. The Commission notes, however, that submissions regarding requests for confidential treatment frequently involve factual allegations subject to dispute and that therefore should be supported by specificity. *Cf. In the Matter of the Request for Confidential Treatment of Citicorp—Futures Corporation* [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,608 (CFTC June 5, 1985). The Commission also notes that, while any supporting affidavits generally should be served on the FOIA requester, affidavits containing confidential information that is essential to demonstrating the submitter's argument may be submitted *ex parte* (§ 145.9(e)(5)).

Another commentor suggested that the rules be amended automatically to grant confidential treatment to all applications for contract market designations and supporting submissions at least until the contract is approved. This commentor argued that such automatic protection is necessary to prevent competing exchanges from proposing copies of the originally submitted contract. The Commission has declined to adopt this suggestion. The applicability of the FOIA's exemption pertaining to confidential commercial information must be determined on a case by case basis. In the Commission's experience many such contract market designation applications have not in their entirety satisfied the legal test for such an exemption. *E.g., In the Matter of Request for Confidential Treatment of the Chicago Board of Trade*, FOIA Nos. 84-0279, 84-0281, 84-0348, 84-0367 (Nov. 16, 1984); *In the Matter of the Request for Confidential Treatment of the Chicago Board of Trade*, FOIA No. 84-0119 (Oct. 19, 1984); *In the Matter of the Request for Confidential Treatment of the Chicago Board of Trade*, FOIA Nos. 83-0247 and 83-0281 (Oct. 31, 1983); *In the Matter of the Request for Confidential Treatment of the Chicago Mercantile Exchange*, FOIA No. 82-0396 (Jan. 11, 1983); *In the Matter of the Request for Confidential Treatment of the Kansas City Board of Trade*, FOIA No. 82-0224 (June 8, 1982). Whether particular types of data or procedures discussed in an application should be withheld or released in response to an FOIA request should be determined upon analysis of the facts and arguments submitted in each case.

A third commentor, while supporting the revisions' general thrust to impose greater burdens on those seeking confidential treatment, suggested with respect to proposed § 145.9(d) that contract markets be permitted to seek confidential treatment of their own investigatory records and third parties' proprietary information that the contract market submits to the Commission. The final rules (§ 145.9(c)(i) and (d)(vi)) reflect changes adopting these suggestions. These changes are intended only to permit contract markets to request confidential treatment; any decision whether to grant such requests must be made on a case by case basis in accordance with legal requirements. *E.g., National Parks II*, 547 F.2d 673. Although these regulations permit exchanges to claim an investigatory privilege in this context, they do not in anyway permit exchanges to assert this or any other privilege against the Commission.

The only remaining provision on which comment was received was the proposed delegation of final agency decision-making authority to the General Counsel (§ 145.7(h)(6)). One commentor opposed this proposal on policy grounds, arguing that Commission review guards against precipitous, incorrect decisions. As the Commission stated in proposing this delegation, it is intended that the General Counsel will refer significant or controversial issues to the Commission (50 FR 45834). The

General Counsel will normally decide those cases governed by Commission or other legal precedent that are particularly within the General Counsel's expertise. This commentor also questioned, but cited no authority preventing, the proposed delegation on legal grounds. As the Attorney General has explained, however, "[i]t is not necessary that the head of the agency be the official designated to determine all appeals." A.G.'s 1974 FOI Amdts. Mem. (Appendix III–B at 15). *Cf.* 5 U.S.C. 552(a)(4)(f).

Another commentor favored the proposed delegation but suggested that in § 145.9(g)(10) standards be included and administrative review be provided to govern the General Counsel's decision to vacate his previous stay of a Commission decision denying a confidential treatment request pending final judicial resolution of the submitter's action in federal court. The Commission does not believe that such administrative review or any standards are necessary to include in its regulations as this provision applies only when the matter is pending before a federal court which can provide an independent and impartial forum for *de novo* review of any decision by the General Counsel in this regard.

In addition to the amendments noted, the Commission is adding to Part 145, Appendix A—Compilation of Commission Records Available to the Public. The Commission believes that publication of a compilation of public documents will guide the public in obtaining information from the Commission. Such assistance, the Commission believes, will also reduce the number of letters received by the FOI, Privacy and Sunshine Acts Compliance staff for information that does not require processing as a FOIA request.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to consider the impact of proposed rules on small entities. It is not anticipated that these proposed rules would impose any new burden on small entities. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rules proposed herein, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects

17 CFR Part 145

Freedom of Information Act, Requests for Commission records, Petitions for confidential treatment.

17 CFR Part 146

Privacy Act, Records maintained on individuals.

In consideration of the foregoing, and pursuant to the authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j), in the Freedom of Information Act, 5 U.S.C. 552, and in the Privacy Act, 5 U.S.C. 552a, the Commission hereby amends Parts 145 and 146 of Chapter 1 of Title 17 of the Code of Federal Regulations as follows:

PART 145—COMMISSION RECORDS AND INFORMATION

1. The authority citation for Part 145 continues to read as follows:

Authority: Pub. L. 89–554, 80 Stat. 383, Pub. L. 90–23, 81 Stat. 54, and Pub. L. 93–502, 88 Stat. 1561–1564 (5 U.S.C. 552); Sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (7 U.S.C. 4a(j)).

2. Section 145.0 is revised to read as follows:

§ 145.0 Definitions.

(a) For the purposes of this Part, "FOI, Privacy and Sunshine Acts Compliance staff" or "Compliance staff" means the staff of the Office of the Secretariat at the Commission's principal office in Washington, D.C. assigned to respond to requests for information and handle various other matters under the Freedom of Information Act, the Privacy Act of 1974 and the Government in the Sunshine Act; "Assistant Secretary" means the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance.

(b) "Record" means any document, writing, photograph, sound or magnetic recording, videotape, microfiche, drawing, or computer-stored information or output in the possession of the Commission. The term "record" does not include personal convenience materials over which the Commission has no control, such as appointment calendars and handwritten notes, that may be retained or destroyed at an employee's discretion. Further, the term "records," as used in this Part, does not include materials such as **Federal Register** notices or court filings that are available from public sources other than the Commission.

(c) The term "public records" means, in addition to the records described in § 145.1 (material published in the **Federal Register**) and in § 145.2 (records required to be made publicly available under the Freedom of Information Act), those records that have been determined by the Commission to be generally available to the public directly upon oral or written request from the Commission office or division responsible for the maintenance of such records. A compilation of Commission records routinely available to the public upon request appears in Appendix A to this Part 145.

(d) "Nonpublic records" are those records not identified in Appendix A of this section or § 145.1 or § 145.2 of the Commission's rules. Nonpublic records must be requested, in writing, in accordance with the provisions of § 145.7.

3. Section 145.2 is revised to read as follows:

§ 145.2 Records available for public inspection and copying; documents published and indexed.

Except as provided in § 145.5, pertaining to nonpublic matters, and in addition to those documents listed in Appendix A to this Part 145, Compliation of Commission Records Available to the Public, the following materials shall be available for public inspection and copying during normal business hours at the offices of the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat, located at the principal office of the Commission in Washington, DC and at the regional offices of the Commission:

(a) Final opinions of the Commission, including concurring and dissenting opinions, as well as orders made by the Commission in the adjudication of cases;

(b) Statements of policy and interpretations which have been adopted by the Commission and are not published in the **Federal Register**;

(c) Administrative staff manuals and instructions to staff that affect a member of the public; and

(d) Indices providing identifying information to the public as to the materials made available pursuant to paragraphs (a), (b), and (c) of this section.

§ 145.3 [Removed]

4. Section 145.3 is removed.

5. Section 145.4 is revised to read as follows:

§ 145.4 Public records available with identifying details deleted; nonpublic records available in abridged or summary form.

(a) To the extent required to prevent a clearly unwarranted invasion of

personal privacy, the Commission may delete identifying details when it makes available "public records" as defined in § 145.0(c). In such instances, the Commission shall explain the justification for the deletion fully in writing.

(b) Certain "nonpublic records," as defined in § 145.0(d), may, as authorized by the Commission, be made available for public inspection and copying in an abridged or summary form, with identifying details deleted.

6. Section 145.5 is amended by revising the heading and introductory paragraph to read as follows:

§ 145.5 Disclosure of nonpublic records.

The Commission may decline to publish or make available to the public any "nonpublic records," as defined in § 145.0(d), if those records fall within the descriptions in paragraphs (a) through (i) of this section. The Commission shall publish or make available reasonably segregable portions of "nonpublic records" subject to a request under § 145.7 if those portions do not fall within the descriptions in paragraphs (a) through (i) of this section.

* * * * *

7. Section 145.6 is amended by revising the section heading and paragraphs (a) and (b)(2) to read as follows:

§ 145.6 Commission offices to contact for assistance; registration records available.

(a) Whenever this Part directs that a request be directed to the FOI, Privacy and Sunshine Acts compliance staff at the principal office of the Commission in Washington, DC, the request shall be made in writing and shall be addressed or otherwise directed to the Assistant Secretary for FOI, Privacy and Sunshine Acts Compliance, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. The telephone number of the compliance staff is (202) 254–3382. Requests for public records directed to a regional office of the Commission pursuant to §§ 145.0(c) and 145.2 should be sent to:

Division of Economic Analysis, Commodity Futures Trading Commission, One World Trade Center, Suite 4747, New York, New York 10048, Telephone (212) 466–2061.

Division of Trading and Markets, Commodity Futures Trading Commission, Sears Tower, Suite 4600, 233 South Wacker Drive, Chicago, Illinois 60606, Telephone: (312) 353–5990.

Division of Trading and Markets, Commodity Futures Trading Commission, 510 Grain Exchange Building, Minneapolis, Minnesota 55415, Telephone: (612) 725–2025.

Division of Trading and Markets, Commodity Futures Trading Commission, 4901 Main Street, Room 208, Kansas City, Missouri 64112, Telephone: (816) 374–2994.

Division of Enforcement, Commodity Futures Trading Commission, 10850 Wilshire Boulevard, Suite 370, Los Angeles, California 90024, Telephone: (213) 209–6783.

(b) * * *

(2) The fingerprint card and any supplementary attachments filed in response to items 6–9 and 14–21 on Form 8–R, to item 3 on Form 8–S, to items 3–5 and 9–11 on Form 8–T or to items 9–10 on Form 7–R generally will not be available for public inspection and copying unless such disclosure is required under the Freedom of Information Act. When such fingerprint cards or supplementary attachments are on file, the FOI, Privacy and Sunshine Acts compliance staff will decide any request for access in accordance with the procedures set forth in §§ 145.7 and 145.9.

8. Section 145.7 is revised to read as follows:

§ 145.7 Requests for Commission records and copies thereof.

(a) *Public inquiries and inspection of public records.* Inquiries concerning the nature and extent of available public records, as defined in § 145.0(c) of the Commission's rules, may be made in person, by telephone, or in writing to the Commission offices designated in §§ 145.2 and 145.6.

(b) *Requests for nonpublic records.* Except as provided in paragraph (a) of this section with respect to public records, all requests for records maintained by the Commission shall be in writing, shall be addressed to the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance, and shall be clearly marked "Freedom of Information Act Request".

(c) *Misdirected written requests/oral requests.* (1) The Commission cannot assure that a timely or satisfactory response will be given to requests for records that are directed to the Commission other than in the manner prescribed in paragraph (b) of this section. Any misdirected written request for nonpublic records should be promptly forwarded to the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance. Misdirected requests for nonpublic records will be considered to have been received for purposes of this section only when they actually have been received by the Assistant Secretary. The Commission will not entertain an appeal under paragraph (h) of this section from an alleged denial or failure to comply with a misdirected request, unless the request was in fact received by the Assistant Secretary for FOI, Privacy and Sunshine Acts Compliance.

(2) While the Commission will attempt to comply with oral requests for copies of records designated by the Commission as public records, the Commission cannot assure a timely or satisfactory response to such requests. The Commission will not consider an oral request for nonpublic records. An appeal under paragraph (h) of this section from an alleged denial or failure to comply with an oral request will not be considered. Any person who has orally requested a copy of a record and who believes that the request was denied improperly should resubmit the request in writing in accordance with paragraph (b) of this section.

(d) *Description of requested records.* Each written request for Commission records made under paragraph (b) of this section shall reasonably describe the records sought with sufficient specificity to permit the records to be located among the records maintained by or for the Commission. The Commission staff may communicate with the requester (by telephone when practicable) in an effort to reduce the administrative burden of processing a broad request and to minimize fees for copying and search services.

(e) *Request for existing records.* The Commission's response to a request for nonpublic records will encompass all nonpublic records identifiable as responsive to the request that are in existence on the date that the written request is received by the Assistant Secretary for FOI, Privacy and Sunshine Acts Compliance. The Commission need not create a new record in response to a FOIA request.

(f) *Fee agreement.* A request for copies of records pursuant to paragraph (b) of this section must indicate the requester's agreement to pay all fees that are associated with the processing of the request, in accordance with the rates set forth in Appendix B to Part 145, or the requester's intention to limit the fees incurred to a stated amount. If the requester states a fee limitation, no work will be done that will result in fees beyond the stated amount. A requester who seeks a waiver or reduction of fees pursuant to paragraph (a)(8) of Appendix B of this Part must show that such a waiver or reduction would be in the public interest. If the Assistant Secretary receives a request for records under paragraph (b) of this section from a requester who has not paid fees from a previous request in accordance with Appendix B of this Part, the staff will

decline to process the request until such fees have been paid.

(g) *Initial determination, denials.* (1) With respect to any request for nonpublic records as defined in § 145.0(d), the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance, or his or her designee, will forward the request to the Commission divisions or offices likely to maintain records that are responsive to the request. If a responsive record is located, the Assistant Secretary, or designee, will, in consultation with the Commission office in which the record was located, determine whether to comply with such request. The Assistant Secretary may, in his or her discretion, determine whether to comply with any portion of a request for nonpublic records before considering the remainder of the request.

(2) Where it is determined to deny, in whole or in part, a request for nonpublic records, the Assistant Secretary, or designee, will notify the requester of the denial, citing applicable exemptions of the Freedom of Information Act or other provisions of law that require or allow the records to be withheld. The Assistant Secretary's response to the FOIA request should describe in general terms what categories of documents are being withheld under which applicable FOIA exemption or exemptions. The Assistant Secretary, in denying an initial request for records, is not required to provide the requester with an inventory of those documents determined to be exempt from disclosure.

(3) The Assistant Secretary, or his or her designee, will issue an initial determination with respect to a FOIA request within ten business days after receipt by the Assistant Secretary. In unusual circumstances, as defined in this paragraph, the prescribed time limit may be extended by written notice to the person making a request for a record or a copy. The notice shall set forth the reasons for the extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten business days. As used in this paragraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of a particular request:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components in the Commission having substantial subject matter interest therein;

(iv) The need to coordinate a response with several Commission offices;

(v) The need to obtain records currently being used by members of the Commission, the Commission staff, or the public;

(vi) The need to respond to a large number of previously-filed FOIA requests.

(h) *Administrative review.* (1) Any person who has been notified pursuant to paragraph (g) of this section that his request for records has been denied in whole or in part may file an application for review as set forth below.

(2) An application for review must be received by the Office of General Counsel within 30 days of the date of the denial by the Assistant Secretary. This 30-day period shall not begin to run until the Assistant Secretary has issued an initial determination with respect to all portions of the request for nonpublic records. An application for review shall be in writing and shall be marked "Freedom of Information Act Appeal." The original shall be sent to the Commission's Office of General Counsel. If the appeal involves information as to which the FOIA requester has received a detailed written justification of a request for confidential treatment pursuant to § 145.9(e), the requester must also serve a copy of the appeal on the submitter of the information.

(3) The applicant must attach to the application for review a copy of all correspondence relevant to the request, *i.e.*, the initial request, any correspondence amending or modifying the request, and all correspondence from the staff responding to the request.

(4) The application for review shall state such facts and cite such legal or other authorities as the applicant may consider appropriate. The application may, in addition, include a description of the general benefit to the public from disclosure of that information.

(5) If the appeal involves information that is subject to a petition for confidential treatment filed under § 145.9, the submitter of the information shall have a opportunity to respond in writing to the appeal within 10 business days of the date of filing of the appeal. Any response shall be sent to the Commission's Office of General Counsel. Copies shall be sent to the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance and to the person requesting the information.

(6) The General Counsel, or his or her designee, shall have the authority to consider all appeals under this section from initial determinations of the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance. The General Counsel may:

(i) Determine either to affirm or to reverse the initial determination in whole or in part;

(ii) Determine to disclose a record, even if exempt, if good cause for doing so either is shown by the application or otherwise appears;

(iii) Remand the matter to the Assistant Secretary (A) to correct a deficiency in the initial processing of the request, or (B) when an investigation as to which the staff originally claimed exemption from mandatory disclosure on the basis of 5 U.S.C. 555(b)(7)(A) or 7 U.S.C. 12(a) is subsequently closed; or;

(iv) Refer the matter to the Commission for a decision.

(i) If the initial denial of the request for nonpublic records is reversed, the Office of General Counsel shall, in writing, advise the requester that the records will be available on or after a specified date. If, on appeal, the denial of access to a record is affirmed in whole or in part, the person who requested the information shall be notified in writing of (1) the reasons for the denial and (2) the provisions of 5 U.S.C. 552(a)(4) providing for judicial review of a determination to withhold records.

9. Section 145.9 is revised to read as follows:

§ 145.9 Petitions for confidential treatment of information submitted to the Commission.

(a) *Purpose.* This section provides a procedure by which persons submitting information in any form to the Commission can request that the information not be disclosed pursuant to a request under the Freedom of Information Act, 5 U.S.C. 552. This section does not affect the Commission's right, authority, or obligation to disclose information in any other context.

(b) *Scope.* The provisions of this section shall apply only where the Commission has not specified that an alternative procedure be utilized in connection with a particular study, report, investigation, or other matter.

(c) *Definitions.* The following definitions apply to this section:

(1) *Submitter.* A "submitter" is any person who submits any information or material to the Commission or who

permits any information or material to be submitted to the Commission. For purposes of paragraph (d)(1)(ii) of this section only, "submitter" includes any person whose information has been submitted to a designated contract market or registered futures association that in turn has submitted the information to the Commission.

(2) *FOIA requester.* A "FOIA requester" is any person who files with the Commission a request to inspect or copy Commission records or documents pursuant to the Freedom of Information Act, 5 U.S.C. 552.

(d) *Written request for confidential treatment.* (1) Any submitter may request in writing that the Commission afford confidential treatment under the Freedom of Information Act to any information that he or she submits to the Commission. Except as provided in paragraph (d)(10) of this section, no oral requests for confidential treatment will be accepted by the Commission. The submitter shall specify the grounds on which confidential treatment is being requested but need not provide a detailed written justification of the request unless requird to do so under paragraph (e) of this section. Confidential treatment may be requested only on the grounds that disclosure:

(i) Is specifically exempted by a statute that either requires that the matters be withheld from the public in such manner as to leave no discretion on the issue or establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(ii) Would reveal the submitter's trade secrets or confidential commercial or financial information.

(iii) Would constitute a clearly unwarranted invasion of the submitter's personal privacy.

(iv) Would reveal investigatory records compiled for law enforcement purposes whose disclosure would deprive the submitter of a right to a fair trial or an impartial adjudication.

(v) Would reveal investigatory records compiled for law enforcement purposes whose disclosure would constitute an unwarranted invasion of the personal privacy of the submitter.

(vi) Would reveal investigatory records compiled for law enforcement purposes when disclosure would interfere with enforcement proceedings or disclose investigative techniques and procedures, provided that the claim may be made only by a designated contract market or registered futures association with regard to its own investigatory records.

(2) The original of any written request for confidential treatment must be sent to the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance. A copy of any request for confidential treatment shall be sent to the Commission division or office receiving the original of any material for which confidential treatment is being sought.

(3) A request for confidential treatment shall be clearly marked "FOIA Confidential Treatment Request" and shall contain the name, address, and telephone number of the submitter. The submitter is responsible for informing the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance of any changes in his or her name, address, and telephone number.

(4) A request for confidential treatment normally should accompany the material for which confidential treatment is being sought. If a request for confidential treatment is filed after the filing of such material, the submitter shall have the burden of showing that he or she could not have requested confidential treatment for that material at the time the material was filed. If access is requested under the Freedom of Information Act with respect to material for which no request for confidential treatment has been made pursuant to this section, it will normally be presumed that the submitter of the information has waived any interest in asserting that the material is confidential.

(5) A request for confidential treatment shall state the length of time for which confidential treatment is being sought.

(6) A request for confidential treatment (as distinguished from the material that is the subject of the request) shall be considered a public document.

(7) On 10 business days notice, a submitter shall submit a detailed written justification of a request for confidential treatment, as specified in paragraph (e) of this section.

(8) A submitter shall not request confidential treatment for any reasonably segregable material that is not exempt from public disclosure under the Freedom of Information Act. *See* 5 U.S.C. 552(b). A submitter has the burden of clearly and precisely specifying the material that is the subject of his or her confidential treatment request. A submitter may be able to meet this burden in various ways, including—

(i) separately binding material for which confidential treatment is being sought;

(ii) submitting two copies of the submission, a copy from which material for which confidential treatment is being sought has been obliterated, deleted, or clearly marked and an undeleted copy; and

(iii) clearly describing the material within a submission for which confidential treatment is being sought.

A submitter shall not employ a method of specifying the material for which confidential treatment is being sought if that method makes it unduly difficult for the Commission to read the full submission, including all portions claimed to be confidential, in its entirety.

(9) If a submitter fails to follow the procedures set forth in paragraphs (d)(1) through (d)(8) of this section, the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance or his or her designee may summarily reject the submitter's request for confidential treatment with leave to the submitter to refile a proper petition. Failure of the Assistant Secretary or his or her designee summarily to reject a confidential treatment request pursuant to this paragraph shall not be construed to indicate that the submitter has complied with the procedures set forth in paragraphs (d)(1) through (d)(8) of this section.

(10) In some circumstances, such as when a person is testifying in the course of a Commission investigation or is providing documents requested in the course of a Commission inspection, it may be impracticable for the submitter to submit a written request for confidential treatment at the time the information is first provided to the Commission. In no circumstances can the need to comply with the requirements of this section justify or excuse any delay in submitting information to the Commission. Rather, in such circumstances, the submitter should inform the Commission employee receiving the information, at the time the information is submitted or as soon thereafter as possible, that the person is requesting confidential treatment for the information. The person shall then submit a written request for confidential treatment pursuant to paragraph (d) of this section within 10 business days of the submission of the information.

(11) Except as provided in paragraph (d)(9) of this section, no determination with respect to any request for confidential treatment will be made until the Commission receives a Freedom of Information Act request for the material for which confidential treatment is being sought.

(e) *Detailed written justification of request for confidential treatment.* (1) If the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance or his or her designee determines that a FOIA request seeks material for which confidential treatment has been requested pursuant to this section, the Assistant Secretary or his or her designee shall require the submitter to file a detailed written justification of his or her confidential treatment request within 10 business days of that determination. The detailed written justification shall be filed with the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance. It shall be clearly marked "Detailed Written Justification of FOIA Confidential Treatment Request" and shall contain the request number supplied by the Commission. The submitter shall also send a copy of the detailed written justification to the FOIA requester at the address specified by the Commission.

(2) The period for filing a detailed written justification shall be extended only under exceptional circumstances.

(3) The detailed written justification of the confidential treatment request shall contain:

(i) The reasons, referring to the specific exemptive provisions of the Freedom of Information Act listed in paragraph (d)(1) of this section, why the information that is the subject of the FOIA request should be withheld from access under the Freedom of Information Act;

(ii) The applicability of any specific statutory or regulatory provisions that govern or may govern the treatment of the information;

(iii) The existence and applicability of prior determinations by the Commission, other federal agencies, or courts concerning the specific exemptive provisions of the Freedom of Information Act pursuant to which confidential treatment is being requested. Submitters shall satisfy any evidentiary burdens imposed upon them by applicable Freedom of Information Act case law.

(iv) Such additional facts and authorities as the submitter may consider appropriate.

(4) The detailed written justification of a confidential treatment request shall be accompanied by affidavits to the extent necessary to establish the facts necessary to satisfy the submitter's evidentiary burden.

(5) The detailed written justification of a confidential treatment request (as distinguished from the material that is the subject of the request) shall be considered a public document. However,a submitter will be permitted to submit to the Commission supplementary confidential affidavits with his or her detailed written justification if that is the only way in which he or she can convincingly demonstrate that the material that is the subject of the confidential treatment request should not be disclosed to the FOIA requester.

(f) *Initial determination with respect to petition for confidential treatment.* (1) The Assistant Secretary for FOI, Privacy and Sunshine Acts Compliance or his or her designee, in consultation with the Office in which the record was located, shall issue an initial determination with respect to a confidential treatment request for material that is responsive to the FOIA request. This determination shall be issued at the same time as the initial determination with respect to the FOIA request. *See* § 145.7(g). To the extent that the initial determination grants a confidential treatment request in full or in part, it should specify the FOIA exemptions upon which this determination is based and briefly describe the material to which each exemption applies. *See* § 145.7(g)(2). To the extent that the initial determination denies confidential treatment to any material for which confidential treatment was requested, it should briefly describe the material for which confidential treatment is denied.

(2) If the Assistant Secretary or his or her designee determines that a confidential treatment request shall be denied in full or in part, the submitter shall be informed of his or her right to appeal to the Commission's General Counsel in accordance with the procedures set forth in paragraph (g) of this section. The material for which confidential treatment was denied shall be released to the FOIA requester if the submitter does not file an appeal within 10 business days of the date on which his or her request was denied.

(3) If the Assistant Secretary or his or her designee determines that a confidential treatment request shall be granted in full or in part, the FOIA requester shall be informed of his or her right to appeal to the Commission's General Counsel in accordance with the procedures set forth in § 145.7(h).

(g) *Appeal from initial determination that confidential treatment is not warranted.* (1) An appeal from an initial determination to deny a confidential treatment request in full or in part shall be filed with the General Counsel of the Commission. No disclosure of the material that is the subject of the appeal shall be made until the appeal is resolved. If both a submitter and a FOIA requester appeal to the General Counsel from a partial grant and partial denial of a confidential treatment request, those appeals shall be consolidated.

(2) Any appeal of a denial of a request for confidential treatment shall be in writing, and shall be clearly marked "FOIA Confidential Treatment Appeal." The appeal shall include a copy of the initial determination and shall clearly indicate the portions of the initial determination from which an appeal is being taken.

(3) The appeal shall be sent to the Commission's Office of General Counsel. A copy of the appeal shall be sent to the FOIA requester. The General Counsel or his or her designee shall have the authority to consider all appeals from initial determinations of the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts compliance. The General Counsel may, in his sole and unfettered discretion, refer such appeals and questions concerning stays under paragraph (g)(10) of this section to the Commission for decision.

(4) In the appeal, the submitter may supply additional substantiation for his or her request for confidential treatment, including additional affidavits and additional legal argument. Such submissions shall be governed by paragraph (e)(5) of this section.

(5) The FOIA requester shall have an opportunity to respond in writing to the appeal within 10 business days of the date of filing of the FOIA Confidential Treatment Appeal. The FOIA requester need not respond, however. Any response shall be sent to the Commission's Office of General Counsel. A copy shall be sent to the submitter.

(6) All FOIA Confidential Treatment Appeals and all responses thereto shall be considered public documents.

(7) The General Counsel will make a determination with respect to any appeal within twenty business days after receipt by the Office of General Counsel of such appeal or within such extended period as may be permitted in accordance with the standards set forth in § 145.7(g)(3). Although other procedures may be employed, to the extent possible the General Counsel will decide the appeal on the basis of the affidavits and other documentary evidence submitted by the submitter and the FOIA requests.

(8) The General Counsel or his or her designee shall have the authority to remand any matter to the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance to correct deficiencies in the initial

processing of the confidential treatment request.

(9) If the General Counsel or his or her designee denies a confidential treatment appeal in full or in part, the information for which confidential treatment is denied shall be disclosed to the FOIA requester 10 business days later, subject to any stay entered pursuant to paragraph (g)(10) of this section.

(10) The General Counsel or his or here designee shall have the authority to enter and vacate stays as set forth below. If, within 10 business days of the date of issuance of a determination by the General Counsel or his or her designee to disclose information for which a submitter sought confidential treatment, the submitter commences an action in federal court concerning that determination, the General Counsel will stay the public disclosure of the information pending final judicial resolution of the matter. The General Counsel or his or her designee may vacate a stay entered under this section, either on his or her own motion or at the request of the FOIA requester. If such a stay is vacated, the information will be released to the requester 10 business days after the submitter is notified of this action, unless a court orders otherwise.

(h) *Extensions of time limits.* Any time limit under this section may be extended for good cause shown, in the discretion of the Commission, the Commission's General Counsel, or the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance.

(i) A submitter whose confidential treatment request has been upheld by the Commission shall, upon request of the General Counsel, aid the Commission in defending a court action to compel the Commission to disclose the information subject to the confidential treatment request. If the submitter is unwilling to aid the Commission in this regard, the General Counsel may, in appropriate cases, make the information available to the public.

10. Appendix A to Part 145 is added to read as follows:

Appendix A—Compilation of Commission Records Available to the Public

The following documents are available, upon request, directly from the office indicated. Unless otherwise noted, the mailing address for the Commission offices listed below is 2033 K Street, NW., Washington, DC 20581.

(a) *Office of Communication and Education Services.*

(1) Commitments of Traders Reports.

(2) Weekly Advisory.

(3) Studies Prepared by Commission staff.

(4) Educational material (*e.g.*, newsletters, brochures, annual reports, conference or advisory meetings, technical information about specific markets or contracts).

(5) Press releases.

(6) Rule enforcement and finanical reviews (public version).

(7) CFTC litigation documents (*e.g.* administrative and civil complaints, injunctions, initial decisions, opinions and orders).

(8) Commission rules and regulations, **Federal Register** notices, interpretative letters.

(9) Speeches, Commissioner biographies and photographs.

(10) Statistical data concerning the Commission's budget.

(11) Statistical data concerning specific contracts and markets.

(b) *Office of the Secretariat, Room 304 (Public reading area with copying facilities available).*

(1) FOIA requests/response binders.

(2) Comment letters and CFTC summaries of comment letters.

(3) Terms and conditions of proposed contracts (after publication of notice of availability in the **Federal Register**.)

(4) Exchange 5a(12) rule amendment proposals and CFTC responses.

(5) National Futures Association (NFA) rule amendments.

(6) Exchange and NFA disciplinary action notifications.

(7) Open Commission meeting minutes.

(8) Sunshine certificates for closed Commission meetings.

(9) CFTC Advisory Committee final reports.

(10) Opinions and orders of the Commission.

(11) Reparations orders and enforcement orders index.

(12) Rulemaking index.

(13) Exchange membership notification.

(c) *Executive Director, Office of Proceedings, 2000 L Street, NW., Washington DC.*

(1) Documents contained in reparations and enforcement cases, unless subject to protective order.

(2) Complaint packages, which contain the Reparation Rules, Brochure "Questions and Answers About How You Can Resolve a Commodity-Market Related Dispute," and the complaint form.

(3) Rules of Practice concerning administrative enforcement proceedings.

(d) *Executive Director, Administrative Services Section.*

Information Collection requests submitted to the Office of Management and Budget relating to requirements under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

(e) *Division of Economic Analysis.*

(1) Weekly stocks of grain reports.

(2) Weekly cotton or call reports.

(f) *Division of Enforcement.*

Complaint package containing Division of Enforcement Questionnaire and list of federal, state and local enforcement authorities.

(g) *Division of Trading and Markets.*

Publicly available portions of registration documents are available from the Division of Trading and Markets, Commodity Futures Trading Commission, Sears Tower, Suite 4600, 233 South Wacker Drive, Chicago, Illinois or from the National Futures Association, 200 West Madison Street, Chicago, Illinois 60606. *See* Commission Rule 145.6.

PART 146—RECORDS MAINTAINED ON INDIVIDUALS

11. The authority citation for Part 146 continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a); Sec. 101(a), Pub. L. 93-463, 88 Stat. 1389 (7 U.S.C. 4a(j)).

12. Section 146.9 is amended by adding paragraph (f) to read as follows:

§146.9 Appeals to the Commission.

* * * * *

(f) The General Counsel or his or her designee is hereby delegated the authority to act for the Commission in deciding appeals under this section. The General Counsel may, in his or her sole and unfettered discretion, refer such appeals to the Commission for decision.

Issued in Washington, DC, on July 21, 1986, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 86-16714 Filed 7-25-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-099 (Louisiana—7); Order No. 454]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued: July 21, 1986.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized under section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Gas so designated may receive an incentive price (18 CFR 271.703 (1985)). Jurisdictional agencies may submit recommendations of areas for designation as tight formation. Here the Federal Energy Regulatory

Commission modifies and adopts the recommendation by the State of Louisiana Office of Conservation that the Hosston Formation underlying portions of Bienville, Natchitoches, and Red River Parishes, Louisiana be designated a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective August 20, 1986.

FOR FURTHER INFORMATION CONTACT: James Whitfield Jr., (202) 357–8179 or Walter Lawson (202) 357–8556.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On February 16, 1982, the Federal Energy Regulatory Commission (Commission) received a recommendation, pursuant § 271.703 of the Commission's regulations,[1] from the State of Louisiana Office of Conservation (LOC) that the Hosston Formation underlying a geographical area covering approximately 1,764 square miles of Bienville, Natchitoches, Red River, and Winn Parishes in Louisiana, be designated a tight formation. Notice of the Proposed Rulemaking was published in the **Federal Register** on March 25, 1982 (47 FR 12,809 (1982)). No comments were received in response to the notice.

Background

In order to meet § 271.703(c)(2)(i) tight formation guidelines, the estimated average *in situ* gas permeability, throughout the pay section, must not exceed 0.1 millidarcy; the stabilized production rate against atmospheric pressure must not exceed a specified level; and the production from each well drilled into the recommended tight formation must not exceed, without stimulation, five barrels of crude oil per day.

In support of its recommendation, the LOC only submitted data pertaining to an area comprising approximately 324 square miles in the northwest portion of the recommended area. Such data was comprised of permeability and pre-stimulation flow rate data from only two wells and post-stimulation flow rate data or production histories from 11 additional wells. Measured against the standards set forth in § 271.703 of the Commission's regulations, the LOC's tight formation recommendation contains deficiencies which preclude the entire recommended area from being designated a tight formation.

[1] 18 CFR 271.703 (1985).

Under the tight formation program, as detailed in Order No. 99,[2] tight formation recommendations submitted to the Commission by the various jurisdictional agencies are approved under the Commission's rulemaking authority. The Commission is not limited by the evidence in the record presented to it by the jurisdictional agency and the various commenters, and accordingly is free to request or to develop any additional evidence which it deems necessary to issue a rule in a tight formation designation proceeding.

On June 14, 1982, the Commission staff, in order to evaluate the recommendation fully, sent the LOC a letter requesting additional geological and engineering data pertaining to the entire recommended area. Specifically, staff sought an explanation of Louisiana's post-stimulation flow rate data and requested confirmation that certain wells were in fact fracture stimulated. The Commission staff also questioned the LOC's method of calculating the average depth to the top of the formation. Staff's calculation of the depth to the top of formation differed from the LOC's calculation by 695 feet and staff's calculation of the concomitant flow rate differed from Louisiana's by 113 Mcf per day.

In its November 5, 1982 response to staff's letter, the LOC submitted permeability and pre-stimulation data pertaining to two additional wells also located in the above-mentioned 324 square mile area. The LOC responded that it had no hard data regarding permeability or well histories for the entire recommended area but that the data submitted with its recommedation was representative of the entire formation.

Since virtually all of the viable data submitted by the LOC pertained to wells located in a 324 square mile portion of the northwest corner of the recommended area, staff suggested in a December 29, 1983 letter to the LOC that the recommendation be amended to cover only the aforementioned 324 square miles. Subsequently, on February 3, 1986, staff informed the LOC that, absent the submission of additional data, staff would recommend to the Commission that only the above-referenced 324 square mile portion of the Hosston Formation be designated as a tight formation.

Discussion

Although the LOC recommended that an area approximately 1,764 square miles be designated a tight formation, it only submitted data regarding that portion of the Hosston Formation pertaining to wells located within a 324 square mile area of the northwest corner of the recommended area. Because the LOC only submitted data regarding this 324 square mile area, there is no basis for concluding that the remainder of the recommended 1,764 square mile area meets the guidelines of § 271.703. Accordingly, such remainder area cannot be designated a tight formation. However, based on geological and engineering data generated at a public hearing held by the LOC on November 24, 1981 and on data submitted by the LOC in a letter dated November 5, 1982, the Commission concludes that the portion of the Hosston Formation underlying Township 12 North, Ranges 7, 8, and 9 West; Township 13 North, Ranges 7, 8, and 9 West; and Township 14 North, Ranges 7, 8, and 9 West; being approximately 324 square miles of Bienville, Natchitoches, and Red River Parishes, Louisiana, complies with the guidelines of § 271.703(c)(2)(i) of the Commission's regulations and should be designated a tight formation.

The Commission Orders

Based on the discussion herein, the Commission adopts the LOC's recommendation, as modified by this order, that the Hosston Formation be designated a tight formation under section 271.703(d).

This amendment shall become effective August 20, 1986.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(196) to read as follows:

[2] Docket No. RM79–76, issued August 22, 1980, FERC Statutes and Regulations [Reg. Preambles 1977–1981] ¶ 30,183.

§ 271.703 Tight formation.

* * * * *

(d) *Designated tight formation.*

* * * * *

(196) *Hosston Formation in Louisiana.* RM79–76 (Louisiana–7).

(i) *Delineation of formation.* The Hosston Formation is located in Township 12 North, Ranges 7, 8, and 9 West; Township 13 North, Ranges 7, 8, and 9 West; and Township 14 North, Ranges 7, 8, and 9 West; comprising approximately 324 square miles of portions of Bienville, Natchitoches, and Red River Parishes, Louisiana.

(ii) *Depth:* The Hosston Formation is defined as being that gas and condensate bearing sand encountered between the measured depths of 7,320 feet and 10,090 feet on the induction electrical log of the Amerada Hess Corporation—Placid Oil Company—Charles Beach Jr. No. 1 well, located in section 34, Township 12 North, Range 8 West, Red River Parish, Louisiana.

[FR Doc. 86–16824 Filed 7–25–86; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM79–76–250 (Texas–9 Addition II)]

High-Cost Gas Produced From Tight Formations

Issued July 21, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order granting rehearing for the purpose of further consideration.

SUMMARY: Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of gas as high-cost gas. High-cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive an incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. In Order No. 450, 51 FR 19,164 (May 28, 1986), the Commission modified and adopted the recommendation of the Railroad Commission of Texas that the Travis Peak Formation be designated as a tight formation. Here, the Federal Energy Regulatory Commission grants Delhi Gas Pipeline Corporation's request for rehearing of Order No. 450 for the purpose of further consideration.

DATE: The order was issued on July 21, 1986.

FOR FURTHER INFORMATION CONTACT: Brent Backes (202) 357–5491, or Walter W. Lawson (202) 357–8737.

Order Granting Rehearing For The Purpose of Further Consideration

Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On June 19, 1986, Delhi Gas Pipeline Corporation (Delhi) filed a timely request for rehearing of Order No. 450, Docket No. RM79–76–090, 51 FR 19,164 (May 28, 1986). Rehearing of Order No. 450 is granted solely for the purpose of affording the Commission additional time to consider Delhi's request. Pursuant to Rule 713(d) of the Commission's Rules of Practice and Procedure, no answer to this order or to the request for rehearing will be entertained.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86–16825 Filed 7–25–86; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 182

[Docket No. 81N–0314]

Sulfiting Agents; Revocation of GRAS Status For Use on Fruits and Vegetables Intended To Be Served or Sold Raw to Consumers; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document that amended the regulations to except sulfiting agents from use on fruits and vegetables intended to be served raw or sold raw to consumers. This document corrects an editorial error.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Regulations Editorial Staff (HFC–222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 86–15391 appearing on page 25021 in the issue of Wednesday, July 9, 1986, on page 25026, third column, the signature date should have read "June 11, 1986."

Dated: July 21, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–16820 Filed 7–25–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 200, 215, 235, 236, 247, 812, 880, 881, 882, 883, 884, 886 and 912

[Docket No. R–86–974; FR–1588]

Restriction on Use of Assisted Housing

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; delay of effective date and related technical amendments.

SUMMARY: In response to a request by Members of Congress, this document postpones, until September 30, 1986, the previously announced effective date for a final rule published on April 1, 1986 entitled "Restriction on Use of Assisted Housing" (51 FR 11198), and revises definitions within the rule to conform them to the postponed effective date.

EFFECTIVE DATE: The effective date of the rule published on April 1, 1986 is delayed until September 30, 1986. The effective date of the amendments made by this document is also September 30, 1986.

FOR FURTHER INFORMATION CONTACT: *With reference to today's publication:* Grady J. Norris, Assistant General Counsel for Regulations, Office of General Counsel, Department of Housing and Urban Development, Washington, DC 20410; telephone (202) 755–7055.

For Parts 200, 215, 236, 247, 812, 880, 881, 883, 884 and 886: James Tahash, Program Planning Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Washington, D.C. 20410; telephone (202) 426–3944.

For Part 235: John Coonts, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, DC 20410; telephone (202) 755–6720.

For Part 912: Edward Whipple, Rental and Occupancy Branch, Office of Public Housing, Department of Housing and Urban Development, Washington, DC 20410; telephone (202) 426–0744.

For Part 882: Madeline Hastings, room 6124, Existing Housing Division, (202)

755–6887, or Gerald Benoit, Room 6128, Existing Housing Branch, (202) 755–6477. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On April 1, 1986, the Department published a final rule (51 FR 11198) to implement section 214 of the Housing and Community Development Act of 1980, as amended by section 329(a) of the Housing and Community Development Amendments of 1981. Section 214 prohibits the Secretary from making financial assistance available under the United States Housing Act of 1937 (Public Housing and section 8), sections 235 and 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965 (rent supplement), for the benefit of any alien who is not a lawful resident of the United States. A technical amendment to the April 1, 1986 rule was published on July 16, 1986 (51 FR 25687).

The effective date of the April 1, 1986 rule originally was announced as July 30, 1986, in order to provide a lengthy period of transition. The reasons for the July 30, 1986 effective date, and for other transition-related procedures appearing in the text of the rule and which are keyed to that effective date, are discussed fully in the published final rule. See 51 FR 11198, at 11210–11213.

This further deferral of the effective date of the final rule to September 30, 1986, is being made in response to a request by several Members of Congress. Legislation passed by the House of Representatives contains amendments to section 214 which, if finally enacted, would affect the substantive rights of some persons affected by the final rule, as well as certain of the documentation requirements thereunder. The legislation now awaits action by the Senate. The Department is unable to predict whether the Senate will take action or, if action is taken, whether the provisions adopted by the House, or any other amendments to section 214, will be included in the final legislation. It is expected that any further legislative action will have occurred prior to September 30 if it is to occur at all in the current session of Congress. The Department has elected not to defer the effective date beyond September 30 in order to avoid undue delay in implementation of the existing statutory mandates if no amendments thereto are to occur.

This document's postponement of the July 30, 1986 effective date to September 30, 1986 also requires technical amendments to the final rule to effect changes to definitions of the terms "Current Participant" and "Initial Implementation Period" as these terms appear in Parts 200, 812, and 912 of the rule. These definitions are keyed to the effective date, and the technical amendments make no change in the definitions other than to clarify the time periods to which to refer. (Because some of these definitions were previously amended in the recent **Federal Register** technical amendment making corrections to the final rule (51 FR 25687, July 16, 1986), the full text of each of these definitions, as amended, is set out in this document.)

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs—housing and community development, Mortgage insurance, Organizations and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards.

24 CFR Part 812

Low and moderate income housing, Rent subsidies.

24 CFR Part 912

Low and moderate income housing.

Accordingly, 24 CFR Parts 200, 812 and 912 are amended as follows:

PART 200—INTRODUCTION

1. The authority citation for Part 200 continues to read as follows:

Authority: Secs. 2, 211, and 807, National Housing Act (12 U.S.C. 1703, 1715b, and 1748f; sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); Subpart G is also issued under sec. 214, Housing and Community Development Act of 1980, as amended by sec. 329, Housing and Community Development Amendments of 1981 (42 U.S.C. 1436a).

§ 200.181 [Amended]

2. In § 200.181, the definitions of "Current Participant" and "Initial Implementation Period" are revised to read as follows:

Current Participant. A tenant for which an assisted lease was entered into before September 30, 1986.

* * * * *

Initial Implementation Period. The 90-day period beginning on September 30, 1986 and ending on December 28, 1986.

* * * * *

PART 812—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS

3. The authority citation for Part 812 continues to read as follows:

Authority: Sec. 3, U.S. Housing Act of 1937 (42 U.S.C. 1437a); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)). Part 812 is also issued under sec. 214, Housing and Community Development Act of 1980, as amended by section 329, Housing and Community Development Amendments of 1981 (42 U.S.C. 1436a.)

§ 812.2 [Amended]

4. In § 812.2, the definitions of "Current Participant" and "Initial Implementation Period" are revised to read as follows:

Current Participant—(a) For a participant under the Section 8 Housing Certificate Program or Housing Voucher Program. A Family for which an assistance contract was entered into before September 30, 1986.

(b) *For all other Section 8 assistance under this Part.* A Family for which an assisted lease was entered into before September 30, 1986.

* * * * *

Initial Implementation Period. The 90-day period beginning on September 30, 1986 and ending on December 28, 1986.

* * * * *

PART 912—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS

5. The authority citation for Part 912 continues to read as follows:

Authority: Sec. 3, U.S. Housing Act of 1937 (12 U.S.C. 1438a); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); Part 912 is also issued under sec. 214, Housing and Community Development Act of 1980, as amended by sec. 329, Housing and Community Development Amendments of 1981 (42 U.S.C. 1436a).

§ 912.2 [Amended]

6. In § 912.2, the definitions of "Current Participant" and "Initial Implementation Period" are revised to read as follows:

Current Participants. A Family for which an assisted lease was entered into before September 30, 1986.

* * * * *

Initial Implementation Period. The 90-day period beginning on September 30, 1986 and ending on December 28, 1986.

* * * * *

§ 912.5 [Amended]

7. In § 912.5(a)(6), "July 30, 1986" is removed and "September 30, 1986" is substituted.

Dated: July 23, 1986.

John J. Knapp,

Acting Secretary.

[FR Doc. 86–16842 Filed 7–25–86; 8:45 am]

BILLING CODE 4210–32–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 215, 236 and 886

[Docket No. R-86-1163; FR-1702]

Definition of Income, Rents and Recertification of Family Income for the Rent Supplement and Section 236 Programs

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

ACTION: Notice of revision of published effective date.

SUMMARY: On June 16, 1986 HUD published the above-captioned final rule and provided for an effective date of August 1, 1986. For technical reasons discussed below, the effective date of this rule is being postponed to October 1, 1986.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Regulations Division, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Amendments contained in HUD's June 16, 1986 final rule were drafted in coordination with parallel amendments contained in a second HUD rule published on April 1, 1986. (See 51 FR 11198). The April 1 rule was scheduled to become effective on July 30, 1986, and this rulemaking was announced originally for effectiveness two days later, on August 1, 1986.

For reasons reflected in a related document published in today's **Federal Register** as a final rule [See document on Restriction on Use of Assisted Housing published elsewhere in this issue] the effectiveness of HUD's *April 1* rulemaking has been postponed until September 30, 1986.

Amendments contained in the June 16, 1986 final rule, were they to become effective first, would cancel out parallel amendments contained in the April 1, 1986 rule. For this reason the Department has decided to postpone, until October 1, 1986, the effectiveness of the rule entitled "Definition of Income, Rents and Recertification of Family Income for the Rent Supplement or Section 236 Programs".

The Department does not believe that this postponement will have any adverse effect on the administration of the Rent Supplement or section 236 Programs, and that the public interest will be best served by permitting the amendments contained in these two final rules to take effect in the sequence originally intended.

Dated: July 23, 1986.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 86-16857 Filed 7-25-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8094]

Income Taxes; Special Rules Relating to Nuclear Decommissioning Cost

Correction

In FR Doc 86-15616 beginning on page 25033 in the issue of Thursday, July 10, 1986, make the following corrections:

§ 1.468A-3T [Corrected]

1. On page 25040, in the third column, in the first line of § 1.468A-3T(d)(4)(ii)(B) and of (iii)(B), "first" should read "last".

2. On page 25041, in the first column, in the first line (§ 1.468A-3T(e)(2)), "rulemaking" should read "ratemaking".

3. On page 25042, in the first column, in the last line of § 1.468A-3T(h)(2)(vi)(B) introductory text, "is" should read "if".

§ 1.468A-7T [Corrected]

4. On page 25047, in the second column, in the fifth line of § 1.468A-7T(a), "the" should read "a".

§ 1.468A-8T [Corrected]

5. On page 25048, in the second column, the fourth line of § 1.468A-8T(b)(5)(i)(B), "1986" should read "1987".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 60

[Order No. 1143-86]

Authorization of Federal Law Enforcement Officers To Request the Issuance of a Search Warrant

AGENCY: U.S. Department of Justice.

ACTION: Final rule.

SUMMARY: Rule 41(h) of the Federal Rules of Criminal Procedure authorizes the Attorney General to designate categories of federal law enforcement officers who may request issuance of search warrants. Previous authorizations were made by Order No. 510-73 (38 FR 7244, March 19, 1973), as amended by Order No. 521-73 (38 FR 18389, July 10, 1973), Order No. 826-79 (44 FR 21785, April 12, 1979), Order No. 844-79 (44 FR 46459, August 8, 1979), Order No. 960-81 (46 FR 52360, October 27, 1981), and Order No. 1026-83 (48 FR 37377, August 18, 1983). This Order amends 28 CFR Part 60 by adding special agents of the Office of Inspector General, Department of Transportation, to the list of federal law enforcement officers who are authorized to request the issuance of search warrants under Rule 41, Federal Rules of Criminal Procedure.

EFFECTIVE DATE: July 16, 1986.

FOR FURTHER INFORMATION CONTACT: Roger B. Cubbage, Deputy Chief for Legal Advice, and Stanley A. Rothstein, Senior Legal Advisor, General Litigation and Legal Advice Section, Criminal Division, Department of Justice, Washington, D.C. 20530 (202-724-71440).

SUPPLEMENTARY INFORMATION: This Order adds a new § 60.2(i) to 28 CFR Part 60 to add special agents of the Office of Inspector General, Department of Transportation. It also adds the Office of Inspector General, Department of Transportation to § 60.3(a)(6). Because the material contained herein is a matter of Department of Justice practice and procedure, the provision of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date is inapplicable.

The Department of Justice has determined that this Order is not a major rule for purposes of either Excutive Order 12291, or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The index term for Part 60 of Chapter I of Title 28 is: Search Warrants.

PART 60—[AMENDED]

By virtue of the authority vested in me by Rule 41(h) of the Federal Rules of Criminal Procedure, Part 60 of Chapter I of Title 28, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Rule 41(h), Fed.R.Crim.P.

§ 60.2 [Amended]

2. Section 60.2 is amended by adding a new paragraph (i) to read as follows:

(i) Any special agent of the Office of Inspector General, Department of Transportation.

§ 60.31 [Amended]

3. Section 60.3(a)(6) is amended by adding after "U.S. Coast Guard" the following:

Office of Inspector General, Department of Transportation

Dated: July 16, 1986.

Edwin Meese III,

Attorney General

[FR Doc. 16849 Filed 7-25-86; 8:45 am]

BILLING CODE 4410-01-M

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

Correction

In FR Doc. 86-15064 beginning on page 25050 in the issue of Thursday, July 10, 1986, make the following correction: On page 25050, in the third column, in the first complete paragraph, in the thirteenth line, "not" should read "now".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Approval of a Permanent Program Amendment for the State of Ohio Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of certain amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

By letter dated November 6, 1984, the Ohio Department of Natural Resources (ODNR) submitted a program amendment consisting of a proposed revision to the Ohio regulations at 1501:13-14-03. The amendment concerns civil penalties and alternative enforcement.

OSMRE published a notice in the Federal Register on December 12, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (49 FR 48324). The comment period closed on January 11, 1985.

Following a review of the Ohio amendment, OSMRE notified the State on March 11, 1985, of its concerns about the amendment relating to alternative enforcement. On June 21, 1985, the State responded by submitting a policy statement addressing the implementation of alternative enforcement measures.

OSMRE reopened and extended the public comment period on July 19, 1985, for 15 days (50 FR 29438).

Additional review of Ohio's amendment and policy statement resulted in a second letter to the State dated September 25, 1985, identifying concerns and seeking clarification. The State responded on December 19, 1985, with a letter clarifying its policy statement. OSMRE reopened and extended the comment period on this new information on February 3, 1986, for 15 days (51 FR 4188). At the close of the public comment period, the State informed OSMRE that it was redrafting the proposed amendment and would submit it to OSMRE when it was completed.

By letter dated May 19, 1986, Ohio submitted a revised amendment to OSMRE. The public comment period was reopened and extended on June 26, 1986, for 15 days (51 FR 23245). The comment period closed on July 11, 1986.

After providing an opportunity for public comment and conducting a thorough review of the program amendments, the Director of OSMRE has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the program amendments. The Federal rules at 30 CFR Part 935 which codify decisions on the Ohio program are being amended to implement this action.

The final rule is being made effective immediately to expedite the State program amendment process and encourage States to bring their programs into conformity with the Federal standards without delay. Consistency of State and Federal standards is required by SMCRA.

EFFECTIVE DATE: July 28, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION: .

I. Background

The Ohio program was conditionally approved effective August 16, 1982, by a notice published in the August 10, 1982 Federal Register. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 Federal Register (47 FR 34688). Subsequent action concerning the conditions of approval and program amendments are identified at 30 CFR 935.11 and 935.15.

II. Discussion of Amendments

By letter dated November 6, 1984, Ohio submitted a proposed program amendment consisting of a revision to rule 1501:13-14-03 concerning civil penalties, setting a 30-day cap on failure-to-abate cessation order assessments and establishing assessment conference procedures. The proposed amendment also provides for alternative enforcement actions to be taken if a violation has not been abated within 30 days.

OSMRE announced receipt of the amendment and initiated a public comment period on December 12, 1984 (49 FR 48324). The comment period closed on January 11, 1985.

During review of the amendment, OSMRE identified one concern. The proposed amendment did not specify how alternative enforcement measures will be implemented at the end of the 30-day abatement period to ensure that violations will be corrected. OSMRE notified Ohio about this concern by letter dated March 11, 1985. On June 21, 1985, Ohio responded by providing a policy statement on the implementation of alternative enforcement measures.

OSMRE announced receipt of the policy statement and initiated a public comment period on July 19, 1985 (50 FR 29438). The comment period closed on August 5, 1985.

OSMRE's review of Ohio's policy statement identified additional concerns. They included a limit on the types of violations for which alternative enforcement would be considered, clarification of the public interests which may obviate the need for civil action, and lack of documentation as to alternative enforcement actions taken. Ohio was notified of these concerns in a letter dated September 25, 1985. On December 19, 1985, Ohio responded with a letter providing the clarification OSMRE has requested.

OSMRE announced receipt of the amendment and subsequent material and initiated a public comment period on February 3, 1986 (51 FR 4188). The comment period closed on February 18,

1986. Following the close of the comment period, Ohio informed OSMRE that it was rewriting the proposed amendment and would submit it to OSMRE when it was completed.

By letter dated May 19, 1986, Ohio submitted the redrafted amendment. The May 19, 1986 amendment establishes a 30 day cap on the assessment of civil penalties of $750 per day, after which the State must take appropriate alternative actions to ensure that abatement occurs or to ensure that the failure to abate will not recur. It also states that service shall be deemed complete by the use of certified mail pursuant to OAC 1501:13–14–02(D)(1)(b).

On June 26, 1986, OSMRE published in the **Federal Register** a notice of receipt of the amendment and invited public comments on the adequacy of the proposal (51 FR 23245). The notice stated that a public hearing would be held only if requested. Since there were no requests for a hearing, none was held. No public comments were received.

III. Director's Findings

The Director finds, in accordance with SMCRA 30 CFR 732.17 and 732.15, that the program amendment submitted by Ohio on November 6, 1984 and revised on May 19, 1986, meets the requirements of SMCRA and 30 Chapter VII, as discussed in the findings below.

Ohio Administrative Code

1501:13–14–03 Civil penalties

OAC 1501:13–14–03(D)(1) has been amended for clarity. It now states that the Chief shall consider the four factors listed in (c)(1) to (c)(4) in determining whether to make an assessment. The State regulations require that the Chief may assess a penalty for each notice of violation after considering the seriousness of the violation, the permittee's previous history of violations, the degree of negligence and the permittee's good faith in attempting to achieve rapid compliance. The Director finds the procedures of the amendment similar to those established in the Federal regulations at 30 CFR 845.12(c).

OAC 1501:13–14–03(D)(2) has been amended to provide that failure to abate a notice of violation, cessation order or other order will result in the assessment of a civil penalty for no more than 30 days. If the violation has not been abated within 30 days, the Chief shall take appropriate alternative action to ensure that the violation is abated or to ensure there will be no recurrence of the failure to abate. OAC 1501:13–14–03(D)(2)(a) makes the Chairman of the Board the official who makes determinations at temporary relief proceedings. OAC 1501:13–14–03(D)(2)(b) makes the court the only reviewing body of an order to abate. These rules are similar to the Federal regulations at 30 CFR 845.15.

OAC 1501:13–14–03(E)(1) states that a copy of the proposed assessment shall be served by certified mail. Service shall be deemed complete when the certified mail requirements of 1501:13–14–02 are met. This rule is similar to the Federal regulations at 30 CFR 845.17.

IV. Public Comments

No public comments were received.

V. Director's Decision

The Director, based on the above findings, is approving the November 6, 1984 amendment as revised on May 19, 1986. The Director is amending Part 935 of 30 CFR Chapter VII to reflect approval of the State program amendment.

VI. Procedural Matters

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

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action, OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

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

List of Subjects in 30 CFR Part 935

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

Dated: July 22, 1986.

James W. Workman,

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

PART 935—OHIO

30 CFR Part 935 is amended as follows:

1. The authority citation of Part 935 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. In Part 935, § 935.15 is amended by adding a new paragraph (w) as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(w) The following amendment submitted to OSMRE on November 6, 1984, and revised on May 19, 1986, is approved effective July 28, 1986. Ohio Administrative Code, Section 1501:13–14–03.

[FR Doc. 86–16866 Filed 7–25–86; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 944

Approval of Amendment to Utah Permanent Regulatory Program

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of a proposed amendment to the Utah permanent regulatory program (hereinafter referred to as the Utah program) received by OSMRE pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment establishes a program for the training, examination and certification of blasters. The Federal rules at 30 CFR Part 944 codifying decisions concerning the Utah program are being amended to implement this action.

This final rule is being effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformance with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

EFFECTIVE DATE: July 28, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Hagen, Director, Albuquerque Field Office of Surface Mining Reclamation and Enforcement.

219 Central Avenue NW, Albuquerque, New Mexico; Telephone: (505) 766–1406.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior approved the Utah program. Information pertinent to the general background, revision and amendments to the Utah program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval, can be found in the January 21, 1981 **Federal Register** (46 FR 5899–5915.) Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 944.11, 944.12, 944.15 and 944.16.

II. Submission of Proposed Amendment

At the time of the Secretary's approval of the Utah program, OSMRE had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include a blaster training, examination and certification program in its original program submission. However, in the notice announcing conditional approval of the Utah program, the Secretary specified that Utah would be required to adopt such provisions following promulgation of corresponding Federal rules.

On March 4, 1983, OSMRE issued final rules effective April 14, 1983, establishing Federal standards for the training, examination and certification of blasters at 30 CFR Part 850 (48 FR 9486). These regulations stipulate that within 12 months of State program approval or prior to March 4, 1984, whichever is later, each State regulatory authority shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in surface coal mining operations. In Utah's case, the applicable date was March 4, 1984. As codified at 30 CFR 944.16(a), Utah was granted an extension of time to prepare a program until June 10, 1985 (49 FR 23836, June 8, 1984). On September 6, 1985 Utah was granted an additional six-month extension by the Director (50 FR 36553).

On March 3, 1986, Utah submitted a proposed amendment to establish a program for the training, examination and certification of blasters. The rule changes submitted for approval were adopted by the Utah Board of Oil, Gas and Mining on March 18, 1986, but implementation of the revised rules was delayed pending OSMRE approval. Utah also submitted a description and explanation of its training program and provided notice that its blaster certification examination was available for review.

In the amendment, Utah proposed to amend its approved program by supplementing its regulations SMC 816.61, UMC 817.61 and SMC/UMC 850.5 *et seq.* with the following additional documents and material (1) "Summary of the Blaster Certification Program"; (2) Memorandum of Agreement between the Board and Division of Oil, Gas and Mining and Utah Industrial Commission; (3) Utah Code Annotated Title 40, Chapter 2, Coal Mines, Utah Industrial Commission Sections 40–2–14 through 40–2–16; and (4) General Safety Orders, Utah Industrial Commission, Coal Mines, Section 51 through 53.

On April 9, 1986, the Director announced receipt of the proposed amendment and opened the public comment period (51 FR 12166–12168). Since no one requested a public hearing, none was held.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

A. General

The proposed Utah Blaster Training, Examination, and Certification Program was adopted by the Board of Oil, Gas and Mining ("Board") at its January 23, 1986 hearing. The proposed program followed the requirements and procedures set forth by OSMRE in 30 CFR 816.61, 817.61, and Part 850.

Following public hearing, the Board adopted rules SMC 816.61, UMC 817.61, and SMC/UMC 850 implementing a blaster training, examination, and certification program. The program is based on the existing regulatory program administered by the Utah Industrial Commission ("U.I.C."), which has historically regulated blasting at coal mines in accordance with its own statutory mandate and regulations.

Utah's coal industry is primarily underground. There are no active surface coal mines in the State. As a result, the historic emphasis of the blasting regulatory program administered by the U.I.C. has been directed at blasters, known as "shotfirers," at underground coal mines. The Board will fulfill its responsibility under the Utah Coal Mining and Reclamation Act of 1979 by continuing to utilize the U.I.C. to train, examine, and certify blasters. The Division of Oil, Gas and Mining and the Industrial Commission have executed a Memorandum of Agreement concerning the program. The Director finds that the division of responsibilties proposed for the Utah program is adequate to meet the basic Federal regulatory requirements of 30 CFR 850.12.

B. Amendments to the Utah Coal Mining Regulatory Program

1. Rules

Utah's adoption of a blaster training, examination, and certification program included the Board amending SMC 816.61 and UMC 817.61 and adopting a new rule, SMC/UMC 850.5 *et seq.* As amended, SMC 816.61 and UMC 817.61 now include provisions comparable to OSMRE's set forth in 30 CFR 816.61 and 817.61. The Utah regulations at SMC/UMC 850.5 *et seq.* include an additional provision specifically defining the term "blaster" in accordance with OSMRE's definition set forth in 30 CFR 850.5. This definition expressly incorporates by reference the certification procedures administered by the U.I.C.

2. Training

Utah will utilize several sources for training including the College of Eastern Utah ("C.E.U.") in Price, Utah, as well as M.S.H.A. and industry. C.E.U. uses M.S.H.A. certified instructors who have previously worked in the mining industry. It teaches training courses in blasting technology and explosives safety which include introductions to blasting and explosives, planning techniques, blasting techniques, M.S.H.A. and company policies, special blasting problems, noise and vibration, safety, blasting records, electrical blasting, and state and local laws governing the use of explosives.

Industry training courses may be conducted with the participation of the Division, C.E.U., and U.I.C. by explosive manufacturers, explosive specialists, or by the mining company, subject to review and approval by the Division, C.E.U., and U.I.C. for adequacy. Training, examination, and certification requirements are found at SMC and UMC 850.13. The Director finds these provisions include the necessary items to train mine personnel in the areas listed at 30 CFR 850.13(b).

3. Examination

Utah will continue to use the existing U.I.C. shotfirers test with the addition of a surface blaster module. The test will be comprised of questions and practice demonstrations approved by the Division, C.E.U., and U.I.C. These questions may include short answers, definitions, detailed essay, blast-pattern design, and oral examination. The oral section of the exam will allow the U.I.C.

to ask general as well as site-specific questions taken from the mine's approved blasting plan. Practical experience will also be required. Existing State law requires that for a person to become a certified shotfirer, he or she must have at least two years of practical experience at the working face or tunnel prior to taking the examination. Testing topics shall be based on training provided including the subjects identified in SMC/UMC 850.13. The Director finds that these provisions are no less effective than 30 CFR 850.14 which sets forth the minimum requirements for examination of candidates for blaster certification.

4. Certification

Certificates will be issued to those persons who have successfully passed the examination and satisfied the requirements of practical experience. Certificates shall be valid for one (1) year after issuance. Certificates may be renewed by attending an eight-hour annual refresher course. Refresher courses shall review the topics identified under initial training and SMC and UMC 850.13. All persons directly responsible for the use of explosives in a surface coal mine or on the surface of an underground coal mine shall be certified within twelve (12) months after approval of the State blasting certification program. The Director finds these provisions to be no less effective than the Federal regulations at 30 CFR 850.15.

5. Revocation

Under provisions of SMC/UMC 850.16, the U.I.C., following written notice and opportunity for a hearing, may upon a finding of willful conduct, suspend or revoke the certification of a blaster during the term of the certification or take necessary action for the conditions specified at SMC/UMC 850.16(a)(1–4) as follows:

(i) Noncompliance with any order of the regulatory authority,

(ii) Unlawful use in the work place of, or current addiction to, alcohol, narcotics, or other dangerous drugs,

(iii) Violation of any provision of the State and Federal explosives laws or regulations,

(iv) Providing false information or a misrepresentation to obtain certification.

Certificates are not assignable or transferable to other persons, nor can the certified individual delegate his or her responsibilities to noncertified persons. Duplicate certificates will be made and one (1) certificate given to the blaster and the other given to the mine where the blaster is employed. The mine will be required to keep certificates of its certified blasters on file at the mine. This will allow inspectors to review blasting certificates at the mine office during an inspection in which records are examined. The Director finds these provisions no less effective than the requirement of 30 CFR 850.15(b).

IV. Public Comment

OSMRE solicited public comments on the proposed amendment by a **Federal Register** notice dated April 9, 1986 (51 FR 12166–12168), which specified May 9, 1986 as the closing date of the comment period. No one requested to testify at a public hearing; therefore, the scheduled hearing was not held.

Of the Federal agencies invited to comment on the proposed amendment, responses were received from the Bureau of Land Management and the Fish and Wildlife Service. Both agencies stated they had no comments on the proposed amendment.

The Utah Chapter of the Sierra Club commented that Utah had omitted enforcement provisions, including how and who would make sure the rules are complied with under the program. Also, an eighty percent (80%) score on the examination to qualify for certification was below what the commenter believed to be a minimum standard for someone handling explosives.

OSMRE finds the performance standards for use of explosives (UMC/SMC 816.61–816.68) include adequate provisions for general requirements, preblast survey, blasting schedule, signs, warnings and access control, control of adverse effects, and records of blasting operations. The inspection and enforcement of performance standards set out in Utah's rules would be checked by the State inspectors during routine inspections, or inspections initiated by citizens complaints. The overall process of the blaster certification program will be examined during OSMRE's annual evaluation of Utah's State program.

The candidate's test score is intended to indicate whether the person is competent or not (30 CFR 850.14(a)). The test score is used in conjunction with a candidate's demonstrated practical experience. These two factors should reasonably be expected to eliminate those not qualified.

The Federal rule does not specify a passing score; hence OSMRE cannot require the State to set one at any particular level. OSMRE's review of the examination indicated that persons passing the test with an eighty percent (80%) would satisfy the minimum requirements specified at 30 CFR 850.14.

V. Director's Decision

The Director, based on the above findings, is approving the permanent state program amendment as submitted on March 3, 1986, and the blaster certification examination as reviewed on June 12, 1986, and the director is amending 30 CFR Part 944 to reflect approval of this amendment.

VI. Procedural 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. 1291(d), no environmental impact statement need be prepared on this rulemaking.

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

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rule will be met by the State.

3. *Paperwork Reduction:* 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 944

Coal mining Intergovernmental relations, Surface mining, Underground mining.

Dated: June 17, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

PART 944—UTAH

30 CFR Part 944 is amended as follows:

1. The authority citation for Part 944 continues to read as follows:

Authority: Sec. 503, Pub. L. 95–87 (30 U.S.C. 1253), unless otherwise noted.

§ 944.15 [Amended]

2. 30 CFR 944.15 is amended by adding a new paragraph (j) to read as follows:

* * * * *

(j) The following amendments as submitted to OSMRE on March 3, 1986, are approved effective July 28, 1986.

(1) Modifications to Utah regulations, sections SMC 816.61 and UMC 817.61, revised February 5, 1986.

(2) Modifications to Utah regulations, sections SMC/UMC 850.5 et seq., revised February 5, 1986.

(3) Memorandum of Agreement between the Board and Division of Oil, Gas, and Mining and the Utah Industrial Commission.

(4) Utah Code Annotated Title 40, Chapter 2, Coal Mines, Utah Industrial Commission, sections 40–2–14 through 40–2–16.

(5) General Safety Orders, Utah Industrial Commission, Coal Mines, sections 51 through 53.

§ 944.16 [Amended]

3. 30 CFR 944.16 is amended by removing and reserving paragraph (a).

[FR Doc. 86–16611 Filed 7–25–86; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

31 CFR Part 51

Revenue Sharing

AGENCY: Office of Revenue Sharing, Treasury.

ACTION: Interim rule.

SUMMARY: The Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272, provides for the repeal of the Revenue Sharing Act (31 U.S.C. 6701–24). The interim rule makes changes needed to implement the Act's termination provisions and provide for the orderly closure of the Office of Revenue Sharing on schedule.

DATES: *Effective Date:* July 28, 1986.

Comment Date: Written comments will be considered if received on or before August 27, 1986.

ADDRESSES: Send comments to: Chief Counsel for Revenue Sharing; Office of Revenue Sharing, Treasury Department, Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Richard S. Isen, Chief Counsel for the Office of Revenue Sharing, Washington, DC 20226, Telephone: (202) 634–5182.

SUPPLEMENTARY INFORMATION:

Background

Title XIV of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272 (COBRA), provides for repeal of the Revenue Sharing Act (31 U.S.C. 6701–6724) effective December 31, 1986 or the adjournment *sine die* of the 99th Congress, whichever is earlier. The Act preserves the legal obligations of the Office of Revenue Sharing and recipient governments regarding Revenue Sharing funds paid under the Revenue Sharing Program. The current authorization provides for Revenue Sharing payments through fiscal year 1986 which ends September 30, 1986 (Pub. L. 98–185). A number of regulation changes are needed to implement Title XIV and to provide for the scheduled closure of the Office of Revenue Sharing and the Revenue Sharing Program.

Two changes are made to the regulations to permit the orderly wind-down of the Revenue Sharing Program. The first change is to the Revenue Sharing constructive waiver policy. Constructive waiver is the waiver of all funds currently scheduled for payment to a recipient government because that government is delinquent in submitting required forms or reports, including requests for information needed to determine compliance with the Revenue Sharing Act. This action is initiated by ORS after the government has received at least two notices, each with thirty (30) days for the government to respond, of the potential constructive waiver action. The waived funds are transferred and paid to the next higher level of government in which the jurisidiction is located, which in most cases is the county government.

Normally, constructive waiver action is initiated immediately after the end of an entitlement period during which a government has been notified of the impending constructive waiver. Section 51.3(e)(1) provides that a payment may be delayed for failure to submit a report or other required information. Section 51.3(e)(2) provides that constructive waiver action may be taken after payments have been delayed for one or more entitlement periods. The interim rule amends the regulations to eliminate the requirement that the Director wait until the end of the entitlement period. This gives ORS a better opportunity to make adjustments necessary in time for the remaining Revenue Sharing payments. The provisions revised to effectuate this change are: §§ 51.3(e), 51.25(b), 51.59(b) and 51.60(c).

The second change affects the Revenue Sharing twenty-four month rule. Section 51.101(b) requires recipient to use, obligate or appropriate Revenue Sharing funds within 24 months from the end of the entitlement period to which the entitlement payment is applicable. The Revenue Sharing Act requires only that payments be spent in a "reasonable" time. At the inception of the Revenue Sharing Program, reasonable time was defined by regulation as two years. Since the Program is scheduled to end at the end of fiscal year 1986, two years to spend the last Revenue Sharing funds received would give local governments until the end of fiscal year 1988 to spend the funds. However, only one year has been budgeted for the Office of Revenue Sharing to implement an orderly termination of activities; therefore, a two-year expenditure time limit is impracticable. Congress recognized this inconsistency, and shared this concern, section 14001(a)(5) of COBRA requires that Revenue Sharing funds be used, obligated or appropriated by local governments before October 1, 1987. The interim rule amends § 51.101(b) to require use, obligation, or appropriation of Revenue Sharing funds before October 1, 1987. This change will still allow local governments flexibility in determining how and when to spend the Revenue Sharing funds.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires that regulations with significant economic impact on a substantial number of "small entities" should undergo regulatory flexibility analyses. With respect to the Revenue Sharing Program, small entities are defined as recipient governments with populations below 50,000. The interim rule is not expected to have a significant economic impact on small governmental units. It is hereby certified that this interim rule does not have a significant economic impact on small governmental units.

Executive Order 12291—"Federal Regulation"

The interim rule does not constitute a "major rule" within the meaning of section 1(b) of Executive Order 12291, entitled "Federal Regulation." A regulatory analysis is not required.

Need for Immediate Guidance

This interim rule is needed to provide immediate guidance to recipient governments. The amendments concerning constructive waiver and limitation on time for expending Revenue Sharing funds must take effect as soon as possible to ensure the orderly wind-down of the Revenue Sharing Program and so that recipient governments may take these changes into account in their budget processes. Further, it is essential that the ORS take the maximum action authorized by the Revenue Sharing Act and COBRA to balance to accounts payable and

accounts receivable from amounts appropriated for the Revenue Sharing Trust Fund. Accordingly, compliance with the notice of proposed rule-making provisions of 5 U.S.C. 553(b) or the effective date limitations of 5 U.S.C. 553(d) would be impractical and contrary to the public interest.

List of Subjects in 31 CFR Part 51

Accounting, Administrative practice and procedure, Civil rights, Handicapped, Aged, Indians, Revenue Sharing, Reporting and Recordkeeping requirements.

31 CFR Part 51, is, therefore, amended in the manner set forth below.

Dated: June 12, 1986.

Kent A. Peterson,

Acting Director, Office of Revenue Sharing.

PART 51—FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS

1. The authority citation for part 51 continues to read as follows:

Authority: 31 U.S.C. 6701 to 6724 and Treasury Department Order No. 224, dated January 26, 1973 (38 FR 3342) as amended by Treasury Department Order No. 103–1 dated March 18, 1982.

2. Section 51.3(e)(2) is amended by revising the first sentence to read as follows:

§ 51.3 Procedures for effecting compliance for violations of provisions other than Subpart E.

* * * * *

(e) *Delay and constructive waiver of entitlement payments.* * * *

(2) The Director may, after one or more quarterly payments of entitlement funds have been delayed pursuant to paragraph (e)(1) of this section, determine that the further payments to the recipient government for a particular entitlement period are constructively waived pursuant to § 51.25(b) of this part. * * *

3. Section 51.25(b) is amended by revising the second and third sentences to read as follows:

§ 51.25 Waiver of entitlement; nondelivery of checks; insufficient data.

* * * * *

(b) *Constructive waiver.* * * * Prior to such a waiver, the Director shall, in at least two notices of not less than thirty (30) days notify a nonresponsive recipient government of its noncompliance, that its payments(s) for the affected entitlement period(s) are being delayed pursuant to §§ 51.3(e), 51.11(d), 51.43(b), 51.59(b), 51.60(c), and 51.109(b) of this part, and that if the report or assurance is not submitted within the thirty (30) days or a reasonable period thereafter as determined by the Director, the Director shall make a determination that the payments to the nonresponsive recipient government will or are continued to be constructively waived. * * *

4. Section 51.59(b)(2), first sentence, is revised to read as follows:

§ 51.59 Assurances required.

* * * * *

(b) *Delay and constructive waiver of entitlement payments.* * * *

(2) The Director may, after one or more quarterly payments of entitlement funds have been delayed pursuant to paragraph (b)(1) of this section, constructively waive such funds pursuant to § 51.25(b) of this part. * * *

5. Section 51.60(c)(2), first sentence, is revised to read as follows:

§ 51.60 Compliance information and reports.

* * * * *

(c) *Delay and constructive waiver of entitlement payments.* * * *

(2) The Director may, after one or more quarterly payments of entitlement funds have been delayed pursuant to paragraph (c)(1) of this section, constructively waive such funds pursuant to § 51.25(b) of this part. * * *

§ 51.101 [Amended]

6. Section 51.101(b) is amended by replacing the phrase "within twenty-four (24) months from from the end of the entitlement period to which the entitlement payment is applicable" in the first sentence, and the phrase "within twenty-four (24) months the end of the entitlement period during which the interest was received or credited" in the third sentence, with "before October 1, 1987".

[FR Doc. 86–16799 Filed 7–25–86; 8:45 am]

BILLING CODE 4810-28-M

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31 CFR Part 51

Financial Assistance to Local Governments; Administrative Hearing Procedures

AGENCY: Office of Revenue Sharing, Treasury.

ACTION: Final rule.

SUMMARY: The final rule would amend 31 CFR Part 51, Subpart G, "Proceedings for Reduction in Entitlement, Withholding, or Suspension of Funds", to eliminate the administrative appeal and review by the Secretary currently permitted after an administrative hearing.

EFFECTIVE DATE: July 28 1986.

FOR FURTHER INFORMATION CONTACT: Richard S. Isen, Chief Counsel for the Office of Revenue Sharing, Washington, DC 20226 Telephone: (202) 634–5182.

SUPPLEMENTARY INFORMATION:

Background

The Revenue Sharing regulations governing proceedings for reduction in entitlement, withholding, or suspension of funds, 31 CFR Part 51, Subpart G, have not been substantially revised since they were published to implement the amendments to the civil rights provisions in the Revenue Sharing Act made by the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94–488). The decision to streamline the appeals process, by eliminating the provision for Secretarial review of the decision of an administrative law judge, is proposed in light of ORS' experience with these proceedings over the intervening years. The changes will also conform the process more closely with the statutory scheme under which the decisions of an administrative law judge are directly appealable to the Federal courts. Although the President has proposed termination of the Revenue Sharing Program, these changes would be useful with respect to hearings conducted prior to the end of the Program. The regulation was issued April 1, 1986 (51 FR 11056). No comments were received. Therefore, the final rule makes no changes to the proposed rule.

The current regulations are amended as follows:

Section 51.210 Administrative law judge; powers

Paragraph (b)(2) is revised to eliminate the reference to an interlocutory administrative appeal during an administrative hearing. Paragraph (b)(10) is revised to refer to the decision of the administrative law judge as the final agency action.

Section 51.211 Administrative hearings

New sentences are added to the end of paragraph (a) to specify that the administrative law judge issues the final agency decision concerning compliance with the Revenue Sharing Act, based upon the record.

A new paragraph (b)(1) removes the reference to a summary proceeding prior to the preliminary decision. Whether or not to grant oral argument prior to this decision is at the discretion of the

administrative law judge. Paragraph (b)(1) also provides that the preliminary decision is to be issued within 60 days of the Director's receipt of the request for a hearing, as required in the Revenue Sharing Act at 31 U.S.C. 6717(d). The paragraph also provides that the preliminary decision is not appealable. The statutory requirement for a hearing on the merits is preserved.

The new paragraph (b)(2) states that the decision of the administrative law judge following completion of the hearing is the final decision of the agency. The hearing procedures set forth in the Revenue Sharing Act (31 U.S.C. 6718) describe in detail the authority of the Secretary of the Treasury, the administrative law judge and the appeal procedures for recipient governments. The Act provides that the Secretary has a nondiscretionary duty to withhold or terminate funding pursuant to the decision of the administrative law judge. The Act (31 U.S.C. 6722) provides for direct appeal to the applicable U.S. Court of Appeals and does not provide for review of the decision of the administrative law judge by the Secretary. Hence, the option for appeal to the Secretary is deleted from the regulations in the interest of streamlining the procedures applicable to the Revenue Sharing Program. The due process rights of recipient governments are fully protected since a full record will be created by the administrative law judge for use by a reviewing court. Therefore, the agency review provisions of the Administrative Procedure Act (5 U.S.C. 557) are not applicable to adjudications under the Revenue Sharing Act.

Section 51.217 Preliminary finding (for hearings under Subpart E)

This section is revised to delete the reference to the "initial decision" of the administrative law judge and add a reference to the "final decision."

Section 51.218 Final decision of the administrative law judge

Current § 51.218 is amended to delete the references to "initial decision" of the administrative law judge in the title and elsewhere and to add references to "final decision" in their places.

Section 51.219 Certification and transmittal of record and decision

Current § 51.219 is amended to delete the references to "initial decision" of the administrative law judge and add references to "final decision" in their places.

Section 51.221 Publicity of proceedings

Current § 51.221, "Procedure on review of decision of administrative law judge" and § 51.222, "Effect of absence of appeal or review of initial decision of administrative law judge" are deleted for the reasons described above with respect to § 51.211. Section 51.223 is redesignated § 51.221, and the references to "initial decision" and review of the decision of the administrative law judge are deleted.

Section 51.222 Judicial review

Current § 51.224 is redesignated § 51.222 and the reference to the intial decision of the administrative law judge and review by the Secretary is deleted. The reference in paragraph (d) to preparation of the record by the "Secretary" is changed to "Director" since the Secretary will no longer have a role in the administrative hearing process.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires that regulations with significant economic impact on a substantial number of "small entities" should undergo regulatory flexibility analyses. With respect to the Revenue Sharing Program, small entities are defined as recipient governments with a population below 50,000. It is hereby certified that this final rule does not have a significant economic impact on small governmental units.

Executive Order 12291—"Federal Regulation"

The final rule does not constitute a "major rule" within the meaning of section 1(b) of Execuive Order 12291, entitled "Federal Regulation." A regulatory analysis is not required.

Need for Immediate Guidance

This final rule is needed to take immediate effect in order that pending administrative hearings may be conducted in accordance with the new procedure. Accordingly, compliance with the effective date limitation of 5 U.S.C. 553(d) would be impractical and contrary to the public interest.

List of Subjects in 31 CFR Part 51

Accounting, Administrative practice and procedure, Civil rights, Handicapped, Aged, Indians, Revenue sharing, Reporting and recordkeeping requirements.

31 CFR Part 51, Subpart G, is, therefore, amended in the manner set forth below:

Dated: June 12, 1986.

Kent A. Peterson,

Acting Director, Office of Revenue Sharing.

PART 51—[AMENDED]

Subpart G—Proceedings for Reduction in Entitlement, Withholding, or Suspension of Funds

1. The authority citation for Part 51 continues to read as follows:

Authority: 31 U.S.C. 6701 to 6724 and Treasury Department Order No. 224, dated January 26, 1973 (38 FR 3342) as amended by Treasury Department Order No. 103-1 dated March 18, 1982.

2. Section 51.210 is amended by revising paragraphs (b)(2) and (b)(10) to read as follows:

§ 51.210 Administrative law judge; powers.

* * * * *

(b) *Powers of administrative law judge.* * * *

(2) Make rulings upon motions and requests, including a motion for oral argument, prior to making a preliminary decision under Subpart E.

* * * * *

(10) Make findings of facts and conclusions of law and issue the preliminary decision and the final agency decision as authorized by this subpart.

3. Section 51.211 is amended by revising paragraphs (a) and (b) to read as follows:

§ 51.211 Administrative hearings.

(a) *Administrative hearings for violations other than subpart E.* The administrative law judge shall preside at a hearing on the merits of the complaint. Testimony of witnesses shall be given under oath or affirmation. The hearing shall be stenographically recorded and transcribed. Hearings shall be conducted pursuant to section 7 of the Administrative Procedure Act (5 U.S.C. 556). Upon completion of the hearing, the administrative law judge shall issue the conclusions of law, findings of fact and the final agency decision based upon the record. The decision shall state whether or not the recipient government has complied with the provisions of the Act.

(b) *Administrative hearing under Subpart E.* A hearing requested by a recipient government, pursuant to § 51.65(a)(2) of Subpart E, shall be commenced by the Director within thirty (30) days of receipt of such request and shall be held before an administrative law judge. Testimony shall be given under oath or affirmation and shall

provide for two decisions of the administrative law judge as follows:

(1) The administrative law judge shall issue a preliminary decision as to whether the recipient government is likely to prevail in demonstrating compliance with Subpart E. The preliminary decision shall be based upon the record of the case (including oral argument, if any) at that time, and shall be issued within 60 days after the request for a hearing is received by the Director. The preliminary decision is not appealable.

(2) After a preliminary decision and the completion of the hearing including oral arguments, if any, the administrative law judge shall issue the final decision in the case, based upon the complete record of the evidence, as soon as practicable. The final decision may also be based upon receipt of any proposed findings of fact and conclusions of law submitted by the parties, but in no event shall it be made later than 30 days after the conclusion of the hearing. The final decision may be combined with the preliminary hearing in the event that the administrative law judge decides that further proceedings are not necessary. The final decision of the administrative law judge shall constitute the final agency decision as described in § 51.218 of this part.

* * * * *

§ 51.217 [Amended]

4. Section 51.217 is amended by changing the reference in paragraph (a)(2), fifth sentence, from "initial decision" to "final decision."

§ 51.218 [Amended]

5. Section 51.218 is amended as follows:

a. The heading of § 51.218 is revised to read as set forth below:

§ 51.218 Final decision of the administrative law judge.

b. In § 51.218, the references to "initial decision" are changed to "final decision" wherever they occur.

§ 51.219 [Amended]

6. Section 51.219 is amended by changing the references in the first and second sentences from "initial decision" to "final decision."

§§ 51.221 and 51.222 [Removed]

§ 51.223 [Redesignated]

7. Sections 51.221 and 51.222 are removed and section 51.223 is redesignated as § 51.221 and the first sentence of paragraph (c) revised to read as follows:

§ 51.221 Publicity of hearings.

* * * * *

(c) *Decisions of the administrative law judge.* The statement of findings and the decisions of the administrative law judge in any hearings shall be indexed and maintained by the Director and made available for public inspection at the public documents room of the Department. * * *

§ 51.224 [Redesignated]

8a. Section 51.224 is redesignated as § 51.222.

b. Paragraph (b) is revised to read as follows:

§ 51.222 Judicial review.

* * * * *

(b) *Appeal by the respondent.* A recipient government may appeal the final decision of the administrative law judge to the U.S. Court of Appeals, as provided by 31 U.S.C. 6722.

* * * * *

c. Paragraph (c) is amended by removing the last sentence.

d. Paragraph (d) is amended by changing the reference from "Secretary" in the first sentence to "Director."

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 110

[DoD Directive 1215.10]

Standardized Rates of Subsistence Allowance and Commutation Instead of Uniforms for Members of the Senior Reserve Officers' Training Corps

ACTION: Final rule.

SUMMARY: This part provides DoD policy for classifying institutions hosting senior ROTC units, authorizing special rates of commutation, and establishing subsistence allowance and commutation rates. This revision authorizes extended subsistence payments to selected ROTC students implementing Pub. L. 98-94, establishes a standard length of enrollment for application of commutation rates, clarifies the amount of reimbursement authorized for custodial fees, provides a sample format for standardized institutional reports on commutation fund, and relieves the Services of a requirement for annual inspections of institutions authorized the special commutation rate. Draft versions of this revision have been informally coordinated with the Services and accommodations have been made based on their inputs.

EFFECTIVE DATE: February 13, 1986.

FOR FURTHER INFORMATION CONTACT: Colonel D. Bergman, Office of the Assistant Secretary of Defense (Force Management and Personnel), telephone, 695-9053.

List of Subjects in 32 CFR Part 110

Armed Forces, Colleges and universities, Defense Department, Wages.

Accordingly, 32 CFR 110 is revised to read as follows:

PART 110—STANDARDIZED RATES OF SUBSISTENCE ALLOWANCE AND COMMUTATION INSTEAD OF UNIFORMS FOR MEMBERS OF THE SENIOR RESERVE OFFICERS' TRAINING CORPS

Sec.

Authority: 10 U.S.C. 2101-2111, 37 U.S.C. 209, 50 App. U.S.C. 456(a)

§ 110.1 Reissuance and purpose.

This part reissues 32 CFR Part 110 implementing Pub. L. 88-647, 92-171, and 98-94 and updates policy, assigns responsibilities, and prescribes procedures for determining commutation rates for Reserve Officers' Training Corps (ROTC) detachments offered commutation funds instead of uniforms.

§ 110.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, and the Defense Logistics Agency (DLA) (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 110.3 Policy.

It is DoD policy to provide subsistence allowance in accordance with Pub. L. 92–171 and to eligible participants of senior ROTC programs and commutation funds instead of uniforms (section 2110, Pub. L. 88–647) for members of senior ROTC programs at eligible schools.

§ 110.4 Responsibilities.

(a) The *Assistant Secretary of Defense (Force Management and Personnel)* (ADS(FM&P)), or designee, shall:

(1) Administer the overall DoD ROTC program.

(2) Maintain liaison with the Military Departments regarding the functioning of the ROTC program.

(3) Announce the standard rates of commutation instead of uniforms to the Military Departments not later than August 1 each year.

(b) The *Director, Defense Logistics Agency* (DLA), shall provide the Military Departments during December of each year the current unit price list of uniform items to be used the following fiscal year.

(c) The *Secretaries of the Military Departments* shall:

(1) Prescribe the standard uniform items for each climatic zone, sex, and course (basic and advanced) in quantities authorized to be provided.

(2) Develop the communication rates, based on the standard Military Service uniforms, and establish procedures for rate review on an annual basis.

(3) Submit to the ASD(FM&P) an estimate of the rates of commutation, based on the latest DLA clothing rate, for climatic zones by sex and course not later than July 1 of each year.

(4) Classify educational institutions as Military Colleges (MC), Civilian Colleges (CC), or Military Junior Colleges (MJC), hereafter also called schools.

(5) Conduct inspections to ensure that the schools meet the requirements for the respective classifications and that those receiving commutation funds provide quality uniforms in sufficient quantities.

(6) Program and budget for subsistence allowance and commutation, instead of uniforms, for members of the senior ROTC program.

§ 110.5 Procedures.

(a) *Classification of institutions hosting Senior ROTC Units.* Educational institutions hosting senior ROTC units maintained by the Military Departments shall be classified as essentially military or civilian colleges or universities.

(1) The classification MC shall be assigned to units established in:

(i) Essentially military colleges or universities that, for purposes of qualifying as an MC under 50 U.S.C. App. 456(a)(1):

(A) Confer baccalaureate or graduate degrees.

(B) Require a course in military training throughout the undergraduate course for all qualified undergraduate students.

(C) Organize their military students as a corps of cadets under constantly maintained military discipline.

(D) Require all members of the corps, including those nonmembers enrolled in the ROTC, to be habitually in uniform when on campus.

(E) Have as their objective the development of the military students' character by means of military training and the regulation of their conduct in accordance with the principles of military discipline.

(F) In general, meet military standards similar to those maintained at the Military Service academies.

(ii) The designation "all qualified undergraduate students," under paragraph (a)(i)(B) of this section means all physically fit students except:

(A) Female students who waive their right to participate as provided by Pub. L. 95–485, section 809.

(B) Foreign nationals.

(C) Students who are not liable for induction by virtue of having honorably completed active training and service.

(D) Students who are pursuing special undergraduate courses beyond 4 years after completing the required military training.

(E) Certain categories of students who are excused specifically by administrative decision and approved by the ROTC unit commander.

(2) The classification CC shall be assigned when units are established at civilian colleges and universities that are not operated on an essentially military basis, but that confer baccalaureate or graduate degrees.

(3) The classification MJC shall be assigned when ROTC units are established at essentially military schools that provide junior college or junior college and high school instruction, but DO NOT confer baccalaureate degrees. Those units shall meet all other requirements of an MC. (See Pub. L. 88–647).

(b) *Qualifying for the special rate of commutation.* (1) To qualify for payment at the special rate of commutation instead of uniforms, an institution classified MC or CC shall meet in addition to paragraphs (a)(1), or (2), respectively the requirements below. An institution classified an MJC shall meet, in addition to paragraph (a)(1) (except paragraphs (a)(1)(i)(A) and (B)), the requirements below:

(i) Organize and maintain within their undergradute student bodies a self-contained corps of cadets.

(ii) Require all members of the corps of cadets to be in appropriate uniform at all times while on the campus.

(iii) House all members of the corps of cadets in barracks separate from nonmembers.

(iv) Require all members of the corps of cadets to be under constantly maintained military discipline on a 24-hours-per-day, 7-days-per-week basis.

(v) Require all physically qualified members of the above corps of cadets to be enrolled in the basic course of ROTC, except:

(A) Female students who waive their right to participate as provided by Pub. L. 95–485.

(B) Foreign nationals.

(C) Students who are not liable for induction by virtue of having completed honorably active training and service.

(D) Certain categories of students are excused specifically by administrative decisions.

(E) Other students whose enrollment is prevented by provisions or appropriate regulations of a Military Department.

(2) MCs, CCs, or MJCs may be paid the special rate of commutation only for those members of the corps of cadets meeting the requirements set forth in paragraph (b)(1), who are enrolled in ROTC. The requirements of paragraphs (b)(1)(iii) and (iv), may be waived for married students, graduate students, and day students who are not housed with the corps of cadets. Day students are those ROTC cadets who are authorized by university officials to reside off campus within a reasonable commuting distance to the university.

(3) Institutions designated as MCs may enroll into the ROTC, of the appropriate Military Service, those students who, for various reasons, are not required to be members of the corps of cadets. These institutions shall receive, for such student only, the standard commutation rate. The special rate shall be authorized for eligible females who elect to participate as enrolled senior ROTC cadets, provided that the requirements of paragraphs (b)(1)(ii), (iii), and (iv) are met or unless these requirements are waived under the provisions of paragraph (a)(ii)(E).

(c) *Subsistence allowance and commutation rates.*—(1) *Subsistence Allowances.* Payment that is made by the Military Departments instead of

rations to each contract cadet enrolled in the advanced course and for each scholarship cadet enrolled in the basic or advanced course. Payments are as prescribed in the DoD Military Pay and Allowances Entitlements Manual, Part 8, Chapter 4. The following rates are established for payment of subsistence allowance:i

(i) Except when on summer fiel training or practice cruises, when subsistence in kind is furnished, or when otherwise on active duty, the subsistence allowance for each enrolled member of the advanced training program in the senior ROTC shall be $100 per month for not more than a total of 20 months.

(ii) Except when on summer field training or practice cruises, when subsistence in kind is furnished, the subsistence allowance for each cadet or midshipman appointed under the financial assistance program for specially selected members, under the provisions of Pub. L. 88–647, shall be $100 per month for not more than a total of 20 months during the basic course training program and $100 per month for not more than a total of 20 months during the advanced course training program unless the individual has been authorized extended entitlements under the provisions of Pub. L. 98–94. The $100 per month subsistence may be authorized for not more than a total of 30 months during the advanced course training program when an extended financial assistance entitlement is approved by the Military Service Secretary of the Military Department concerned.

(2) *Commutation Instead of Uniforms.* Commutation is payment made by the Military Departments to an institution instead of the issue of uniforms to ROTC cadets in accordance with Pub. L. 88–647. Certain MCs, CCs, and MJCs that maintain senior ROTC units may elect to receive commutation instead of Government clothing. In such instances, the commutation rate shall include not only the uniform, but the procurement, receipt, storage, maintenance, and issue of the uniform as outlined in paragraph (c)(2)(xi), and shown in Appendix B.

(i) The Military Departments shall develop the commutation rates and establish procedures for their review on an annual basis. The review shall be scheduled during May so that the current unit price list disseminated by the DLA during the previous December of each year can be used to develop the commutation rates and made available to institutions for use at the beginning of the fall term. The commutation payment shall be made to the institutions based on the number of students enrolled and in attendance for at least 60 consecutive days.

(ii) Commutation rates for uniforms shall be based on the latest approved items of clothing for each climatic zone and computed using the formulas listed in Appendix B. Appendices C, D, and E are examples of the application of the various formulas to determine the amounts that can be paid to qualifying institutions.

(iii) Standard commutation rates for the basic course (first 2 years) of the senior ROTC shall be payable in the indicated amount on an annual basis not to exceed 2 years to CCs that offer Military Science (MS) I and II or equivalent. The rates shall be paid after cadets have been enrolled 60 days.

(iv) Standard rates for the advanced course cover the 2-year period that each member is enrolled in advanced course training in the senior ROTC (Appendix D). These rates shall be paid after cadets have been enrolled for 60 days in the advanced course. Commutation funds for camp uniforms, if paid, shall be in addition to payments for the advanced course.

(v) Special rates of commutation shall be paid for students enrolled at MCs, CCs, or MJCs fulfilling the requirements of paragraph (b).

(vi) Special rates of commutation shall be identical for all the Military Services for those qualifying institutions defined in paragraph (b). These rates shall be three times the highest standard rate submitted by sex and course from the Military Departments for climatic zones 1 or 2. Each Military Department shall submit special rate estimates for zones 1 and 2 to the Assistant Secretary of Defense (ASD(FM&P), or designee, not later than July 1. The special rates shall be announced by the ASD(FM&P), or designee, not later than August 1 of each year.

(vii) Special rates of commutation for students enrolled in the basic course (MS I and II or equivalent) of MCs, CCs, and MJCs shall be paid on an annual basis not to exceed 2 years. Special rates for students enrolled in the advanced course (MS III and IV or equivalent) of MCs, CCs, or MJCs shall be paid for the 2-year period that each member is enrolled in the advanced course.

(viii) Commutation for the basic course and the advanced course shall be paid based on Appendices C and D, respectively.

(ix) One-half of the special commutation rate shall be paid to the institution for those students enrolled in the second year of the advanced course for whom the institution previously has not received commutation.

(x) The standard rates shown in Appendix E for summer field training are not subject to the special commutation rate adjustment.

(xi) Commutation of uniform funds may be expended to support ONLY the following activities:

(A) Procurement, receipt, storage, and issue expenses not to exceed 10 percent of the cost for standard uniform items in quantities as prescribed by the Secretary of the Military Department concerned, or distinctive uniforms and insignia as prescribed by those institutions that meet the requirements of paragraph (b). Marking up or raising the price of that paid by an institution when items are purchased from military inventories is not authorized.

(B) Alteration and maintenance of the uniform, which is defined as laundry, dry cleaning, renovation, alterations and sizing, not to exceed $10 per uniform.

(C) Salary payments to the property custodian for custody of uniforms purchased with commutation funds. Such custodial fees shall not exceed the specified percent of the commutation funds received against the actual enrollments in each course listed below for the immediate past academic year:

(1) 15 percent of basic course.

(2) 5 percent of advance course.

(3) 5 percent of field training (when applicable).

(D) Purchase of hazard insurance to protect uniform inventory against loss.

(xii) Unexpended commutation of uniform funds is the balance remaining after all commitments or obligations relating to the immediate past academic year and the amount of retained uniform commutation funds (see paragraph (c)(2)(xii)(A)) have been deducted. The unexpended balance shall be computed as of July 1 each year. Commitments or obligations relating to new year procurement, maintenance, or other allowable activities may not be charged against the unexpended balance. As an exception, the unexpended balance may be used for paying bills for procurements of past academic years that are submitted AFTER the cutoff date of the report required by paragraph (c)(2)(xii)(C).

(A) The amount of unexpended uniform commutation funds an institution may retain from 1 academic year to the next for continued financing of the uniform program is the greater of $3500 or 20 percent of the uniform entitlement for the immediate past academic year.

(B) Accumulated funds that exceed this limitation shall be returned to the Military Services.

(C) As of July 1 of each year, a uniform commutation report DD Form 2340, "Annual Report on Uniform Commutation Fund" shall be completed by the institution receiving commutation funds and submitted to the appropriate authority for each Military Service by July 31.

(1) The uniform commutation report shall include a detailed list of expenditures, total funds available for the immediate past academic year, including the unexpended balance from the last report, an explanation of any monetary adjustments and errors, the balance of funds on hand, and the amount being refunded to the appropriate Military Service as the unexpended balance, if any. The report shall be coordinated with ROTC unit commanders and signed by the appropriate institutional official who maintains records of the receipt of funds.

(2) All records on the receipt and expenditure of commutation funds shall be subject to periodic audit and inspection. Institution officials shall be responsive to recommendations made.

(d) *Inspection.* Inspections shall be conducted when an ROTC unit is initially established at an institution that does not already host another Military Service ROTC unit. Inspections shall ensure that only those institutions that meet the requirements of paragraphs (a)(1) or (3), are awarded the MC or MJC classification and only those awarded MC, CC, and MJC classifications that meet the additional requirements of paragraph (b) shall be authorized the special rate of commutation instead of uniforms. Inspections of established units at MCs, CCs, and MJCs shall be conducted on an exception basis.

(1) The Secretaries of Military Departments shall prescribe specific inspection procedures applicable to ROTC units of their respective Military Services.

(2) When discrepancies are noted at institutions, their classifications shall be subject to review for resolution or withdrawal by the Secretaries of the Military Department concerned. In the instance of withdrawal of classification, the appropriate Military Service's review of, and final notification to, the institution shall be within 30 days of the date the discrepancy was noted.

§ 110.6 Information requirement.

The reporting requirement for paragraph (c)(2)(xii)(C) is assigned OMB No. 0704-0200.

Appendix A—Climatic Zones Used To Determine Rates of Commutation Allowance

Zone I

1. Alabama
2. Arizona, only 100 mile-wide belt along south border
3. Arkansas, southern two-thirds
4. California, except area north of 37°
5. Florida
6. Georgia
7. Guam
8. Hawaii
9. Kentucky, southeastern one-third
10. Louisiana
11. Mississippi
12. New Mexico, only 100 mile-wide belt along south border
13. North Carolina
14. Oklahoma, only southeastern portion
15. Puerto Rico
16. South Carolina
17. Tennessee, except northwest corner
18. Texas, except area border of 34° north

Zone II

1. Alaska
2. Arizona, except 100 mile-wide belt along south border
3. Arkansas, northern one-third
4. California, area south of 37° north
5. Colorado
6. Connecticut
7. Delaware
8. District of Columbia
9. Idaho
10. Illinois
11. Indiana
12. Iowa
13. Kansas
14. Kentucky, NW two-thirds
15. Maine
16. Maryland
17. Massachusetts
18. Michigan
19. Minnesota
20. Missouri
21. Montana
22. Nebraska
23. Nevada
24. New Hampshire
25. New Jersey
26. New Mexico, except a 100 mile-wide belt along south border
27. New York
28. North Dakota
29. Ohio
30. Oklahoma, except the southeast portion
31. Oregon
32. Pennsylvania
33. Rhode Island
34. South Dakota
35. Tennessee, only the northwest corner
36. Texas, only area north of 34° north
37. Utah
38. Vermont
39. Virginia
40. Washington
41. West Virginia
42. Wisconsin
43. Wyoming

The climate zones listed above are to be used as a guide to determine clothing requirements for a specific detachment. Wind chill equivalent temperatures can vary widely for areas within close proximity to each other due to variations in wind velocity and elevation. Detachment commanders may request a zone change by submitting evidence to the Major Command of the appropriate Military Service that the wind chill equivalent temperature for the coldest month has been within the limits of the requested zone classification for the past 3 consecutive years.

Attachment to Appendix A—Climatic Zones Used to Determine Rates of Commutation Allowance (Formula)

The Standard and special commutation rates are based on the latest approved items of clothing for each climatic zone. The zones are:

Zone	Temperature range
1	32 degrees Fahrenheit and above.
2	Below 32 degrees Fahrenheit.

To determine the appropriate zone for each ROTC detachment, use the table below. Enter the appropriate dry bulb temperature at the top and read down. Find the wind velocity on the left and read across. The intersection of the two lines provides the equivalent temperature. For example, a combination of 20 degrees Fahrenheit and a 10 mile-per-hour wind has a wind chill equivalent temperature of 3 degrees Fahrenheit. The wind chill equivalent temperature is based on the average monthly temperature and wind of the coldest month for each of the past 3 consecutive years.

Appendix B—Formula For ROTC Commutation Rates

Basic Course (General Military Course)

Total Pkg. Cost of Auth. Items + 10% Procurement Cost = Adjusted Pkg. Cost—Amortized by: 2-Yr. Life Shoes & Socks; 2-Yr. Life Insignia; 5-Yr. Life Bal. of Pkg.
+ 15% Custodial Fees + $10.00 Uniform Alteration and Maint. = Net Rate Per Yr. (Rounded to nearest $)

Advanced Course (Professional Officers Course)

Total Pkg. Cost of Auth. Items − ½ Amt. of Insignia Cost (2-yr. Amortization) + 5% Custodial Fees + $10.00 Uniform Alteration & Maint. = Net Rate 2-yr. period (Rounded to nearest $)

Summer Camp (Field Training)

Total Pkg. Cost of Auth. Items − Amortized by 2-yr. Life (Entire pkg., except shoes and socks) + 5% Custodial Fees + $10.00 Uniform Alteration & Maint. = Net Rate 2-yr. period (Rounded to nearest $)

APPENDIX C—APPLICATION OF BASIC COURSE FORMULA (MALE AND FEMALE MEMBERS) (SAMPLE)

	Zone I	Zone II
Total package cost (authorized items)	$159.29	$180.62
Plus 10% procurement cost	15.93	18.06
Adjusted package cost	175.22	198.68
Amortization:		
2-years socks (50% of $1.28)	.64	.64
2-years shoes (50% of 14.00)	7.00	7.00
2-years insignia (50% of 15.00), if applicable	7.50	7.50
5-years balance package (20% of $144.94, Zone I) (20% of $168.40, Zone II)	28.99	33.68
Amortized package cost	44.13	48.82
Add:		
15% custodial fees (15% of amortized package cost)	6.62	7.32
Uniform Alteration and Maintenance	10.00	10.00
Total	16.62	17.32
Net rate	60.75	66.14
Rounded for official standard rate (per year)	61.00	66.00
Special commutation rate (per year) (three times standard rate)	183.00	198.00

APPENDIX D—APPLICATION OF ADVANCED COURSE FORMULA (MALE AND FEMALE MEMBERS) (SAMPLE)

	Zone I	Zone II
Total package cost (authorized items)	$159.29	$180.62
Less insignia amortization (50% of $15.00), if applicable	7.50	7.50
Adjusted package cost	151.79	173.12
Add:		
5% custodial fees (5% of adjusted package cost)	7.59	8.66
Uniform alteration and maintenance	10.00	10.00
	17.59	18.66
Net Rate	169.38	191.78
Rounded official standard rate (2 years)	169.00	192.00
Special commutation rate (2 years) (three times standard rate)	507.00	576.00

APPENDIX E—APPLICATION OF 4-WEEK SUMMER FIELD TRAINING FORMULA (SAMPLE)

	Zone I	Zone II
Total package cost (authorized items)	$36.56	$48.70
Amortization Schedule:		
Total package less $12.75 (boots and socks) (not reissued)	23.81	35.95
50% amortization (2-year life)	11.91	17.98
Boots and socks added	12.75	12.75
Amortized package cost	24.66	30.73
Add:		
5% custodial fees	1.23	1.54
Uniform alteration and maintenance	10.00	10.00
Net rate	35.89	42.27
Rounded for official rate	36.00	42.00

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 7, 1986.

[FR. Doc. 86-16856 Filed 7-25-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[No. CGD3 86-50]

Special Local Regulations: Gateway Power Boat Regatta

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Gateway Power Boat Regatta. This event, sponsored by the Gateway Power Boat Association, involves high speed power boats racing within a rectangular race area on Long Island Sound, off Greenwich, Connecticut. The event will be held on August 16, 1986. This regulation is needed to provide for the safety of participants and spectators on navigable waters during this event.

EFFECTIVE DATES: This regulation becomes effective on August 16, 1986 beginning at 10:00 a.m. and terminating the same day at 3:00 p.m. If postponed due to weather the effective date will be August 17, 1986 beginning at 9:00 a.m. and terminating the same day at 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky, (212) 668-7974.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Coast Guard until July 9, 1986. Also, due to the nature of this type of race additional time was needed to coordinate with other local marine interests. As a result there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Gateway Power Boat Regatta is sponsored by the Gateway Power Boat Association of Greenwich, Connecticut. This power boat race will be held on Long Island Sound in an area south of Greenwich, Connecticut. This event has been held for the past nine years and is consequently well known to boaters and residents in the area. This is the second year in which a special local regulation has been issued for this event. Approximately 50 to 60 power boats ranging in length from 20 to 50 feet will race 6 to 8 laps around an 11 mile rectangular course at speeds between 75 to 110 miles per hour (mph). This National Power Boat Association (NPBA) sanctioned race will take place between 10:00 a.m. and 3:00 p.m. on Saturday, August 16, 1986. If postponed due to weather, the race will be held on Sunday, August 17, 1986. In order to minimize, possible conflicts with other events on Sunday the power boat race will be run between 9:00 a.m. and 2:00 p.m. Race headquarters are located at the Showboat Inn in Greenwich Harbor. The race participants will transit to the race course area under Coast Guard escort at approximately 10 mph. The race course area will be marked by sponsor provided patrol craft. Spectator vessels will be kept outside the regulated area and a buffer zone will be maintained by the sponsor's 20 to 25 patrol vessels. Coast Guard and local authority patrol vessels will also be on scene to help provide for the safety of the event. The Coast Guard recommends that all vessels transiting the Sound use extreme caution and pass to the west, east or south of the regulated area. In order to provide for the safety of life and property on navigable waters, the Coast Guard will regulate the movement of vessels in this area during this event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding a temporary § 100.35–328 to read as follows:

§ 100.35–328 Gateway Power Boat Regatta, Long Island Sound.

(a) *Regulated Area:* Long Island Sound, off Greenwich, Connecticut in the rectangular area described by the following points:

Latitude: 40 degrees, 57 minutes, 23 seconds North
Longitude: 73 degrees, 38 minutes, 42 seconds West.
Latitude: 40 degrees, 56 minutes, 06 seconds North
Longitude: 73 degrees, 38 minutes, 28 seconds West.
Latitude: 40 degrees, 57 minutes, 50 seconds North
Longitude: 73 degrees, 33 minutes, 01.5 seconds West.
Latitude: 40 degrees, 59 minutes, 04 seconds North
Longitude: 73 degrees, 35 minutes, 11 seconds West.

(b) *Effective period:* This regulation will be effective from 10:00 a.m. to 3:00 p.m. on August 16, 1986. In the event of postponement due to weather this regulation will be in effect from 9:00 a.m. to 2:00 p.m. on August 17, 1986.

(c) *Special local regulations:* (1) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators.

(2) The regulated area will be closed to all spectator and general vessel traffic during the effective period. No person or vessel shall enter or remain in the regulated area when it is closed unless authorized by the sponsor or the Coast Guard Patrol Commander.

(3) Race participants shalll not exceed 10 mph when transiting between race headquarters and the regulated area.

(4) All spectator vessels shall remain at least 50 yards from the participants when they are transiting to or from the regulated area and race headquarters. The location designated for spectator vessels during the power boat race is an area north of a line parallel to and approximately 1,000 yards south of a line connecting buoys N "2" (SW of Great Captain Island) and bell "1" (SE of "Hen and Chickens"). This area will be adjusted at the discretion of the Coast Guard Patrol Commander.

(5) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(6) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: July 17, 1986.

D.C. Thompson,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 86–16693 Filed 7–25–86; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A–3–FRL–3056–3]

Approval of a Delayed Compliance Order Issued by the Pennsylvania Department of Environmental Resources to ACF Industries Inc.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of the Environmental Protection Agency hereby approves a Delayed Compliance Order (Order) issued by the Pennsylvania Department of Environmental Resources to ACF Industries, Inc. The Order requires the Company to bring air emissions from its two railroad car manufacturing facilities in Northumberland County, Pennsylvania, into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by April 21, 1987. Because of the Administrator's approval, compliance with the Order by April 21, 1987 will preclude suits under the enforcement provisions of section 113 of the Act or the citizen suit provisions under section 304 of the Act of violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATE: This rule will take effect on July 28, 1986.

FOR FURTHER INFORMATION CONTACT: Rosemarie P. Nino, Environmental Protection Specialist, Enforcement Policy & State Coordination Section (3AM21), Air Management Division, U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597–9839.

ADDRESSES: A copy of the Order, and supporting material, and any comments received in response to prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying (for appropriate charges) during normal business hours at the above address.

SUPPLEMENTARY INFORMATION: On February 26, 1986, the Regional Administrator of the Environmental Protection Agency's Region III Office published in the **Federal Register,** Vol. 51, No. 38, a notice proposing approval of a Delayed Compliance Order issued by the Pennsylvania Department of Environmental Resources to ACF Industries, Inc. The basis for EPA's conclusion supporting the issuance of the Order is set forth in that notice. The notice asked for the public comments by March 28, 1986, on the EPA proposal. No public comments were received in response to the notice. The Order issued to ACF Industries, Inc., is hereby approved by the Administrator of EPA, pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2).

The Order places ACF Industries, Inc., on a schedule to bring its two railroad car manufacturing facilities in Northumberland County into compliance as expeditiously as practicable with Title 25 Pennsylvania Code, section 129.52, Miscellaneous Metal Parts and Products, a part of the federally approved Pennsylvania State Implementation Plan. The Order also imposed interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit ACF Industries, Inc., to delay compliance with SIP regulations covered by the Order until April 21, 1987.

The company was unable to comply with these regulations prior to the compliance date called for by the Order because low solvent coatings were still being developed. EPA had determined that its approval of the Order shall be effective July 28, 1986 because of the need to immediately place ACF Industries, Inc., on a federally enforceable schedule under the Clean Air Act requiring compliance with the applicable requirements of the State Implementation Plan.

List of Subjects in 40 CFR Part 65

Air pollution control.

Dated: July 21, 1986

Lee M. Thomas,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDER

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

Authority: 42 U.S.C. 7413(d), 7601.

2. Section 65.431 is amended by amending the table to add the entry for ACF Industries, Inc. in alphabetical order to read as follows:

§ 65.431 EPA Approval of State Delayed Compliance Orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
ACF Industries, Inc	Milton Township, Northumberland County, PA.		Feb. 26, 1986	Section 129.52 Title 25 of the PA. Code.	April 21, 1987.

* * * * *

[FR Doc. 86-16858 Filed 7-25-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 261 and 266

[SW-FR-3054-6]

Hazardous Waste Management System; Definition of Solid Waste; Notice of Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of guidance document.

SUMMARY: The Environmental Protection Agency is today announcing the availability of a guidance document designed to assist State and EPA Regional personnel and the regulated community in applying the definition of solid waste, used in regulations that implement Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), to determine which materials when recycled are solid and hazardous wastes. The Agency is also requesting public comment on the format and content of the guidance manual and suggestions for clarifying and/or supplementing the examples provided to increase the usefulness of the guidance document.

DATE: The guidance document is available on July 28, 1986. Comments must be received by October 27, 1986.

ADDRESSES: The *Guidance Manual on the RCRA Regulation of Recycled Hazardous Wastes* is available for public viewing from 9:30 a.m. to 3:30 p.m, Monday through Friday, excluding Federal holidays, in the EPA RCRA Docket. The EPA RCRA Docket is located in the sub-basement area of the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. A maximum of 50 pages of material may be copied from any one regulatory docket at no cost. Additional copies cost $.20/page. To review docket materials, the public must make an appointment by calling Mia Zmud at (202) 475-9327 or Kate Blow at (202) 382-4675. The manual may also be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA, 22161, at a cost of $28.95 per hard copy or $5.95 per microfiche copy. The NTIS document identification number (for the purpose of ordering) is PB86 208584/AS. The NTIS Sales Office may be contacted directly at (703) 487-4650. Please mail comments on the guidance manual to the Docket Clerk, Office of Solid Waste, WH-562, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. Comments should be labeled with the Docket number F-86-DSWG-FFFFF.

FOR FURTHER INFORMATION CONTACT: RCRA/Superfund Hotline at (800) 424-9346 (toll-free) or in Washington, DC at (202) 382-3000. For technical information, contact Matthew A. Straus, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, (202) 475-8551.

SUPPLEMENTARY INFORMATION: On January 4, 1985, the U.S. Environmental Protection Agency amended the definition of solid waste used in regulations that implement Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA). (See 50 FR 614-668.) The modified definition of solid waste primarily addresses the question of which materials are solid and hazardous wastes when they are recycled. In particular, the amendments define the Agency's jurisdiction under RCRA regarding materials that are considered solid wastes when they are recycled, and impose Subtitle C regulations on wastes that are hazardous and pose a substantial hazard to human health and the environment.

The Agency recognizes the complexity of these rules, and has prepared the guidance manual: (1) To assist in determining which materials, when recycled, are solid and hazardous wastes, and (2) to assist persons who recycle materials or who generate materials that are recycled in determining which regulations apply to them.

The manual is organized into three chapters: Chapter 1, the Introduction, provides an overview of the regulatory status of recycled wastes and defines the terms used in the manual. Chapter 2 provides Examples of the application of the definition of solid waste to specific recycling practices. These examples are intended to help parties interested in similar cases determine whether a particular recycled material is subject to the RCRA Subtitle C requirements. Chapter 3 contains an Index to the Examples that will cross-reference key words describing the recycled material, the recycling process, or the industry of interest.

As the guidance is presented primarily in the form of examples illustrating the application of the rule to actual recycling practices, the Agency believes the examples provided must be as comprehensive and understandable as possible. To this end, the Agency is requesting public comment on the examples provided, and suggestions for additional examples that would be helpful in illustrating the impact of the rule on particular recycling practices and materials.

List of Subjects

40 CFR Part 261

Intergovernmental relations, Hazardous materials, Waste treatment and disposal, Recycling.

40 CFR Part 266

Energy, Hazardous waste, Petroleum Recycling, Reporting and recordkeeping requirements.

Dated: July 15, 1986.

J.W. McGraw,

Acting Assistant Administrator.

[FR Doc. 86-16649 Filed 7-25-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2640

[Circular No. 2585]

Federal Aviation Administration Airport Grants; Amendments to Comply with Statutory Changes

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the existing regulations at 43 CFR Part 2640 to reflect changes required by the Airport and Airways Improvement Act of September 3, 1982. The final rulemaking also revises the regulations to make them consistent with the language of the Act and to make changes in existing definitions to reflect changes in administrative policy concerning conveyance of lands for use as public airports.

EFFECTIVE DATE: August 27, 1986.

ADDRESS: Any suggestions or inquiries should be sent to: Director (320), Bureau of Land Management, Room 3643, Main Interior Bldg, 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Gary Rowe (202) 343-8693.

SUPPLEMENTARY INFORMATION: A proposed rulemaking amending the existing regulations on Federal Aviation Administration Airport Grants was published in the **Federal Register** on August 7, 1985 (50 FR 31897), with a 60-day comment period ending on October 7, 1985. During the comment period, 5 comments were received, all from Federal agencies. The comments have carefully reviewed and are discussed in this preamble, with only those sections that were the subject of comments being discussed.

Several of the comments recommended that the use of the word "lands" be expanded to include "other interests in lands." This comment has been adopted by the final rulemaking and the phrase "or interests in lands" has been added to the final rulemaking in several instances to make it clear that the conveyance can include lands and interests in lands, as appropriate.

One comment suggested that the term "conveyance document," which is used several times in the proposed rulemaking, should be defined. This suggestion has been adopted by the final rulemaking and a definition of the term "conveyance document" has been added to § 2640.0-5.

One comment suggested that the final rulemaking should be specific as to where an application for an airport grant should be filed. The proposed rulemaking and the existing regulations provide that an application be filed with the Bureau of Land Management. The existing practice is for the Federal Aviation Administration ~~to~~ file an application with the Washington Office of the Bureau of Land Management, which sends it to the appropriate State office for action. The final rulemaking amends the proposed rulemaking to require that an application be filed in the State Office of the Bureau of Land Management having jurisdiction of the lands covered by the application. This change recognizes that an application must be handled at the appropriate State office and should make the processing of an application more efficient.

Several comments made the point that unsurveyed public lands cannot be transferred until they have been surveyed. In recognition of this fact, the final rulemaking amends § 2641.2(c) of the proposed rulemaking to include the requirement that unsurveyed lands cannot be conveyed until surveyed and to specifically include the payment of any required survey costs as part of the administrative costs that an applicant must bear before a conveyance document can be issued. The final rulemaking also amends this section of the proposed rulemaking to make it clear that the processing of an application for an airport grant will be without cost to the Bureau of Land Management.

In connection with § 2641.2 of the proposed rulemaking, one comment objected to the use of the phrase "not inconsistent" and suggested a change in the section. After careful review of the comment and the language of the proposed rulemaking and the Airport and Airway Improvement Act, the final rulemaking continues to use the phrase. The phrase is a repeat of the test established in the Act and is appropriate in the final rulemaking. One further comment on this section suggested the removal of the reference to the Wilderness Preservation System or wilderness study areas in the proposed rulemaking because they are not included in the Airport and Airways Improvement Act. It is true that the Act does not make reference to the Wilderness Preservation System or wilderness study areas, but the Congress has provided statutory protection for areas included in the Wilderness Preservation System and wilderness study areas. This provision of the proposed rulemaking, which has been continued by the final rulemaking, makes it clear that public lands included in the Wilderness Preservation System and wilderness study areas are not available for conveyance for airport purposes.

Several comments suggested that the final rulemaking amend § 2641.3 to incorporate the notice of realty action as the form of notice for this part and that the notice allow for segregation of the lands covered by the application if requested by the Administrator of the Federal Aviation Administration. The final rulemaking has adopted the notice of realty action, which is used as the form of notice by the Bureau of Land Management for lands transactions that require notice. In addition, the final rulemaking amends this section to authorize the segregation of the lands covered by an application for a period of one year or until the conveyance document is issued, whichever occurs first.

It was pointed out by the comments that the final sentence of section 2641.4 of the proposed rulemaking was incomplete. The final rulemaking has added the word "shall" to complete the sentence.

Needed editorial and grammatical corrections have been made.

The principal author of this final rulemaking is Gary Rowe, Division of Lands, assisted by the staff of the Office of Legislation and Regulatory Management, all of the Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and 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.).

There are no information collection requirements contained in this final rulemaking which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 43 CFR Part 2640

Administrative practice and procedure, Airports, Public lands—grants.

Under the authority of section 516 of the Airport and Airways Improvement Act of September 3, 1982 (49 U.S.C. 2215), Subparts 2640 and 2641, Part 2640,

Group 2600, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations are amended as set out below.

Dated: July 1, 1986.

J. Steven Griles,

Assistant Secretary of the Interior.

Part 2640 consisting of Subparts 2640 and 2641, is revised to read:

PART 2640—FAA AIRPORT GRANTS

Subpart 2640—Airport and Airway Improvement Act of September 3, 1982

Sec.

Subpart 2641—Procedures

Authority: Section 516, Airport and Airway Improvement Act of 1982 (49 U.S.C. 2215).

Subpart 2640—Airport and Airway Improvement Act of September 3, 1982

§ 2640.0–1 Purpose.

This subpart sets forth procedures for the issuance of conveyance documents for lands under the jurisdiction of the Department of the Interior to public agencies for use as airports and airways.

§ 2640.0–3 Authority.

Section 516 of the Airport and Airway Improvement Act of September 3, 1982 (49 U.S.C. 2215).

§ 2640.0–5 Definitions.

As used in this subpart, the term:

(a) "Act" means section 516 of the Airport and Airway Improvement Act of September 3, 1982 (49 U.S.C. 2215).

(b) "Secretary" means the Secretary of the Interior.

(c) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this subpart.

(d) "Administrator" means the person authorized by the Secretary of Transportation to administer the Act.

(e) "Applicant" means any public agency as defined in § 153.3 of title 14 of the Code of Federal Regulations, which, either individually or jointly with other such public agencies, submits to the Administrator an application requesting that lands or interests in lands under the jurisdiction of the Department of the Interior be conveyed to such applicant under the Act.

(f) "Property interest" means the title to or any other interest in lands or any easement through or other interest in air space.

(g) "Conveyance document" means a patent, deed or similar instrument which transfers title to lands or interests in lands.

§ 2640.0–7 Cross reference.

The regulations of the Federal Aviation Administration under the Act are found in 14 CFR Part 153.

Subpart 2641—Procedures

§ 2641.1 Request by Administrator for conveyance of property interest.

Each request by the Administrator in behalf of the applicant for conveyance of a property interest in lands under the jurisdiction of the Department of the Interior shall be filed with the State Office of the Bureau of Land Management having jurisdiction of the lands or interests in lands in duplicate, and shall contain the following:

(a) A copy of the application filed by the requesting public agency with the Administrator.

(b) A description of the lands or interests in lands, if surveyed, by legal subdivisions, specifying section, township, range, meridian and State. Unsurveyed lands shall be described by metes and bounds with a tie to a corner of the public-land surveys if within two miles; otherwise a tie shall be made to some prominent topographic feature and the approximate latitute and longitude shall be provided.

§ 2641.2 Action on request.

(a) Upon receipt of the request from the Administrator, the authorized officer shall determine whether the requested conveyance is inconsistent with the needs of the Department of the Interior, or any agency thereof, and shall notify the Administrator of the determination within 4 months after receipt of the request. On determining that the conveyance is not inconsistent with the needs of the Department of the Interior, the authorized officer also shall determine what, if any, convenants, terms, conditions and reservations should be included in the conveyance, if made. Any conveyance shall be made subject to valid existing rights of record, and to those disclosed as a result of publication or otherwise.

(b) Unless otherwise specifically provided by law, no conveyance shall be made of Federal lands within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; within any area designated part of the National Wilderness Preservation. System or any area designated as a wilderness study area; or within any national forest or Indian reservation.

(c) The applicant shall, upon request by the authorized officer, submit a deposit in an amount determined by the authorized officer, to cover the administrative costs of processing the application, including the cost of survey, if one is necessary, and issuing of a document of conveyance. No document of conveyance shall be issued for unsurveyed lands. The processing of applications under this part shall be accomplished without any expense to the Bureau of Land Management.

(d) Each applicant also shall pay the cost of publication of a notice in the **Federal Register** and in a newspaper of general circulation in the area in which the lands are located.

§ 2641.3 Publication and payment.

(a) Prior to issuance of a conveyance document, the authorized officer shall publish a notice of realty action in the **Federal Register** and in a newspaper of general circulation in the area of the lands to be conveyed. The notice shall identify the lands proposed for conveyance and contain the terms, covenants, conditions and reservations to be included in the conveyance document. The notice shall provide public comment period of 45 days from the date of publication in the **Federal Register.** Comments shall be sent to the Bureau of Land Management office issuing the notice.

(b) The notice of realty action may segregate the lands or interests in lands to be conveyed to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the notice of realty action shall terminate either upon the issuance of a document of conveyance or 1 year after the date of publication, whichever occurs first.

(c) The determination concerning the granting or denial of an application shall be sent by the authorized officer to the applicant and to any party who commented on the application.

(d) The authorized officer shall advise the applicant whether any balance is due on the payments required of the applicant and of the time within which payment shall be made. Failure to pay the required amount within the allotted time shall constitute grounds for

rejection of the application. If the applicant has deposited with the authorized officer an amount in excess of the payments required, the authorized officer shall so advise the applicant and return the excess payment.

§ 2641.4 Approval of conveyance.

(a) Each conveyance document shall contain appropriate covenants, terms, conditions and reservations requested by the Administrator, and those required for protection of the Department of the Interior or any agency thereof.

(b) Upon receipt of the payment required by §§ 2641.2 (c) and (d) of this title and after consideration of comments received, the authorized officer shall make a decision upon the application. If the decision is to make a conveyance, the authorized officer shall send the conveyance document to the Attorney General of the United States for consideration. Upon approval by the Attorney General, the authorized officer shall issue the conveyance document.

§ 2641.5 Reversion.

A conveyance shall be made only on the condition that, at the option of the Administrator, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport or airway purposes or are used in a manner inconsistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or is used in a manner inconsistent with the terms of the conveyance, only that particular part shall, at the option of the Administrator, revert to the United States.

[FR Doc. 86-16775 Filed 7-25-86; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 85-388; RM 5167]

Amendment of the Rules Concerning Rural Cellular Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has determined that the rules governing the filing and processing of cellular applications should be modified for Rural Service Areas (RSAs), those areas outside defined Metropolitan Statistical Areas (MSAs) and New England County Metropolitan Areas (NECMAs). Specifically, the Commission has established defined boundaries proposed by United TeleSpectrum, Inc. (United) subject to future modification, raised the antenna height-power limitations, prescribed application rules and coverage requirements and prohibited coverage extensions beyond the defined areas. This action is taken in response to comments received as a result of our Notice of Proposed Rulemaking, published January 6, 1986, 51 FR 405.

EFFECTIVE DATE: August 25, 1986.

FOR FURTHER INFORMATION CONTACT: Carolyn J. Tatum, Mobile Services Division, Common Carrier Bureau (202) 632-6450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, CC Docket 85-388, Adopted June 26, 1986, and released July 18, 1986.

The Complete text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The Complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Report and Order:

1. On December 17, 1985, the Commission adopted a Notice of Proposed Rulemaking (Notice) which solicited comments concerning a change in the cellular filing rules for Rural Service Areas (RSAs). The Commission carefully considered the comments and adopted a First Report and Order which establishes fixed boundaries for RSA areas, and tentatively adopts the boundary lines drawn by United. (A copy of United's county lists and maps depicting the proposed RSA boundaries have been placed in the public file for this Docket, FCC Dockets Branch, Room 230, 1919 M Street NW., Washington, DC)

2. The Commission notes, however, that interested parties may file suggestions for modifications to the United plan within 30 days of publication of this summary. Once these modification proposals are filed, interested parties will have 15 days to file their response or opposition to the proposed modifications. The modification proposals will be reviewed by Commission staff and unopposed modification plans will generally be made to the United plan. Where a modification is contested, the parties will have 15 days from the date the oppositions are due for filing to effect a settlement with parties who challenge their proposed modifications or make conflicting suggestions. In the event no settlement is reached, the Commission will generally follow the United plan without modifications unless it is determined that the public interest would be better served otherwise. The Commission notes that definitive RSA boundary lines and a filing timetable will be announced in a future Public Notice. Under this order, the RSAs have been grouped together by states into five filing blocks and these will be filed at roughly two-month intervals.

3. Applications will be subject to the same filing standards set forth for MSA markets 121-305 with a few minor exceptions. First, the Commission has eliminated the need to initially file an original paper application. Instead, three exact microfiche copies of the original application and microfiche jackets including a label clearly identifying the applicant's name, market number, market name and frequency block designation will be required. Tentative lottery selectees will have 15 days after Public Notice of their selection to supply a properly executed paper copy original. Secondly, the date for filing amendments required by § 1.65 of the Commission's rules has been changed from 14 to 30 days from the date of Public Notice of the lottery results for all RSA applicants. Thirdly, extensions beyond RSA boundaries will no longer be allowed. Finally, the antenna height-power limitations have been changed. In a related matter, the Commission also denied the developmental application filed by Central Nebraska Cellular Systems.

4. *Final Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. section 605(b) it is certified that the final rule will not have a significant impact on a substantial number of small entities. This action is expected to promote efficient and expedient authorization of cellular licenses in the RSAs and lower the administrative costs associated with the process of granting licenses in these RSAs.

5. Authority for this rulemaking is contained in sections 1, 4(i) and (j), 301, 303 and 309 of the Communications Act of 1934, as amended, and section 553 of the Administrative Procedure Act.

Ordering Clause

6. It is ordered, That the application of Central Nebraska Cellular Systems, File No. 27979-CL-P-86, is hereby denied.

Federal Communications Commission.
William J. Tricarico,
Secretary.

List of Subjects in 47 CFR Part 22

Cellular radio service.

Rules Section

Part 22 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 22—PUBLIC MOBILE SERVICE

1. The authority citation continues to read:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended (47 U.S.C. 154, 303).

2. Section 22.2 is amended by adding a definition as follows:

§ 22.2 Definitions.

* * * * *

Rural Service Area (RSA). An area not included in either a Metropolitan Statistical Area or a New England County Metropolitan Area for which a common carrier may have a license to provide cellular service. (Also referred to in the Rules as non-MSA or non-NECMA areas.)

* * * * *

3. Section 22.902(b) is amended by revising the existing text to read as follows:

§ 22.902 Frequencies.

* * * * *

(b) For cellular systems the assignment of frequencies will be divided into two blocks. Assignments will be made from the frequencies listed for cellular Systems A and B. Common carriers not also engaged in the business of affording public landline message telephone service will be assigned frequencies from Cellular System A. Common carriers engaged directly or indirectly in the business of affording public landline message telephone service will be assigned frequencies from cellular System B in those areas in which they are certificated in some portion of the cellular market; except that, in the final cellular application phase for any initially unapplied for or unlicensed area, either within or without a Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA), a cellular applicant may apply for either frequency block and the applicant shall indicate in its application which it prefers to be assigned.

* * * * *

4. Section 22.903 is amended by revising paragraph (a) to read as follows:

§ 22.903 Cellular system service areas.

(a) The Cellular Geographic Service Area (CGSA) of the cellular system shall be defined by the applicant as the area intended to be served. At the time of initial application filing, no CGSA or 39 dBu contour which includes area within a Metropolitan Statistical Area (MSA), or in New England, a New England County Metropolitan Area (NECMA), as modified in paragraph (e), of this section, may extend beyond the boundaries of the MSA or NECMA, except where any such extensions are *de minimis* and do not include area within another central MSA or NECMA. No CGSA or 39 dBu contour may extend beyond the boundaries of the Rural Service Area (RSA). For MSAs and NECMAs below the top 90 and for RSAs, the boundaries of the CGSA must include at least 75% of either the land area or population of the MSA, NECMA or RSA. The CGSA must be drawn on one or more U.S. Geological survey map(s) with a scale of 1:250,000. Within the CGSA the applicant must depict each base station site and its respective 39 dBu contour as determined by the methods described in paragraph (c) of this section. An applicant must demonstrate that the combined 39 dBu contours of all base stations will cover at least 75% of the total CGSA.

* * * * *

5. Section 22.904 is amended by adding new paragraphs (b) and (c) as follows:

§ 22.904 Power limitations.

* * * * *

(b) Stations serving Rural Service Areas will not be permitted to exceed the effective radiated power indicated below.

Base stations—500 watts (ERP)
Mobile stations—7 watts (ERP)
Auxiliary test stations—7 watts (ERP)

(c) Stations serving Rural Service Areas will be required to operate at the effective radiated power listed in paragraph (a) of this section in the event the base station is located 100 miles or less from an adjacent MSA. If interference is alleged to adjacent MSAs or NECMAs, the Rural Service Area stations will be required to reduce power immediately to the power limitations specified in § 22.905(a) until the Commission has authorized operation at an increased power.

* * * * *

6. Section 22.905 is amended by revising the existing text and adding new paragraphs (a) and (b) as follows:

§ 22.905 Antenna height-power for base stations.

In view of the fact that the predominant characteristic of cellular systems is frequency reuse within a given service area, the effective radiated power of base stations with transmitting antennas in excess of 500 feet above average terrain (AAT) must be reduced as shown in the table below.

(a) For MSA, NECMA and RSA facilities located 100 miles or less from an MSA or NECMA.

Antenna height (AAT) (feet)	Effective radiated power (ERP) (watts)
500	100
550	79
600	65
700	45
800	33
900	25
1000	20
1250	11
1500	7
2000	4
2500	3
3000 and above	2

For AAT's between the above listed values, linear interpolation should be used.

(b) For RSA facilities located more than 100 miles from an MSA or NECMA.

Antenna height (AAT) (feet)	Effective radiated power (ERP) (watts)
500	500
550	397
600	323
700	223
800	166
900	126
1000	98
1250	57
1500	37
2000	20
2500	13
3000	10
3500	9
4000	8
5000	7

For AATs between the above listed values, linear interpolation should be used.

7. Section 22.913 is amended by revising (b)(1) and (b)(2) and adding a new paragraph (c) to read as follows:

§ 22.913 Content of applications.

* * * * *

(b) Forms of applications. Applications for construction permits for initial cellular systems in markets beyond the top-120 and for Rural Service Areas shall be filed as set forth below:

(1) Hard copies must be enclosed in stiff covers and fastened securely along the left edge without exposed sharp edges (e.g. looseleaf binders, plastic binding strips, covered metal clasps).

(2) The applicant's name and the market, market number and frequency block applied for must appear on the cover of the application and those applications for Rural Service Areas should also have this information clearly printed on the top of the microfiche, on the microfiche jacket, and on the envelope.

* * * * *

(c) Copies. Each applicant for an initial construction permit in markets beyond the top-120 shall submit an original and one paper copy of its application. In addition, each applicant shall submit two microfiche copies of its application using a 4 x 6 inch positive or negative copy microform, 24X reduction, and enclosed in a paper jacket. The following information must be printed on the jacket: the name of the applicant, the name and number of the market applied for and the frequency block designation. The two jacketed microfiche must be in an envelope accompanying the original application. The envelope must be labeled with the name of the applicant, the name and number of the market applied for and the frequency block designation. Applications for Rural Service Areas must have an executed original application, but will initially be required to file three true black and white microfiche copies of the application containing an original signature, and a certification as defined in § 22.913(b). Applicants will keep the original of the application until after lottery. The prevailing applicant in the lottery will then be required to submit the original hard copy application within fifteen (15) days of notice of the lottery results. Applicants for other forms of cellular authorizations shall submit an original and two paper copies.

* * * * *

8. Section 22.916 is amended by revising paragraph (c) to read as follows:

§ 22.916 Evaluation of cellular applications.

* * * * *

(c) Evaluation of cellular applications for markets below the top-30 and for Rural Service Areas. Mutually exclusive cellular applications for markets below the top-30 and for Rural Service Areas shall be randomly selected according to the procedures set forth in § 22.33 and § 1.822 et. seq.

* * * * *

9. Section 22.918 is amended by revising paragraph (b) and by removing paragraph (c)(1) and redesignating paragraphs (c)(2) through (c)(4) as (c)(1) through (c)(3) respectively.

§ 22.918 Amendment of cellular applications.

* * * * *

(b) Markets below the top-90 and Rural Service Areas. Amendments for applications for below-90 cellular markets may not be filed prior to conduct of the lottery for the market applied for. The tentative selectee may file minor amendments, but no major amendments except for those listed in § 22.23(g). Information required by § 1.65 shall be filed within 14 days of publication of the Public Notice announcing the tentative selectee in markets below the top-90 and within 30 days of the Public Notice announcing the lottery results for all applications to serve Rural Service Areas.

* * * * *

[FR.Doc. 86-16871 Filed 7-25-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-375; RM-4972]

Radio Broadcasting Services; Shingle Springs, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 271A to Shingle Springs, California, as that community's first local broadcast service, in response to a petition filed by Eric R. Hilding. With this action, this proceeding is terminated.

DATES: Effective August 28, 1986; The window period for filing applications will open on August 29, 1988, and close on September 29, 1986.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-375, adopted July 14, 1986, and released July 22, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

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

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

2. Section 73.202(b) is amended by adding the following:

§ 73.202 FM Table of Allotments.

* * * * *

(b) * * *

California	Channel No.
Shingle Springs	271A

* * * * *

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-16872 Filed 7-25-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-342; RM-5045, RM-5282]

Radio Broadcasting Services; Little Falls and Sartell, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channels 231A to Little Falls, Minnesota, and 241A to Sartell, Minnesota, in response to petitions filed by Little Falls Broadcasting Company and Sartell Communications, respectively. The allotments could provide a first FM service to Sartell and a second FM service to Little Falls. With this action, this proceeding is terminated.

DATES: Effective August 28, 1986. The window period for filing applications will be open on August 29, 1986, and close on September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-342, adopted July 14, 1986, and released July 22, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in

the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

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

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

2. Section 73.202(b) is amended by adding the following:

§ 73.202 FM Table of Allotments.

* * * * *

(b) * * *

Minnesota	Channel No.
* * * * *	
Little Falls	221A, 231A
* * * * *	
Sartell	241A

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 86–16873 Filed 7–25–86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 82–754; RM–4250]

Radio Broadcasting Services; Hatch and Las Cruces, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 258 to Las Cruces, New Mexico, as the community's third local FM service, at the request of Domega Broadcasting Corp. The allotment requires a site restriction of at least 46.7 kilometers (29.2 miles) northwest. With this action, this proceeding is terminated.

DATES: Effective Date: August 27, 1986; the window period for filing applications will be open on August 28, 1986, and close on September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 82–754, adopted July 7, 1986, and released July 21, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

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

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

2. Section 73.202(b) is amended by revising the following listing:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

New Mexico	Channel No.
* * * * *	
Las Cruces	258, 276A, 280A
* * * * *	

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–16874 Filed 7–25–86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 50329–5115]

Atlantic Tuna Fisheries

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

ACTION: Final rule; technical amendment.

SUMMARY: NOAA issues this final rule amending the definition of Regional Director and adding a definition for Center Director in the regulations governing the Atlantic tuna fisheries. These changes in definition are necessary because of the transfer of regulatory responsibility for Atlantic yellowfin tuna, bigeye tuna, skipjack tuna, and albacore to the NMFS Director of the Southeast Region.

EFFECTIVE DATE: July 28, 1986.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702, telephone 813–893–3722.

SUPPLEMENTARY INFORMATION: The Regional Director, Southeast Region, St. Petersburg, Florida, has been assigned responsibility for developing regulations to implement recommendations of the International Commission for the Conservation of Atlantic Tuna relative to Atlantic yellowfin tuna, bigeye tuna, skipjack tuna, and albacore. The Center Director will be responsible for data collection from these fisheries. These activities had been performed by the Southwest Regional Office. The Atlantic bluefin tuna progam regulatory responsibility remains headquartered in the Northeast Regional Office.

To properly reflect the reassignment of regulatory responsibility for Atlantic yellowfin tuna, bigeye tuna, skipjack tuna, and albacore in 50 CFR Part 285, NOAA issues this technical amendment changing the definition of Regional Director and adding the definition for Center Director. Therefore, the revised definition identifies Regional Director as meaning the Director, Southest Region, and the new definition for Center Director means the Director, Southeast Fisheries Center.

Other Matters

This action is taken under the authority of 50 CFR Part 285 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: July 23, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 285—[AMENDED]

For the reasons set forth in the preamble, 50 CFR Part 285 is amended as follows:

1. The authority citation for Part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*

2. Section 285.2 is amended by adding a definition in proper alphabetical order for "Center Director" and revising paragraph (b) of the definition for "Regional Director" to read as follows:

§ 285.2 Definitions.

* * * * *

"*Center Director*" means the Center Director, Southeast Fisheries Center, 75 Virginia Beach Drive, Miami, FL 33149.

* * * * *

"*Regional Director*" means—

* * * * *

(b) For purposes of yellowfin tuna, bigeye tuna, skipjack tuna, and albacore, the Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

* * * * *

[FR Doc. 86-16916 Filed 7-25-86; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of inseason restrictions and closure, and request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces possession and landing restrictions for the commercial salmon fishery in the fishery conservation zone (FCZ) from Cape Falcon to Cape Blanco, Oregon, when the fishery reopens on July 23, 1986, for 2 days. The possession and landing restrictions previously in effect from Cape Falcon to Cape Perpetua, Oregon, will continue, and modified restrictions will take effect from Cape Perpetua to Cape Blanco, Oregon. The Secretary also announces the closure of the commercial coho salmon fishery in the FCZ from Cape Falcon, Oregon, to Point Delgada, California, at midnight, July 24, 1986, to ensure that the coho salmon quota is not exceeded. The commercial salmon fishery in the same area continues for all salmon species except coho. This action is necessary to conform to the preseason announcement of 1986 management measures. It is intended to ensure conservation of chinook and coho salmon.

EFFECTIVE DATES: Possession and landing restrictions for the commercial fishery from Cape Falcon to Cape Blanco, Oregon, are effective 0001 hours Pacific Daylight Time (PDT) July 23, 1986, until 2400 hours PDT July 24, 1986, at which time the FCZ from Cape Falcon, Oregon, to Point Delgada, California, will close to commercial fishing for coho salmon. Comments on this notice will be received until August 8, 1986.

ADDRESS: Comments may be mailed to Rolland A. Schmitten; Director, Northwest Region, NMFS; 7600 Sand Point Way NE.; BIN C15700; Seattle, WA 98115-0070; or E. Charles Fullerton, Director, Southwest Region, NMFS; 300 S. Ferry Street, Terminal Island, CA 90731-7415. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the Office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at 206-526-6150, or E. Charles Fullerton at 213-514-6196.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries off the coasts of Washington, Oregon, and California are published under 50 CFR Part 661. Management measures for 1986 made effective April 30, 1986 (51 FR 16520, May 5, 1986), included possession and landing restrictions for the commercial salmon fishery from Cape Falcon to Cape Blanco, Oregon. The boundary restricting deliveries of mixed loads of chinook and coho or loads of coho-only salmon caught in the commercial fishery from Cape Falcon to Cape Perpetua, Oregon, subsequently was extended approximately 8 miles north to Cannon Beach (51 FR 24353, July 3, 1986).

The Salmon Plan Development Team of the Pacific Fishery Management Council met to determine the number of fish remaining in the commercial harvest quota of 383,000 coho salmon from Cape Falcon, Oregon, to Point Delgada, California. As provided for in the preseason regulations, when less than 200,000 coho remain in the quota, the following possession and landing restrictions will be in effect when the commercial fishery from Cape Falcon, Oregon, to Cape Blanco, Oregon, reopens at 0001 hours PDT July 23, 1986, until the projected attainment of the commercial harvest quota for coho salmon in the area.

From Cape Falcon to Cape Perpetua, Oregon: "A single daily possession or landing per boat of 50 coho is permitted without chinook restrictions. For over 50 coho, chinook also must be possessed and landed and there cannot be more than two coho possessed or landed for each chinook possessed or landed over 50 coho. Mixed loads of chinook and coho and coho-only loads must be delivered between Cape Perpetua and 45°54'00" N. latitude (Cannon Beach). There are no restrictions on the place of delivery of chinook-only loads. Chinook salmon possessed or landed in the area may not be returned or transferred to any vessel engaged in the commercial salmon fishery."

From Cape Perpetua to Cape Blanco, Oregon: "[A] single daily possession or landing per boat of 50 coho is permitted without chinook restrictions. For over 50 coho, chinook also must be possessed and landed and there cannot be more than two coho possessed or landed for each chinook possessed or landed over 50 coho. Chinook salmon possessed or landed in this management area may not be returned or transferred to any vessel engaged in the commercial salmon fishery."

The regulations at § 661.21(a)(1) specify that "When a quota for the commerical or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Based on the best available information, the commercial catch in the area from Cape Falcon, Oregon, to Point Delgada, California, is projected to reach the harvest quota of 383,000 coho salmon by midnight, July 24, 1986. Therefore, the Secretary issues this notice closing the commercial fishery for coho salmon in the FCZ from Cape Falcon, Oregon, to Point Delgada, California, at 2400 hours PDT July 24, 1986. The commercial fishery, for all salmon species in the same area except coho continues as scheduled. This notice does not apply to treaty Indian fisheries nor to other fisheries which may be operating in other areas.

The Regional Director consulted with the Directors of the Oregon Department of Fish and Wildlife (ODFW) and the California Department of Fish and Game (CDFG) regarding this action. The Director of ODFW confirmed that Oregon possession and landing restrictions will conform with these Federal regulations when the fishery reopens on July 23, 1986 for 2 days. The Directors of ODFW and CDFG confirmed that Oregon and California will close the commercial fishery in State waters adjacent to this area of the FCZ at 2400 hours PDT July 24, 1986, and will reopen the commercial fishery in State waters in the same area for all salmon species except coho at 0001 hours PDT July 25, 1986.

Other Matters

This action is taken under 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: July 23, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-16913 Filed 7-23-86; 4:55 pm]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 60489-6089]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of recreational fishery adjustments and request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces revised harvest quotas for chinook and coho salmon in the recreational fisheries from Klipsan Beach, Washington, to the U.S.-Canada border. This action is necessary to prolong the fishery and to increase the opportunities for the recreational fishery to harvest its ocean quotas of chinook and coho salmon. It is intended to allow maximum harvest of ocean salmon quotas established for the 1986 season.

EFFECTIVE DATE: The revised recreational quotas for chinook and coho salmon north of Klipsan Beach, Washington, are effective July 23, 1986. Comments on this notice will be received until August 6, 1986.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way, NE., Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206-526-6150.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries off Washington, Oregon, and California are managed under a framework fishery management plan (50 CFR Part 661). The framework regulations were modified by an emergency rule (51 FR 18451, May 20, 1986) which, among other things, established inseason management provisions for the 1986 season.

The emergency rule authorizes inseason adjustments to management measures if the adjustments are consistent with fishery regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation schemes in the framework amendment. In addition, all inseason adjustments must be based on consideration of the following factors: predicted sizes of salmon runs; harvest quotas and hooking mortality limits for the area and total allowable impact limitations if applicable; amount of recreational, commercial and treaty Indian catch for each species in the area to date; amount of recreational, commercial, and treaty Indian fishing effort in the area to date; estimated average daily catch per fisherman; predicted fishing effort for the area to the end of the scheduled season; and other factors as appropriate.

The all-species recreational ocean salmon fisheries north of Klipsan Beach, Washington, opened on June 29, 1986. The allowable harvest of chinook and coho salmon was divided into two subareas as indicated below.

Subarea	Chinook quota	Coho quota
U.S.-Canada Border to Queets River	2,300	28,000
Queets River to Klipsan Beach	23,100	76,300
Totals	25,400	104,300

In the subarea from the U.S.-Canada border to the Queets River (northern area), 1,431 chinook (62 percent of quota) and 3,974 coho (14 percent of quota) had been harvested through July 13, 1986. At current fishing rates, the fishery would close on attainment of its chinook quota, leaving approximately 20,000 coho unharvested.

Representatives of the recreational fisheries met on July 17, 1986, and agreed to an exchange of chinook and coho salmon between areas to increase the likelihood that both species quotas in both subareas would be harvested.

The Secretary has determined that such an exchange is consistent with the criteria in the emergency rule. After consideration of the factors listed above and in consultation with the Assistant Director of the Washington Department of Fisheries (WDF) and the Chairman of the Pacific Fishery Management Council, the Secretary issues this notice to modify subarea quotas north of Klipsan Beach as follows:

Subarea	Revised Chinook quota	Revised Coho quota
U.S.-Canada Border to Queets River.	3,300 (+1,000)	25,000 (−3,000)
Queets River to Klipsan Beach.	22,100 (−1,000)	79,300 (+3,000)
Totals	25,400	104,300

This notice does not apply to other salmon fisheries which may be operating in other areas nor to other fisheries in the same area.

The WDF Assistant Director has confirmed that Washington will manage the ocean recreational fisheries in State waters adjacent to this area of the fishery conservation zone in accordance with the revised quotas.

Other Matters

This notice is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: July 23, 1986.

William G. Gordon,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 86-16914 Filed 7-23-86; 4:55 pm]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of inseason adjustment and request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces closure of the recreational fishery from Cape Falcon to Cape Blanco, Oregon on Sunday and Monday of each week. This action is necessary to slow the harvest of coho salmon and increase the likelihood that the fishery will extend through Labor Day. It is intended to allow a maximum length of season for the recreational fishery established by the 1986 ocean salmon fishing regulations.

EFFECTIVE DATES: The closure of the recreational fishery from Cape Falcon to Cape Blanco, Oregon, on Sunday and Monday of each week is effective at 2400 hours Pacific Daylight Time July 26, 1986. Comments on this notice will be received until August 11, 1986.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries off Washington, Oregon, and California are managed under a framework fishery management plan (50 CFR Part 661). Management measures for 1986 were effective April 30, 1986 (May 5, 1986; 51 FR 16520). These management measures stipulate at Table 2, footnote d that "If the inseason catch rate indicates the possibility of reaching the recreational quota before Labor Day, inseason revision of fishing days per week to extend the season through Labor Day will be invoked. The order of preference for daily closures will be (1) Sundays, (2) Sundays and Mondays, and (3) other combination of days."

The all-species recreational fishery from Cape Falcon to Cape Blanco, Oregon, opened on May 24, 1986 with a harvest quota of 189,000 coho south of Cape Falcon. Actual landings south of Cape Falcon totaled 88,889 coho through July 13, 1986. At current fishing rates of approximately 19,000 coho a week, the recreational fishery will harvest its coho quota and close before the Labor Day weekend. A one-day-per-week closure would not curtail the progress of the fishery sufficiently to allow the fishery to continue through the Labor Day weekend.

The Regional Director consulted with the Chief of Fisheries of the Oregon Department of Fish and Wildlife (ODFW) and the Chairman of the Pacific Fishery Management Council regarding this two-day-per-week closure. The ODFW Director has confirmed that Oregon will manage the ocean recreational fisheries in State waters adjacent to this area of the fishery conservation zone in accordance with the revised fishing days per week. Therefore, the Secretary issues this notice to close the recreational fishery from Cape Falcon to Cape Blanco, Oregon, on Sunday and Monday of each consecutive week until modified or rescinded.

This notice does not apply to other salmon fisheries which may be operating in other areas nor to other fisheries in the same area.

Other Matters

This notice is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: July 23, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86–16915 Filed 7–23–86; 4:49 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 144
Monday, July 28, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Kiwifruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action would revise the United States Standards for Grades of Kiwifruit. The Kiwifruit Administrative Committee, representing California kiwifruit growers, has requested this action so the grade standards would reflect current industry practices and consumer demand. The Agricultural Marketing Service (AMS), in cooperation with industry, has the responsibility to develop and improve standards of quality, condition, quantity, grade, and packaging in order to encourage uniformity and consistency in commercial practices.

DATE: Comments must be received on or before August 27, 1986.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2085, South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Michael V. Morrelli, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447–2011.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Departmental Regulation 1512–1 and Executive Order 12291 and has been designated as "nonmajor." It would not result in an annual effect on the economy of $100 million or more. There would be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It would not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the requirements set forth in the Regulatory Flexibility Act, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities. This action proposes changes to the U.S. Standards for Grades of Kiwifruit which bring the standards into conformity with current marketing practices. Compliance with the proposed standards will not impose substantial direct economic costs, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of such entities relative to large businesses.

The United States Standards for Grades of Kiwifruit became effective September 9, 1982. In late 1984 and 1985, the Kiwifruit Growers of California requested that the standards be revised to change the shape requirement in the U.S. Fancy grade, application of tolerances, redefine "fairly uniform in size," and add a section for sample size. AMS subsequently revised the grade standards (50 FR No. 191, October 2, 1985, and 51 FR No. 23, February 4, 1986).

Recently the Kiwifruit Administrative Committee, representing California kiwifruit growers, requested AMS to change the minimum shape requirement of U.S. Fancy kiwifruit from "fairly well formed" to "wel formed." Fairly well formed is currently the minimum shape requirement for U.S. Fancy and U.S. No. 1 kiwifruit. This change, if adopted, would not allow slight bumps or other roughness that detract from the appearance of U.S. Fancy fruit. It is the Committee's opinion that a distinct delineation in shape requirements between these two grades would be in conformity with current industry practices and consumer demand.

In addition to this change in the U.S. grade standards, AMS has been requested to redesignate two plaster kiwifruit models depicting form and to rewrite a paragraph explaining not badly misshapen fruit in USDA inspection instructions. The kiwifruit models and inspection instructions are used by USDA licensed fruit and vegetable inspectors in the inspection and grading of kiwifruit.

The Committee requested that the model currently depicting a fairly well formed kiwifruit be redesignated as a well formed kiwifruit. The model now depicting not badly misshapen would be redesignated as a fairly well formed fruit, and there would no longer be a model depicting not badly misshapen fruit. The inspection instructions would be changed to explain that any fruit having the width exceeding the height could not be considered a U.S. No. 2 kiwifruit.

List of Subjects in 7 CFR Part 51

Fresh fruit, Vegetable, and Other products (inspection, certification, and standards).

PART 51—[AMENDED]

It is proposed the 7 CFR Part 51 be amended as follows:

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended 1090 as amended, [7 U.S.C. 1622, 1624].

2. In Subpart—United States Standards for Grades of Kiwifruit, § 51.2335, paragraph (a) (1) (vi) would be revised to read as follows:

§ 51.2335 Grades.

(a) * * *

(1) * * *

(vi) Well formed.

* * * * *

3. Section 51.2339 would be revised by adding a definition for "well formed" preceding the current definition for "fairly well formed."

§ 51.2339 Definitions.

* * * * *

"Well formed" means the fruit has the shape characteristic of the variety and slight bumps or other roughness are permitted providing they do not detract from the appearance.

* * * * *

Done in Washington, DC., on July 23, 1986.
William T. Manley,
Deputy Administrator, Marketing Programs.
FR Doc. 86-16893 Filed 7-25-86; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket Nos. 86-AWA-34 and 86-AWA-35]

Proposed Establishment of Airport Radar Service Areas

Correction

In FR Doc. 86-16190 beginning on page 26116 in the issue of Friday, July 18, 1986, make the following corrections:

1. On page 26116, in the second column, seventh line, "(ATO-239)" should read "(ATO-230)";
2. On the same page, in the same column, under "Comments Invited", insert "into" after "organized"; and
3. On page 26117, in the third column, in the third complete paragraph, sixteenth line, "ratio" should read "radio".

BILLING CODE 1505-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 307

Proposed Smokeless Tobacco Regulations

AGENCY: Federal Trade Commission.
ACTION: Extension of time to file comments.

SUMMARY: On July 3, 1986, the Federal Trade Commission published an invitation for public comment in the **Federal Register**, 51 F.R. 24375. This notice invited public comment on 16 CFR part 307, the proposed regulations under the Comprehensive Smokeless Tobacco Health Education Act of 1986. The proposed regulations implemented the Act's requirements for the display of health warnings in the labeling and advertising of smokeless tobacco products and the submission of plans for compliance with the Act. The date on which comments would have been due was August 4, 1986. This notice extends the comment period to August 18, 1986. The Commission has received several requests for a longer extension of the comment period than the 2 weeks provided by this notice. Because the Act specifies that the regulations be promulgated by August 27, 1986, and because the Commission will need some time in which to evaluate the comments and make any appropriate changes in the regulations, the Commission declines to extend the comment period beyond the date set in this notice.

DATE: Comments regarding 16 CFR Part 307 must be filed no later than August 18, 1986.

ADDRESS: Comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, NW. Washington, DC 20580. All coments should be labeled "Proposed Smokeless Tobacco Regulations."

FOR FURTHER INFORMATION CONTACT: Nancy S. Warder, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, DC 20580 (202) 376-8648.

By direction of the Commission.
Emily H. Rock,
Secretary.
[FR Doc. 86-16815 Filed 7-25-86; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF LABOR

Office of Worker's Compensation Programs, Employment Standards Administration

20 CFR Part 10

Claims for Compensation Under the Federal Employees' Compensation Act, as Amended; Re-opening and Extension of Comment Period

AGENCY: Employment Standards Administration, Labor.
ACTION: Proposed rule; re-opening and extension of comment period.

SUMMARY: This document re-opens and extends the period for filing comments regarding a proposed rule intended to revise the regulations governing the administration of the Federal Employees' Compensation Act (FECA), which provides benefits to Federal employees injured or killed in the performance of duty. This action is taken to permit additional comment from interested persons.

DATE: Comments must be received on or before August 27, 1986.

ADDRESS: Send written comments to Thomas M. Markey, Associate Director for Federal Employees' Compensation, Employment Standards Administration, U.S. Department of Labor, Room S-3229, Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210; Telephone: (202) 523-7552.

FOR FURTHER INFORMATION CONTACT: Thomas M. Markey, Associate Director for Federal Employees' Compensation, Telephone: (202) 523-7552.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 6, 1986 (51 FR 20736), the Department of Labor published a proposed rule intended to revise 20 CFR Part 10, which concerns claims for compensation under the Federal Employees' Compensation Act. Interested persons were requested to submit comments on or before July 21, 1986.

Because of the continuing interest in this proposal, the agency believes that it is desirable to re-open and extend the comment peroif for all interested persons. Therefore, the comment period for the proposed rule, revising 20 CFR Part 10 (Claims for Compensation Under the Federal Employees' Compensation Act), is extended to August 27, 1986.

Signed at Washington, DC, this 23rd day of July, 1986.
Susan R. Meisinger,
Deputy Under Secretary, Employment Standards Administration.
[FR Doc. 86-16907 Filed 7-25-86; 8:45 am]
BILLING CODE 4510-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-141-83]

Installment Method Reporting by Dealers in Personal Property

AGENCY: Internal Revenue Service, Treasury.
ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to installment method reporting by dealers in personal property. Changes to the applicable tax law were made by the Installment Sales Revision Act of 1980. These proposed regulations would affect all dealers in personal property that report income from sales on the installment method and would provide them with the guidance to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 26, 1986.

The amendments are proposed to take effect on October 20, 1980, and would apply to taxable years ending on or after that date.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of

Internal Revenue, Attention: CC:LR:T (LR–141–83) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Paulette Chernyshev of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T), (202–566–3288, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) to provide rules under section 453A of the Internal Revenue Code of 1954 relating to installment method reporting by dealers in personal property. These amendments are proposed to reflect the addition of section 453A to the Code by the Installment Sales Revision Act of 1980 (94 Stat. 2247).

Prior to the enactment of the Installment Sales Revision Act of 1980, section 453 of the Code contained all of the rules relating to installment method reporting, including the rules applicable to dealers in personal property.

Consequently, the regulations under old section 453 apply both to casual installment sales and installment sales by dealers in personal property. The amendments proposed in this document generally adopt the provisions of the old section 453 regulations that relate to installment method reporting by dealers in personal property.

Because the Installment Sales Revision Act amended the rules provided in old section 453(c), which related to dealers that changed from the accrual method to the installment method, the proposed amendments do not adopt the portion of the regulations relating to old section 453(c). Regulations on this subject will be proposed in a different project (LR–146–81).

Two-Payment Rule

The Senate Finance Committee Report suggested that Treasury regulations might eliminate the two-payment rule for dealers. In December 1980, Senator Long (then the chairman of the Senate Finance Committee) clarified the Report:

> It will be noted that prior law limited the use of the installment method to dealers who sell 'on the installment plan.' The same limitation is contained in new section 453A, and there was no intention to eliminate this statutory requirement. The point of the quoted sentence from the committee report was that in reviewing the regulations as to what constitutes an 'installment plan,' it is anticipated that the Treasury Department will consider the question of whether there are circumstances in which reliance on the two-payment rule is excessively formalistic. On the other hand, however, there is no intention that dealer transactions which do not meet the ordinary understanding of sales on the 'installment plan' are to qualify for the installment method. 126 CONG. REC. S16536 (daily ed. Dec. 13, 1980) (remarks of Sen. Long).

The Treasury Department has concluded that the two-payment rule serves to distinguish installment plan sales from ordinary 30-day account sales. Accordingly, no change has been made to the two-payment requirement for sales on the installment plan by dealers in personal property.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the notice and public procedure requirements of 5 U.S.C. 553 do not apply because the rules proposed herein are interpretative. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Phoebe A. Mix of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury participated in developing the regulations on matters of substance and style.

List of Subjects in 26 CFR 1.441–1—1.483–2

Income taxes, Accounting, Deferred compensation plans.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—INCOME TAX REGULATIONS

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

> **Authority:** 26 U.S.C. 7805. * * * Section 1.453A–1 and § 1.453A–2 also issued under 26 U.S.C. 453A.

Par. 2. Section 1.453–1 is redesignated as § 1.453A–1 and revised to read as follows:

§ 1.453A–1 Installment method of reporting income by dealers in personal property.

In general. Section 453A permits dealers in personal property, that is, persons who regularly sell or otherwise dispose of personal property on the installment plan, to elect to return the income from the sale or other disposition thereof on the installment method. To the extent provided in paragraph (d) of § 1.453A–2, sales under a revolving credit type plan will be treated as sales on the installment plan and the income from the sales so treated may be returned on the installment method. A dealer who makes sales of personal property under both a revolving credit plan and a traditional installment plan may elect to report only sales under the traditional installment plan on the installment method; or he may elect to report only sales under the revolving credit plan on the installment method; or he may elect to report both sales under the revolving credit plan and the traditional installment plan on the installment method. A traditional installment plan usually has the following characteristics:

(a) The execution of a separate installment contract for each sale of personal property, and

(b) The retention by the dealer of some type of security interest in such property.

Par. 3. Section 1.453–2 is redesignated as § 1.453A–2 and revised to read as follows:

§ 1.453A–2 Special rules applicable to dealers in personal property.

(a) *In general.* A person who regularly sells personal property on the installment plan may adopt (but is not required to do so) one of the following four ways of protecting his interest in case of default by the purchaser:

(1) By an agreement that title is to remain in the vendor until the purchaser

has completely performed his part of the transaction;

(2) By a form of contract in which title is conveyed to the purchaser immediately, but subject to a lien for the unpaid portion of the selling price;

(3) By a present transfer of title to the purchaser, who at the same time executes a reconveyance in the form of a chattel mortgage to the vendor, or

(4) By conveyance to a trustee pending performance of the contract and subject to its provisions.

(b) *Definition of sale on the installment plan.* The term "sale on the installment plan" means—

(1) A sale of personal property by the taxpayer under any plan for the sale or other disposition of personal property, which plan, by its terms and conditions, contemplates that each sale under the plan will be paid for in two or more payments, or

(2) A sale of personal property by the taxpayer under any plan for the sale or other disposition of personal property—

(i) Which plan, by its terms and conditions, contemplates that such sale will be paid for in two or more payments, and

(ii) Which sale is in fact paid for in two or more payments.

Normally, a sale under a traditional installment plan (as described in § 1.453A–1 meets the requirements of subparagraph (1) of this paragraph. See paragraph (d) of this section for the application of the requirements of subparagraph (2) of this paragraph to sales under revolving credit plans.

(c) *Installment income of dealers in personal property*—(1) *In general.* The income from sales of the installment plan of a dealer, that is, a person regularly engaged in the sale of personal property on the installment plan, may be ascertained by treating as income that proportion of the total payments received in the taxable year from sales on the installment plan (such payments being allocated to the year against the sales of which they apply) which the gross profit realized or to be realized on the total sales on the installment plan made during each year bears to the total contract price of all such sales made during that respective year. However, if the dealer demonstrates to the satisfaction of the district director that income from sales on the installment plan is clearly reflected, the income from such sales may be ascertained by treating as income that proportion of the total payments received in the taxable year from sales on the installment plan (such payments being allocated to the year against the sales of which they apply) which either (i) the gross profit realized or to be realized on the total credit sales made during each year bears to the total contract price of all credit sales during that respective year, or (ii) the gross profit realized or to be realized on all sales made during each year bears to the total contract price of all sales made during that respective year. See, however, paragraph (d)(6)(vi) of this section for rules permitting, under certain circumstances, all sales under a revolving credit plan to be considered as having been made in the taxable year. A dealer who desires to compute income by the installment method shall maintain accounting records in such a manner as to enable an accurate computation to be made by such method in accordance with the provisions of this section, section 446, and § 1.446.1.

(2) *Gross profit and total contract price.* For purposes of subparagraph (1) of this paragraph, in computing the gross profit realized or to be realized on the total sales on the installment plan, there shall be included in the total selling price and, thus, in the total contract price of all such sales.

(i) The amount of carrying charges or interest which is determined at the time of each sale and is added to the established cash selling price of such property and is treated as part of the selling price for customer billing purposes, and

(ii) In the case of sales made in taxable years beginning on or after January 1, 1960, the amount of carrying charges or interest determined with respect to such sales which are added contemporaneously with the sale on the books of account of the seller but are treated as periodic service charges for customer billing purposes.

Any change in the amount of the carrying charges or interest in a year subsequent to the sale will not affect the computation of the gross profit for the year of sale but will be taken into account at the time the carrying charges or interest are adjusted. However, this subparagraph does not apply to sales of personal property under a revolving credit plan described in paragraph (d)(1) of this section. The application of this subparagraph to carrying charges or interest described in subdivision (ii) of this subparagraph may be illustrated by the following example:

Example. X Corporation makes sales on the traditional installment plan. The customer's order specifies that the total price consists of a cash price plus a "time price differential" of 1½ percent per month on the outstanding balance in his account and he is billed in this manner. On its books and for purposes of reporting to stockholders, X Corporation consistently makes the following entries each month when it records its sales. A debit entry is made to accounts receivable (for the total price) and balancing credit entries are made to sales (for the established selling price) and to a reserve account for collection expense (for the amount of the time price differential). In computing the gross profit realized or to be realized on the total sales on the installment plan, the total selling price and, thus, the total contract price for purposes of this paragraph would, with respect to sales made in taxable years beginning on or after January 1, 1960, include the time price differential.

(3) *Carrying charges not included in total contract price.* In the case of sales by dealers in personal property made during taxable years beginning after December 31, 1963, the income from which is returned on the installment method, if the carrying charges or interest with respect to such sales is not included in the total contract price, payments received with respect to such sales shall be treated as applying first against such carrying charges or interest. For application of this rule to revolving credit sales, see paragraph (d)(6)(v) of this section.

(d) *Revolving credit plans.* (1) To the extent provided in this paragraph, sales under a revolving credit plan will be treated as sales on the installment plan. The term "revolving credit plan" includes cycle budget accounts, flexible budget accounts, continuous budget accounts, and other similar plans or arrangements for the sale of personal property under which the customer agrees to pay each billing-month (as defined in subparagraph (6)(iii) of this paragraph) a part of the outstanding balance of his account. Sales under a revolving credit plan do not constitute sales on the installment plan merely by reason of the fact that the total debt at the end of a billing-month is paid in installments. The terms and conditions of a revolving credit plan do not contemplate that each sale under the plan will be paid for in two or more payments and thus do not meet the requirements of paragraph (b)(1) of this section. In addition, since under a revolving credit plan payments are not generally applied to liquidate any particular sale, and since the terms and conditions of such plan contemplate that account balances may be paid in full or in installments, it is generally impossible to determine that a particular sale under a revolving credit plan is to be or is in fact paid for in installments so as to meet the requirements of paragraph (b)(2) of this section. However, subparagraphs (2) and (3) of this paragraph provide rules under which a certain percentage of charges under a revolving credit plan will be treated as sales on the installment plan. For

purposes of arriving at this pecentage, these rules, in general, treat as sales on the installment plan those sales under a revolving credit plan (1) which are of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments and (2) which are charged to accounts on which subsequent payments indicate that such sales are being paid for in two or more installments.

(2) (i) The percentage of charges under a revolving credit plan which will be treated as sales on the installment plan shall be computed by making an actual segregation of charges in a probability sample of the revolving credit accounts and by applying the rules contained in subparagraph (3) of this paragraph to determine what percentage of charges in the sample is to be treated as sales on the installment plan. (See subparagraph (5) of this paragraph for rules to be used if some of the sales under a revolving credit plan are nonpersonal property sales (as defined in subparagraph (6)(iv) of this paragraph).) Such segregation shall be made of charges which make up the balances in the sample accounts as of the end of each customer's last billing-month ending within the taxable year. (See subparagraph (6)(v) of this paragraph for rules to be used in determining which charges make up the balance of an account.) However, in making such segregation, any account to which a sale is charged during the taxable year on which no payment is credited after the billing-month within which the sale is made (hereinafter called the "billing-month of sale") and on or before the end of the first billing-month ending in the taxpayer's next taxable year shall be disregarded and not taken into account in the determination of what percentage of charges in the sample is to be treated as sales on the installment plan. In order to obtain a probability sample, the accounts shall be selected in accordance with generally accepted probability sampling techniques. The appropriateness of the sampling technique and the accuracy and reliability of the results obtained must, if requested, be demonstrated to the satisfaction of the district director. If the district director is not satisfied that the taxpayer's sample is appropriate or that the results obtained are accurate and reliable, the taxpayer shall recompute his sample percentage or make appropriate adjustments to his original computations in a manner satisfactory to the district director. The taxpayer shall maintain records in sufficient detail to show the method of computing and applying the sample.

(ii) For taxable years ending before January 31, 1964, a taxpayer who has reported for income tax purposes all or a portion of sales under a revolving credit plan as sales on the installment method may apply the percentage obtained for the first taxable year ending on or after such date in determining the percentage of charges under a revolving credit plan for such prior taxable year (or years) which will be treated as sales on the installment plan. However, in computing the percentage to be applied in determining the percentage of charges under a revolving credit plan which will be treated as sales on the installment plan for such prior taxable year (or years), the rule stated in paragraph (c)(3) of this section shall not apply. See subparagraph (6)(v) of this paragraph for rules relating to the application of payments to finance charges for such prior taxable years.

(3) For the purpose of determining the percentage described in subparagraph (2) of this paragraph, a charge under a revolving credit plan will be treated as a sale on the installment plan only if such charge is a sale (as defined in subparagraph (6)(i) of this paragraph) and meets the requirements contained in subdivisions (i) and (ii) of this subparagraph.

(i) The sale must be of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments. If the aggregate of sales charged during a billing-month to an account under a revolving credit plan exceeds the required monthly payment, then all sales during such billing-month shall be considered to be of the type which the terms and conditions of such plan contemplate will be paid for in two or more installments. The required monthly payment shall be the amount of the payment which the terms and conditions of the revolving credit contract require the customer to make with respect to a billing-month. If the amount of such payment is not fixed at the date the contract is entered into, but is dependent upon the balance of the account, then such amount shall be the amount that the customer is required to pay (but not including any past-due payments) as shown on the statement either (*a*) for the last billing-month ending within the taxpayer's taxable year or (*b*) for the billing-month of sale, whichever method the taxpayer adopts for all his accounts. A taxpayer shall not change such method of determining the required monthly payment based upon the balance of the account without obtaining the consent of the district director. In any case where the required monthly payment is not set in accordance with a consistent method used during the entire taxable year, the district director may determine the required monthly payment in accordance with the method used during the major portion of such taxable year if he determines that the use of such method is necessary in order to reflect properly the income from sales under a revolving credit plan. The requirements stated in this subdivision may be illustrated by the following examples:

Example (*1*). Under the terms of a revolving credit plan the required monthly payment to be made by customer A is $20. During the billing-month ending in December, sales aggregating $80 are charged to customer A's account, and during the next billing-month, ending in January, sales aggregating $19.95 and finance charges of $.60 are charged to A's account. Since the aggregate of sales charged to customer A's account during the billing-month ending in December ($80) exceeds the required monthly payment ($20), the terms and conditions of the plan contemplate that the sales charged during such billing-month are of the type which will be paid for in two or more installments. Since the aggregate of sales charged to customer A's account during the billing-month ending in January ($19.95) does not exceed the required monthly payment, the sales making up the aggregate of sales in such billing-month are not of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments.

Example (*2*). The terms of a revolving credit plan require a payment of 20 percent of the balance of the customer's account as of the end of the billing-month for which the statement is rendered. A customer makes purchases aggregating $25 in his next to the last billing-month ending within the taxpayer's taxable year, and the balance at the end of that month is $150. At the end of the customer's last billing-month ending within the taxpayer's taxable year, the balance of the account has decreased to $110. If the taxpayer determines the required monthly payment by reference to the payment required on the statement for the last billing-month ending within the taxable year and applies such method consistently to all accounts, then the sales making up the $25 aggregate of sales are of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments. Although such aggregate was less than the $30 payment (20%–$150) required on the statement rendered for the billing-month of sale, it was more than the $22 (20%–$110) that the customer was required to pay on the statement rendered for his last billing-month ending within the taxable year, and thus meets the requirements of this subdivision. If, however, the taxpayer determines the required monthly payment by reference to the payment required on the statement for the billing-month of sale, then the sales making up the aggregate of sales during such billing-month do not meet the requirements of this subdivision because such aggregate was less than the $30 payment required on the statement rendered for such month.

(ii) The sale must be charged to an account on which the first payment after the billing-month of sale indicates that the sale is being paid in installments. The first payment after the billing-month of sale indicates that the sale is being paid in installments if, and only if, such payment is an amount which is less than the balance of the account as of the close of the billing-month of sale. For purposes of this subdivision, such balance shall be reduced by any return or allowance credited to the account after the close of the billing-month of sale and before the close of the billing-month within which the first payment after the billing-month of sale is credited to the account, unless the taxpayer demonstrates that the return or allowance was attributable to a charge made in a month subsequent to the billing-month of sale. The requirements stated in this subdivision may be illustrated by the following examples, in which it is assumed that the taxpayer's annual accounting period ends on January 31.

Example (1). Customer A's revolving credit account shows the following sales and payments:

Month ending	Aggregate sales in month	Payments	Balance
December 20	$150	0	$150
January 20	75	$30	195
February 20	0	195	0

All sales made in the billing-month ending December 20 meet the requirements of this subdivision because the first payment on the account after such billing-month ($30) was less than the balance of the account as of the close of such billing-month ($150); and none of the sales made in the billing-month ending January 20 meets the requirements of this subdivision because the balance of the account as of the end of such billing-month was liquidated in one payment. By application of the rules of subparagraph (6)(v) of this paragraph, the balance in the account as of the last billing-month ending in the taxable year ($195) consists of $120 of the $150 of sales made in the billing-month ending December 20 and all of the $75 of sales made in the billing-month ending January 20. Therefore, $120 of the account balance meets the requirements of this subdivision and $75 does not.

Example (2). Customer B's revolving credit account shows the following sales and payments:

Month ending	Aggregate sales in month	Payments	Balance
December 20	$50	0	$50
January 20	100	0	150
February 20	0	50	100

None of the sales made in the billing-month ending December 20 meets the requirements of this subdivision because the first payment credited to the account after such billing-month ($50) is not less than the balance of the account as of the close of such month ($50). All of the sales made in the billing-month ending January 20 meet the requirements of this subdivision because the first payment after such billing-month ($50) is less than the balance of the account as of the close of such month ($150).

Example (3). Customer C's revolving credit account shows the following purchases and credits.

Month ending	Item	Charges	Credits	Balance
January 20	Coal 75	$55		
	Dress	40		
	Shirt	5		
				$100
February 20	Return		$5	
	Payments		95	0

None of the sales made in the billing-month ending December 20 meets the requirements of this subdivision because the first payment credited to the account after such billing-month ($95) was equal to the balance of the account as of the end of such billing-month, $95. For this purpose, the balance of $100 is reduced by the $5 return which was credited to the account after the close of the billing-month of sale and before the close of the billing-month within which the first payment after the billing-month of sale is credited.

(4) The provisions of subparagraphs (2) and (3) of this paragraph may be illustrated by the following examples in which it is assumed that the taxpayer is a dealer in personal property whose annual accounting period ends on January 31.

Example (1). Customer A's revolving credit ledger account shows the following:

Month ending	Aggregate sales in month [1]	Returns and allowances	Payments	Finance charges	Balance
Jan. 20	$15.00	0	0	0	$15.00
Feb. 20	0	0	0	$0.15	15.15

[1] Including sales of personal property and nonpersonal property sales.

For purposes of the segregation provided for in subparagraph (2)(i) of this paragraph, customer A's account will be disregarded and not taken into account in the determination of what percentage of charges in the sample is to be treated as sales on the installment plan because no payment was credited to that account after the billing-month of sale and on or before February 20.

Example (2). This example is applicable with respect to sales made during taxable years beginning before January 1, 1964. Under the terms of Corporation X's revolving credit plan, payments are required in accordance with the following schedule:

Unpaid balance	Required monthly payment
0–$99.99	$20
$100–$199.99	40
$200–$299.99	60

Customer B's revolving credit ledger account for the period beginning on September 21, 1963, and ending February 20, 1964, shows the following:

Month ending—	Aggregate sales in month [1]	Returns and allowances	Payments	Finance charges	Balance
Oct. 20	$55.00	0	0	0	$55.00
Nov. 20	45.00	0	$20.00	$0.35	80.35
Dec. 20	20.00	0	20.00	.60	80.95
Jan. 20	26.00	$5.00	20.00	.61	$82.56
Feb. 20	0	10.00	72.56	0	0

[1] Including sales of personal property and nonpersonal property sales.

The three $20 payments and the $5 return or allowance made in the billing-months ending in the taxable year are applied, under the rules in subparagraph (6)(v), to liquidate the earliest outstanding charges, first to the $55 aggregate of sales in the billing-month ending October 20 and next to $10 of the aggregate of sales made in the billing-month ending November 20. Thus, the balance of the account as of the close of the billing month ending January 20, $82.56, is made up as follows:

Remainder of sales in billing-month ending Nov 20 ($45—$10)	$35.00
Finance charge for billing-month ending Nov 20	.35
Sales for billing-month ending Dec 20	20.00
Finance charge for billing-month ending Dec 20	0.60
Sales for billing-month ending Jan 20	26.00
Finance charge for billing-month ending Jan 20	.61
Total	82.56

The sales of $35 remaining from the aggregate of sales for the billing-month ending November 20 meet the requirements of subparagraph (3)(i) of this paragraph because the aggregate of sales charged during such billing-month ($45) exceeds the required monthly payments of subparagraph (3)(ii) of this paragraph because the first payment after the billing-month of sale ($20) is an amount less than the balance of the account as of the close of such month ($80.35). Therefore, $35 of sales will be treated as sales on the installment plan. The $20 aggregate of sales charged during the billing month ending December 20 does not meet the requirements of subparagraph (3)(i) of this paragraph because it is in an amount which does not exceed the required monthly payment ($20). (The finance charge of $0.60 added in the billing-month does not enter into the determination of the aggregate of sales for the month because the term "sales" (as

defined in subparagraph (6)(i) of this paragraph) does not include finance charges).) The $26 aggregate of sales for the billing-month ending January 20 does not meet the requirements of subparagraph (3)(ii) of this paragraph because the first payment after such billing-month ($72.56) was equal to the balance of the account as of the close of such billing-month ($72.56). For this purpose, the balance of $82.56 is reduced by the $10 return or allowance which was credited after the billing-month of sale and before February 20. Thus, of the $82.56 balance of B's account as of the close of the last billing-month ending within the taxpayer's taxable year $35 will be treated as sales on the installment plan for purposes of determining the percentage provided for in subparagraph (2) of this paragraph.

Example (3). This example is applicable with respect to sales made during taxable years beginning after December 31, 1963. Assume the facts in example (2), except that Customer B's revolving credit ledger account is for the period beginning on September 21, 1964 and ending February 20, 1965. Since payments received are first used to liquidate any outstanding finance charges under the rule in subparagraph (6)(v), the $20 payment in December liquidated the $0.35 finance charge accured at the end of the November billing-month and the $20 payment in January liquidated the $0.60 finance charge accrued at the end of the December billing-month. The balance of the three $20 payments ($59.05) and the $5 return or allowance are applied (under the rules in subparagraph (6)(v)) to liquidate the earliest outstanding sales, first to the $55 aggregate of sales in the billing-month ending October 20 and next to $9.05 of the aggregate of sales made in the billing-month ending November 20. Thus, the balance of the account as of the close of the billing month ending Januray 20, $82.56, is made up as follows:

Remainder of sales in billing-month ending Nov 20 ($45—$9.05)	35.95
Sales for billing-month ending Dec 20	20.00
Sales for billing-month ending Jan 20	26.00
Finance charges for billing-month ending Jan 20	.61
Total	82.56

The sales of $35.95 remaining from the aggregate of sales for the billing-month ending November 20 meet the requirements of subparagraph (3)(i) of this paragraph because the aggregate of sales charged during such billing-month ($45) exceeds the required monthly payment ($20), and such sales meet the requirements of subparagraph (3)(ii) of this paragraph because the first payment after the billing-month of sale ($20) is an amount less than the balance of the account as of the close of such month ($80.35). Therefore, $35.95 of sales will be treated as sales on the installment plan. The $20 aggregate of sales charged during the billing-month ending December 20 does not meet the requirements of subparagraph (3)(i) of this paragraph because it is in an amount which does not exceed the required monthly payment ($20). The $26 aggregate of sales for the billing-month ending January 20 does not meet the requirements of subparagraph (3)(ii) of this paragraph because the first payment after such billing-month ($72.56) was equal to the balance of the account as of the close of such billing-month ($72.56). For this purpose, the balance of $82.56 is reduced by the $10 return or allowance which was credited after the billing-month of sale and before February 20. Thus, of the $82.56 balance of B's account as of the close of the last billing-month ending within the taxpayer's taxable year $35.95 will be treated as sales on the installment plan for purposes of determining the percentage provided for in subparagraph (2) of this paragraph.

(5) Sales under a revolving credit plan which are nonpersonal property sales (as defined in subparagraph (6)(iv) of this paragraph) do not constitute sales on the installment plan. Therefore, the charges under a revolving credit plan must be reduced by the nonpersonal property sales, if any, under such plan, before application of the sample percentage as provided for in subparagraph (2)(i) of this paragraph. The taxpayer may treat as the nonpersonal property sales under the plan for the taxable year an amount which bears the same ratio to the total sales under the revolving credit plan made in the taxable year as the total nonpersonal property sales made in such year bears to the total sales made in such year.

(6) For purposes of this paragraph—

(i) The term "sales" includes sales of services such as a charge for watch repair, as well as sales of property, but does not include finance or service charges.

(ii) The term "charges" includes sales of services and property as well as finance or service charges.

(iii) A billing-month is that period of time for which a periodic statement of charges and credits is rendered to a customer.

(iv) The term "nonpersonal property sales" means all sales which are not sales of personal property made by the taxpayer. Thus, sales of a department leased by the taxpayer to another are nonpersonal property sales. Likewise, charges for services rendered by the taxpayer are nonpersonal property sales unless such services are incidental to and rendered contemporaneously with the sale of personal property, in which case such charges shall be considered as constituting part of the selling price of such property.

(v) Except as otherwise provided in this subdivision, each payment received from a customer under a revolving credit plan before the close of the last billing-month ending in the taxable year shall be applied to liquidate the earliest outstanding charges under such plan, notwithstanding any rule of law or contract provision to the contrary. For purposes of determining which charges remain in the balance of an account at the end of the last billing-month ending in the taxable year, the taxpayer may apply returns and allowances which are credited before the close of the last billing-month ending in the taxable year either (a) to liquidate or reduce the charge for the specific item so returned or for which an allowance is permitted, or (b) to liquidate or reduce the earliest outstanding charges. The method so selected for applying returns and allowances shall be followed on a consistent basis from year to year unless the district director consents to a change. Additionally, finance or service charges which are computed on the basis of the balance of the account at the end of the previous billing-month (usually reduced by payments during the current billing-month) are accrued at the end of the current billing-month and are therefore considered, for purposes of determining the earliest outstanding charges, as charged to the account after any sales made during the current billing-month. However, for purposes of determining which charges remain in the balance of an account at the end of the last billing-month ending in a taxable year which began after December 31, 1963, payments received during such year shall be applied first against any finance or service charges which were outstanding at the time such payment was received. The preceding sentence shall not apply with respect to a computation made for purposes of applying the rule described in subparagraph (2)(ii) of this paragraph.

(vi) The taxpayer shall allocate those sales under a revolving credit plan which are treated as sales on the installment plan to the proper year of sale in order to apply the appropriate gross profit percentage as provided for in paragraph (c) of this section. This allocation shall be made on the basis of the percentages of charges treated as sales on the installment plan which are attributable to each taxable year as determined in the sample of accounts described in subparagraph (2) of this paragraph. However, if the taxpayer demonstrates to the satisfaction of the district director that income from sales on the installment plan is clearly reflected, all sales may be considered as being made in the taxable year for purposes of applying the gross profit percentage.

(7) The provisions of this paragraph may be illustrated by the following example:

Example. Corporation X is a dealer in personal property and has elected to report on the installment method those sales under its revolving credit plan which may be treated as sales on the installment plan. Corporation X's taxable year ends on January 31, and the total balance of all its revolving credit accounts as of January 31, 1964, is $2,000,000. The total sales made in the taxable year are $10,000,000 of which $500,000 are nonpersonal property sales. The gross profit percentage realized or to be realized on all sales made in the taxable year is 40 percent. The amount of the gross profit contained in the year-end balance of $2,000,000 which may be deferred to succeeding years is computed as follows:

(i) In order to reduce the charges appearing in the year-end balance of revolving credit accounts receivable by the nonpersonal property sales contained therein, corporation X determines the amount of such nonpersonal property sales under the method permitted in subparagraph (5) of this paragraph. Corporation X first determines the ratio which total nonpersonal property sales made during the year ($500,000) bears to total sales made during the year ($10,000,000), and then applies the percentage (5 percent) thus obtained to the year-end balance of revolving credit accounts receivable ($2,000,000). The nonpersonal property sales thus determined ($100,000) is subtracted from such year-end balance to obtain the charges under the revolving credit plan appearing in the year-end balance ($1,900,000) to which the sample percentage is to be applied.

(ii) In accordance with generally accepted sampling techniques, the taxpayer selects a probability sample of all revolving credit accounts having balances for billing-months ending in January 1964. The technique employed results in a random selection of accounts with total balances of $100,000.

(iii) Analysis of these sample accounts discloses that of the $100,000 of balances, $10,000 of balances are in accounts on which no payment was credited after a billing-month of sale and on or before the end of the first billing-month ending in the taxable year beginning February 1, 1964. These balances are, therefore, disregarded and not taken into account in the determination of what percentage of sales in the sample is to be treated as sales on the installment plan. Of the remaining $90,000 of balances, the taxpayer determines, by analyzing the ledger cards in the sample, that $63,000 of balances are composed of sales which meet the requirements of subparagraph (3) (i) and (ii) of this paragraph and are thus treated as sales on the installment plan. The remaining $27,000 of balances either did not meet the requirements of subparagraph (3) (i) and (ii) of this paragraph or were not sales (as defined in subparagraph (6)(i) of this paragraph). The percentage of charges in the sample treated as sales on the installment plan is, therefore, 70 percent ($63,000–$90,000).

(iv) The charges in the year-end balance which are to be treated as sales on the installment plan, $1,330,000, are computed by multiplying the charges determined in subdivision (i) of this subparagraph ($1,900,000) by the percentage obtained in subdivision (iii) of this subparagraph (70 percent).

(v) The deferred gross profit attributable to sales under the revolving credit plan for the taxable year, $532,000, is determined by multiplying the amount determined in subdivision (iv) of this subparagraph, $1,330,000, by the gross profit percentage, 40 percent. (Corporation X will be able to demonstrate to the satisfaction of the district director that (*a*) since the gross profit percentage for all sales does not vary materially from the gross profit percentage for all sales made under the revolving credit plan, (*b*) since only an insubstantial amount of sales included in year-end account balances was made prior to the taxable year, and (c) since the prior year's gross profit percentage does not vary materially from the gross profit percentage for the taxable year, income from sales on the installment plan will be clearly reflected by applying the current year's gross profit percentage for all sales under the revolving credit plan treated as sales on the installment plan.)

This notice of proposed rulemaking is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

P.E. Coates,

Acting Commissioner of Internal Revenue.

[FR Doc. 86–16918 Filed 7–25–86; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 1 and 602

[LR–146–81]

Installment Method Reporting by Dealers in Personal Property; Changes From Accrual to Installment Method Reporting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document provides proposed regulations relating to installment method reporting by dealers in personal property. Changes to the applicable tax law were made by the Installment Sales Revision Act of 1980. These proposed regulations would affect all dealers in personal property who wish to report installment obligations on the installment method and would provide them with the guidance necessary to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered by September 26, 1986 The amendments are proposed to be effective for taxable years ending after October 19, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–146–81) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Paulette Chernyshev of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T), (202) 566–3288, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 453A of the Internal Revenue Code of 1954 relating to changes from the accrual method to the installment method of accounting by dealers in personal property. For taxable years ending before October 20, 1980, the rules relating to such changes were contained in section 453(c) of the Code. Section 2 of the Installment Sales Revision Act of 1980 (Pub. L. 96–471, 94 Stat. 2251) amended section 453(c) as amended, section 453(c) provides the definition of the installment method) and replaced the rules in old section 453(c) with those in section 453A.

Under old section 453(c), a dealer in personal property, upon changing from the accrual to the installment method of reporting, was required to include in income amounts received on account of installment obligations accrued in a previous year. Old section 453(c) provided an adjustment in tax for a dealer reporting previously taxed amounts on the installment method. The adjustment was equal to the lesser of the portion of the tax paid in the prior taxable year which was attributable to the gain on the installment payment received in the current taxable year or the portion of the tax for the current year which was attributable to the installment payment. For each of these years, the tax attributable to the gain on the installment payment was equal to the gain multiplied by the effective rate of tax (*i.e.*, the total tax as a percentage of gross income) for the year. Thus, gain was included in gross income twice and each time was taxed at the marginal rate of tax, but the adjustment on account of the double inclusion was computed at an effective rate of tax that was generally lower than either of the marginal rates at which the gain was taxed. These rules were not included in section 453A. In additon, the Installment Sales Revision Act repealed section 481(d). Before its repeal, section 481(d) provided that section 481 (relating to adjustments required by changes in

method of accounting) did not apply to changes to which old section 453(c) applied.

In place of the adjustment provided in old section 453(c), Congress intended that the cut-off method be applied in accounting for changes by dealers from the accrual method to the installment method of reporting. Under the cut-off method provided in the proposed regulations, payments received by a dealer in the taxable year for which the dealer elected the installment method of reporting (or in subsequent years) in respect of an installment obligation which arose in a taxable year prior to the election year are not taken into account under the installment method. Such payments are accounted for only under the method of accounting in use in the prior year.

Additionally, because old section 453(c) was repealed, the proposed regulations provide that taxpayers may no longer revoke elections to use the installment method in the manner provided by old section 453(c)(4). A dealer may not change from the installment method to any other method of accounting without the consent of the Commissioner of Internal Revenue.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are intepretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, DC 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these regulations is Linda M. Kroening of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury participated in developing the regulation on matters of both substance and style.

List of Subjects

26 CFR 1.441–1—1.483–2

Income taxes, Accounting, Deferred compensation plans.

26 CFR Part 602

Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1 and 602 are as follows:

PART 1—INCOME TAX REGULATIONS

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.453A–3 also issued under 26 U.S.C. 453A.

§§ 1.453–7 and 1.453–8 [Removed]

Par. 2. Sections 1.453–7 and 1.453–8 are removed.

Par. 3. New § 1.453A–3 is added at the appropriate place to read as follows:

§ 1.453A–3 Requirements for adoption of or change to installment method by dealers in personal property.

(a) *In general.* A dealer in personal property (within the meaning of § 1.453A–1) may adopt or change to the installment method for a type or types of sales on the installment plan (within the meaning of § 1.453A–2) in the manner prescribed in this section. This section does not apply to sales other than sales on the installment plan by dealers in personal property.

(b) *Time and manner of electing installment method reporting*—(1) *Time for election.* An election to adopt or change to the installment method for a type or types of sales must be made on an income tax return for the taxable year of the election, filed on or before the time specified (including extensions thereof) for filing such returns.

(2) *Adoption of installment method.* A taxpayer who adopts the installment method for the first taxable year in which sales are made on an installment plan of any kind must indicate in the income tax return for that taxable year that the installment method of accounting is being adopted and specify the type or types of sales included within the election. If a taxpayer in the year of the initial election made only one type of sale on the installment plan, but during a subsequent taxable year makes another type of sale on the installment plan and adopts the installment method for that other type of sale, the taxpayer must indicate in the income tax return for the subsequent year that an election is being made to adopt the installment method of accounting for the additional type of sale.

(3) *Change to installment method.* A taxpayer who changes to the installment method for a particular type or types of sales on the installment plan in accordance with this section must, for each type of sale on the installment plan for which the installment method is to be used, attach a separate statement to the income tax return for the taxable year with respect to which the change is made. Each statement must show the method of accounting used in computing taxable income before the change and the type of sale on the installment plan for which the installment method is being elected.

(4) *Deemed elections.* A dealer in personal property (including a person who is a dealer as a result of the recharacterization of transactions as sales) is deemed to have elected the installment method if the dealer treats a sale on the installment plan as a transaction other than a sale and fails to report the full amount of gain in the year of the sale. For example, if a transaction treated by a dealer as a lease is recharacterized by the Internal Revenue Service as a sale on the installment plan, the dealer will be deemed to have elected the installment method assuming the dealer failed to report the full amount of gain in the year of the transaction.

(c) *Consent.* A dealer in personal property may adopt or change to the installment method for sales on the installment plan without the consent of the Commissioner. However, a dealer may not change from the installment

method to the accrual method of accounting or to any other method of accounting without the consent of the Commissioner.

(d) *Cut-off method for amounts previously accrued.* An election to change to the installment method for a type of sale applies only with respect to sales made on or after the first day of the taxable year of change. Thus, payments received in the taxable year of the change, or in subsequent years, in respect of an installment obligation which arose in a taxable year prior to the taxable year of change are not taken into account on the installment method, but rather must be accounted for under the taxpayer's method of accounting in use in the prior year.

(e) *Effective date.* This section applies to sales by dealers in personal property in taxable years ending after October 19, 1980. For rules relating to sales by dealers in personal property in taxable years ending before October 20, 1980, see 26 CFR 1.453–7 and 1.453–8 (rev. as of April 1, 1985).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 5. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.453A–3 . . . [ ]".

This notice of proposed rulemaking is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

P.E. Coates,

Acting Commissioner of Internal Revenue.

[FR Doc. 16917 Filed 7–25–86; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Abandoned Mine Land Reclamation Program

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

ACTION: Proposed rule.

SUMMARY: On May 29, 1986, the State of New Mexico submitted to the Office of Surface Mining Reclamation and Enforcement (OSMRE) a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) Plan. The amendment pertains to the authority and the capability to conduct a State emergency reclamation program. OSMRE is seeking public comment on the proposed amendment.

DATES: Written comments on the amendment must be received on or before 5:00 p.m. August 27, 1986. Comments received after 5:00 p.m. may not necessarily be considered or included in the administrative record for this rulemaking.

ADDRESSES: Copies of the full text of the proposed amendment are available for review at the following locations: Mining and Minerals Division, Energy and Minerals Department, 525 Camino de los Marquez, Santa Fe, New Mexico 87501, and Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue, NW., Albuquerque, New Mexico 87102. Written comments must be mailed or hand carried to: Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director of Albuquerque Field Office, 219 Central Avenue, NW., Albuquerque, New Mexico 87102, (505) 766–1492.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 et seq., establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law. Title IV provides that a State with an approved AMLR program has the responsibility and primary authority to implement an abandoned mine land reclamation program.

The New Mexico AMLR Plan was approved on June 17, 1981. On September 19, 1983, OSMRE informed the States and Indian tribes of the opportunity to amend their reclamation plans to include a provision for emergency reclamation programs (47 FR 42729). Under Section 410 of SMCRA, the Secretary of the Interior is authorized to expend monies for the emergency restoration, reclamation, abatement, control or prevention of adverse effects of coal mining practices on eligible lands. An emergency, as defined in 30 CFR 870.5 means "a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety or general welfare of people before the danger can be abated under normal program operation procedures." For a State or tribe to undertake an emergency reclamation program as part of its reclamation plan, it must demonstrate that it has the statutory authority to undertake emergencies, the technical capability to design and supervise the emergency work and the administrative and procurement procedures to quickly respond to emergencies directly or through contractors.

On May 29, 1986, New Mexico submitted a proposed amendment to its Plan. An approved State AMLR Plan can be amended under the provisions of 30 CFR 884.15. Under these provisions, if the amendment or revision changes the objectives, scope, or major policies followed by the State in the conduct of its reclamation program, the Director should follow the procedures set out in 30 CFR 884.14 in approving an amendment or revisions of a State reclamation plan. This notice of proposed rulemaking begins the process of review of the proposed amendment.

Representatives of OSMRE's Field Office will be available to meet Monday through Friday, excluding holidays, between 8:00 a.m. and 4:00 p.m. at the address indicated above under **"ADDRESSES,"** at the request of members of the public to receive their advice and recommendations concerning the proposed New Mexico amendment. Persons wishing to meet with representatives of the Field Office during this time period may place such requests with Wayne D. Oliver, telephone (505) 766–8079.

The Department intends to continue to discuss the State's amendment with representatives of the State throughout the review process. All contacts between Department personnel and representatives of the State will be conducted in accordance with OSMRE's guidelines on contacts with States published September 19, 1979, at 44 FR 54444.

The New Mexico amendment can be approved if the Director finds that:

1. The public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure to carry out the amendment.

4. The amendment meets all requirements of the OSMRE AMLR program provisions.

5. The State has an approved Surface Mining Regulatory Program.

6. The amendment is in compliance with all applicable State and Federal laws and regulations.

Contents of the New Mexico amendment are:

1. Designation by the Governor of the agency authorized to receive grants and administer an emergency program.

2. A legal opinion from the State Attorney General that the designated agency has the authority under State law to conduct the emergency program in accordance with the requirements of Title IV of the Act.

3. A description of the policies and procedures to be followed by the designated agency in conducting the emergency reclamation program.

4. A description of the administrative and managerial structure to be used in conducting the emergency reclamation program.

5. A general description of emergency reclamation activities to be conducted.

6. A narrative description which supports the State's position that the procedures, personnel, and other proposed aspects of its program give evidence of its abilities to promptly and effectively mitigate the full range of emergency conditions anticipated in the State.

The Office of Surface Mining Reclamation and Enforcement has examined this proposed rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Office of Surface Mining Reclamation and Enforcement determined that the rule will not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining Reclamation and Enforcement has determined that the New Mexico amendment does not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation program. Therefore, under the Department of the Interior Manual DM 5161.3(a)(1), the Director's decision on the New Mexico amendment is categorically excluded from the National Environmental Policy Act requirements.

As a result, no environmental assessment (EA) or environmental impact statement (EIS) has been prepared on this action. A programmatic EIS was prepared by OSMRE in conjunction with the implementation of Title IV. Moreover, an EA or an EIS has been prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

List of Subjects in 30 CFR Part 931

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

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 2101 et seq.)

Dated: July 18, 1986.

James W. Workman,

Deputy Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 86–16654 Filed 7–25–86; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 181 and 183

[CGD 85–002]

Boating Safety; Certification and Safe Powering Standards

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for notice of proposed rulemaking.

SUMMARY: The notice of proposed rulemaking (51 FR 19364) published May 29, 1986, proposed amendments to the Certification regulations in Subpart B of Part 181 and the Safe Powering Standard in Subpart D of Part 183 of Title 33, Code of Federal Regulations. Public comments were invited by July 29, 1986. Notices of proposed rulemaking and final rules are normally printed in the Boating Safety Circular published by the Coast Guard which is distributed to approximately 23,000 recreational boat manufacturers, dealers, distributors and other interested parties. Since the issue of the circular containing this notice will not be published until July 1986, by which time the comment period might have closed, the period for public comment is extended until August 29, 1986.

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

ADDRESSES: Comments should be submitted to Commandant (G–CMC/21), (CGD 85–002), U.S. Coast Guard, Washington, DC 20593. Comments will be available for examination at the Marine Safety Council (G-CMD/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593, between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Alton Colihan, Office of Boating, Public, and Consumer Affairs (G–BBS/43), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593 (202) 267–0974, between 8 a.m. and 4 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The intended effect of the proposal is to give those boats, which can clearly operate safely with more horsepower than they currently rate under the Coast Guard Safe Powering Standard, more reasonable maximum horsepower capacities. In order to allow greater flexibility in the manner in which the maximum horsepower capacity of these boats is determined, the proposal would establish an optional performance test method as an alternative to the existing calculation method. An additional editorial change to Subpart A of Part 181 would reflect changes in the applicability of the part. Since the Coast Guard feels that the proposed rule has not been fully disseminated to all affected parties, the time for public comment is extended to August 29, 1986.

Dated: July 23, 1986.

T.T. Matteson,

Rear Admiral (Lower Half), U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 86-16861 Filed 7-25-86 8:45 am]

BILLING CODE 4910-14/M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Veterans Education; End of Flight Training in VEAP (Post-Vietnam Era Educational Assistance Program)

AGENCY: Veterans Administration and Department of Defense.

ACTION: Proposed regulations.

SUMMARY: The Omnibus Budget Reconciliation Act of 1981 provided that people eligible for educational assistance under VEAP (Post-Vietnam Era Veterans' Educational Assistance Program) could not enroll in flight training for the first time after September 30, 1981. These people who enrolled in flight training during September 1981 could receive educational assistance only during that month. A person who enrolled in flight training before September 1, 1981 could receive educational assistance only if the continuity of his or her enrollment was not broken.

No one has received educational assistance for flight training under VEAP during fiscal year 1985. Consequently, the continuity of everyone's enrollment has been broken. Educational assistance may no longer be paid for flight training under VEAP. This proposal eliminates all references to flight training under VEAP.

DATES: Comments must be received on or before August 27, 1986. It is proposed to make these regulations effective 30 days after the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until September 9, 1986.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, (202) 389-2092.

SUPPLEMENTARY INFORMATION: Numerous regulations which indicated that flight training could be pursued under VEAP have been canceled or amended. Flight training can no longer be pursued under this program.

The Veterans Administration (VA) and the Department of Defense have determined that this proposal does not contain a major rule as that term is defined by E.O. 12291, entitled, Federal Regulations. The proposal will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

This certification can be made because this change results from a requirement of the law. Any effect on small entities results directly from the law, not from this proposal.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.117.

List of Subjects in 38 CFR Part 21

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

Approved: May 8, 1986.

Thomas K. Turnage,

Administrator.

E.A. Chavarrie,

Lieutenant General, USAF, Deputy Assistant Secretary of Defense.

June 18, 1986.

PART 21—[AMENDED]

38 CFR Part 21, Vocational Rehabilitation and Education, is amended as follows:

§ 21.5021 [Amended]

1. In § 21.5021, paragraphs (j)(3) (i), (ii), and (iii) are removed.

2. In § 21.5072, the introductory portion of paragraph (a)(1) and paragraph (c) are revised to read as follows:

§ 21.5072 Entitlement charge. * * *

(a) *Residence training.* (1) A charge against the period of entitlement for a program other than one leading to a secondary school diploma or an equivalency certificate where the monthly rate is based on the individual's tuition and fees will be made as follows: (38 U.S.C. 1631)

* * * * *

(c) *Correspondence training courses.* (1) A charge against the period of entitlement for a program consisting exclusively of correspondence training will be made on the basis of 1 month for each sum of money paid equivalent to the dollar value of a month of entitlement as determined under § 21.5138(a)(2)(viii), which is paid to the individual as an educational assistance allowance for this training. When computation results in a period of time other than a full month, the charge will be prorated.

(2) If the individual is contributing to the fund at the same time that benefits are being used or subsequently contributes a sum or sums, the entitlement charges will not be recomputed. Thus, if the monthly rate arrived at by applying the formula is determined to be $150 at the time a benefit program for correspondence training is computed, the individual will be charged 1 month of entitlement for each $150 paid. If a different monthly rate is computed at the time of a subsequent payment for such training, no adjustment will be made in the entitlement charged for the previous payment(s) even though the value of each month's entitlement may vary from payment to payment.

(38 U.S.C. 1631(c); Pub. L. 94-502)

3. In § 21.5132, paragraph (a) is revised to read as follows:

§ 21.5132 Criteria used in determining benefit payments.

(a) *Training time.* The amount of benefit payment to an individual in all types of training except correspondence training depends on whether the VA determines that the individual is a full-time student, three-quarter-time student, half-time student or one-quarter-time student. (38 U.S.C. 1631)

* * * * *

§ 21.5137 [Removed]

4. Section 21.5137 is removed.

5. In § 21.5138, paragraphs (a)(2) and (a)(2)(ix) are revised to read as follows:

§ 21.5138 Computation of benefit payments and monthly rates.

(a) *Computation of entitlement factor.*

* * *

(2) For correspondence training the entitlement factor will be computed as follows:

* * * * *

(ix) Enter the correspondence charges certified by the school . . . . . 9) ———

(38 U.S.C. 1631; Pub. L. 94–502)

* * * * *

§ 21.5250 [Amended]

6. In § 21.5250, paragraph (k) is removed.

[FR Doc. 86–16868 Filed 7–25–86; 8:45 am]

BILLING CODE 8320–01–M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education: Approval of Programs Leading to High School Diplomas

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The law permits the VA (Veterans Administration) to pay educational assistance allowance under the Vietnam Era GI Bill and dependents' educational assistance under the Dependents' Educational Assistance Program to veterans and eligible persons who are pursuing a high school diploma or an equivalency certificate. However, this assistance may not be paid if the veteran or eligible person already has a high school diploma or equivalency certificate. Recently, some questions have arisen as to whether someone who has a secondary school diploma awarded by a school located in a foreign country may pursue another one in the United States. This proposed regulatory amendment makes clear that the VA considers such a person to be already qualified for the objective of his or her program of education, i.e., successful completion of secondary level training. The VA may not pay educational assistance for the pursuit of another secondary school diploma or equivalency certificate in the United States.

DATE: Comments must be received on or before August 27, 1986.

ADDRESSES: Send written comments to: Administrator of Veterans' Affairs (271A), Veterans Administration. 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Service Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until September 11, 1986.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, (202) 389–2092.

SUPPLEMENTARY INFORMATION: The VA is proposing an amendment to 38 CFR 21.4230 to make clear that a veteran or serviceperson who has a secondary school diploma or equivalency certificate, even though not obtained from a U.S. school, may not receive educational assistance allowance in order to pursue training for another diploma or certificate. Through a cross-reference in paragraph (f) of this section, this restriction also applies to spouses or surviving spouses who wish to receive dependents' educational assistance while pursuing a high school diploma.

Some schools in foreign countries such as the Philippines or some provinces of Canada award secondary school diplomas after less than twelve years of primary or secondary school training. If a veteran has obtained one of these diplomas, the VA will not award educational assistance for a program of education whose objective is another secondary school diploma or an equivalency certificate.

The VA has determined that this amended regulation does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulation will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs has certified that this amended regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defiend in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulation concerns only the eligibility of individuals for educational assistance, and merely codifies present VA policy. It will impose no administrative or regulatory burdens on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

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

Approved: July 9, 1986.

Thomas K. Turnage,

Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

38 CFR Part 21, Vocational Rehabilitation and Education, is amended by revising § 21.4230 paragraphs (d) introductory text and (d)(1) to read as follows:

§ 21.4230 Requirements.

* * * * *

(d) *Selection—Chapter 34.* Except as provided in paragraphs (d)(1) and (2) of this section, the VA will approve a program of education under chapter 34 selected by an eligible veteran or serviceperson if it meets the requirements of paragraph (a) of this section; has an objective as described in paragraph (b) or (c) of this section; the courses or subjects in the program are approved for VA training; and the veteran or serviceperson is not already qualified for the objective of the program.

(1) A person who has previously received a secondary school diploma or an equivalency certificate from any jurisdiction shall be considered already qualified for those objectives, and, except as provided in § 21.4235(a)(2), may not pursue additional courses at the secondary school level which lead to another secondary school diploma or equivalency certificate.

(38 U.S.C. 1671)

* * * * *

[FR Doc. 86–16812 Filed 7–25–86; 8:45 am]

BILLING CODE 8320–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[Gen. Docket No. 83-989]

Enforcement of Prohibitions Against the Use of Common Carriers for the Transmission of Obscene Materials

AGENCY: Federal Communications Commission.

ACTION: Third notice of proposed rulemaking.

SUMMARY: The Commission promulgated § 64.201 of its rules in response to Congressional mandate that minors not be permitted access to "dial-a-porn" telephone services. The Second Circuit Court of Appeals found the rule inadequately supported as to New York Telephone Company territory. The Commission is now seeking public comment on applying its rule in New York Telephone Company territory or, in the alternative, promulgating an alternative regulation.

DATES: Comments on the proposals are due September 8, 1986; reply comments are due September 23, 1986.

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

FOR FURTHER INFORMATION CONTACT: Jim Ferris, Domestic Services Branch, Common Carrier Bureau, (202) 634-1830.

SUPPLEMENTARY INFORMATION:

This is summary of the Commission's third notice of proposed rulemaking adopted July 9, 1986, and released July 18, 1986, seeking public comment on proposals to apply section § 64.201 of the Commission's rules to New York Telephone Company territory or promulgating a new rule.

Texts 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, D.C. The complete text of this decision may also be purchased from the Commission's contractor for Public Records Duplication, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, D.C. 20037.

Summary of Commission Decision

In 1983 Congress amended section 223 of the Communications Act of 1934, 47 U.S.C. 223 (1983), to restrict access by minors to obscene or indecent telephone message services in the District of Columbia or in interstate or foreign communications. The statute directed the Commission to issue a regulation, compliance with which would serve as a defense to prosecution under amended section 223. The Commission initially released a Report and Order adopting an operational hour regulation to implement this statutory mandate.

On November 2, 1984, however, in *Carlin Communications, Inc.* v. *FCC* (Carlin I), 749 F.2d 113 (2d Cir. 1984), the United States Court of Appeals for the Second Circuit set aside the Commission's regulation. Without reaching the constitutionality of the underlying statute, the court found that the Commission had failed to provide a convincing record adequately demonstrating that its operational hour regulation effectively restricted access by minors to obscene or indecent transmissions without unduly impairing the rights of adults to hear the messages. Accordingly, the Commission issued a *Second Notice of Proposed Rulemaking* (Second Notice), 50 FR 10510 (March 15, 1985), seeking further information to augment the record. Emphasis was placed on technical options in the Second Notice.

After examining the comments submitted in response to the Second Notice, the Commission concluded that the operational hour limitation and various screening and blocking techniques proposed were either technically infeasible, overinclusive, ineffective, or improperly placed the burden of preventing access on the telephone subscriber. In contrast, an access code regulation, which would require "dial-a-porn" providers to install access code equipment at their premises or to pay for similar equipment installed at telephone company facilities, was determined to be effective and neither unduly burdensome nor overly restrictive. Therefore, the Commission adopted a regulation under which "dial-a-porn" services must require an authorized access or identification code or prepayment by credit card before transmission of obscene or indecent messages by telephone.

On April 11, 1986, the United States Court of Appeals for the Second Circuit held that there was no evidence that access code are technically feasible under the New York Telephone Company Mass Announcement Network System (MANS) and set the Commission's regulation aside in New York Telephone Company territory. *Carlin Communications, Inc.* v. *FCC* (Carlin II), 787 F.2d 846 (2d Cir. 1986). The court said, "[b]ecause we find that the record does not support the FCC's conclusion that the access code requirement is the least restrictive means to regulate dial-a-porn, we again do not address the constitutionality of section 223(b)." It also said, "[w]e think the Commission has failed adequately to consider the feasibility of shifting the cost of customer premises blocking equipment to the providers of services and/or the telephone companies that gain income from the calls." *See* para. 11 of the item. The Commission's regulation, § 64.201, remains in effect everywhere except in New York Telephone Company territory.

This proceeding, the third Commission attempt at complying with Congress' manadate, focuses on augmenting the record to develop an access rule applicable in New York Telephone territory under the standards set forth in the court's Carlin II opinion. It also seeks public comment on alternatives suggested by the court.

Ordering Clauses

23. Accordingly, pursuant to 47 U.S.C. 154(i) and 223(b)(2), and 5 U.S.C. 553, notice is hereby provided of proposed rule changes in Part 64 of the Commission's Rules and Regulations, 47 CFR Part 64, in accordance with the discussion and delineation of issues herein.

24. It is further ordered, that the Secretary shall cause a summary of this document to be printed in the **Federal Register** and shall send a copy to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* (1980)).

25. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

List of Subjects in 47 CFR Part 64

Comunications common carriers, Telephone.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-16876 Filed 7-25-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-310, RM-5329]

Radio Broadcasting Services; Tuskegee, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by L. Lynn Henley proposing the allotment of Channel 236A to Tuskegee, Alabama, as that community's second local FM service.

DATES: Comments must be filed on or before September 11, 1986, and reply comments on or before September 26, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC interested parties should serve the petitioners, or their counsel or consultant, as follows: Larry G. Fuss, Sr., Contemporary Communications Broadcast Consultants, P.O. Box 3976, Jackson, GA 30233 (Consultant to Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–310, adopted July 14, 1986, and released July 21, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–16877 Filed 7–25–86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86–311, RM–5343]

Radio Broadcasting Services; Big Bear City, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Jacqulyn A. and James W. Cottingham, proposing the allotment of FM Channel 227A to Big Bear City, California, as that community's first local broadcast service.

DATES: Comments must be filed on or before September 11, 1986, and reply comments on or before September 26, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Jacqulyn A. & James W. Cottingham, 949 Pine Lane, Big Bear City, California 92314, (Petitioners).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–311, adopted July 14, 1986, and released July 21, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–16878 Filed 7–25–86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85–55; RM–4861]

Television Broadcasting Services, Bradenton, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document dismisses a proposal to assign UHF television Channel 66 to Bradenton, Florida, as requested by Elektra Broadcasting Company. The petition as filed proposed deleting the educational reservation on Channel 19 at Bradenton, making it available for commercial use and substituting Channel 66 in lieu thereof. Elyse G. Wander filed a Motion to Accept late comments in support of that proposal. As stated in the *Notice*, The Commission refrained from proposing to delete the reservation on Channel 19 without just cause, and instead proposed Channel 66 for assignment to Bradenton. Since Wander's comments did not express an interest in applying for authority to operate on Channel 66, the Motion to Accept is denied. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 85–55, adopted July 3, 1986, and released July 21, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Mark N. Lipp,

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

[FR Doc. 86–16875 Filed 7–25–86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-312, RM-5325]

Radio Broadcasting Services; Las Vegas, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by S. Carl Mark Revocable Trust. Action taken herein proposes the substitution of Channel 264C2 for Channel 265A at Las Vegas, New Mexico, and the modification of the license of Station KLVF to specify operation on the higher powered channel, at the request of S. Carl Mark Revocable Trust. The substitution of channels could permit improved service to Las Vegas and its environs.

DATES: Comments must be filed on or before September 11, 1986, and reply comments on or before September 26, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Steven A. Lerman, Esq., Jill Abeshouse Stern, Esq., McKenna, Wilkinson & Kittner, 1150 — 17th Street, NW., Suite 1100, Washington, DC 20036, (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-312, adopted July 14, 1986, and released July 21, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-16879 Filed 7-25-86; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 51, No. 144
Monday, July 28, 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

Soil Conservation Service

Federal Hocking Local School District Critical Area Treatment RC&D Measure, Ohio

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of 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 Federal Hocking Local School District, RC&D Measure, Athens County, Ohio.

FOR FURTHER INFORMATION CONTACT: Harry W. Oneth, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio, 43215, telephone: (614)–469–6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Harry W. Oneth, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This measure concerns a plan for the critical area treatment of a steep eroding hillside approximately one (1) acre in size. The erosion is undercutting the packaged sewage treatment plant for the high school involved.

Planned works of improvement include revegetating the hillside and extending the treatment plant and storm sewer outlets to a stable outlet.

The notice of 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. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Harry W. Oneth.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

[FR Doc. 86–16846 Filed 7–25–86; 8:45 am]

BILLING CODE 3410–16–M

Hocking Technical College Critical Area Treatment RC&D Measure, Ohio

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of 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 Hocking Technical College Critical Area Treatment, RC&D Measure, Athens County, Ohio.

FOR FURTHER INFORMATION CONTACT: Harry W. Oneth, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)–469–6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Harry W. Oneth, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This measure concerns a plan for the critical area treatment of an eroding hillside adjacent to Lang Hall dormitory. This runoff deposits sediment in and around the dormitory.

Planned works of improvement include the installation of approximately 700 feet of underground outlets, eight (8) surface inlets, and revegetating 1.5 acres of hillside and lawn area.

The notice of 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. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Harry W. Oneth.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Harry W. Oneth,

State Conservationist.

July 21, 1986.

[FR Doc. 86–16847 Filed 7–25–86; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Productivity, Technology and Innovation

Title: Nominations for National Technology Medal

Form Number: Agency—NA; OMB—0608–0052

Type of Request: Revision of a currently approved collection

Burden: 125 respondents; 375 reporting hours
Needs and Uses: To solicit nominations for the National Technology Medal in a standard format which benefits the nominator, simplifies the review process for the advisory committee, and permits more efficient staff work in less time
Affected Public: Individuals or households, businesses or other for-profit institutions, Federal Government employees, non-profit institutions, small businesses or organizations
Frequency: Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: July 22, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–16881 Filed 7–25–86; 8:45 am]

BILLING CODE 3510–07–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1990 Decennial Census Local Review Program
Form Number: Agency—D–71; OMB—NA
Type of Request: New collection
Burden: 41,000 respondents; 3,476 reporting hours
Needs and Uses: Local governmental unit and American Indian reservations will be requested to designate a liaison to participate in the local review programs. The designated liaison will receive pertinent materials and attend training workshops conducted by the Census Bureau
Affected Public: State or local governments
Frequency: One time
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: July 21, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–16882 Filed 7–25–86; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Color Television Receivers From Korea; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests by the petitioners, another domestic interested party, and the respondents, the Department of Commerce has conducted an administrative review of the antidumping duty order on color television receivers from Korea. The review covers the three known manufacturers and/or exporters of color television receivers to the United States currently covered by the order, and generally the period May 1, 1984 through March 31, 1985. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 28, 1986.

FOR FURTHER INFORMATION CONTACT: Laura Merchant or Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–3601/5255.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 50420) the final results of its last administrative review of the antidumping duty order on color television receivers from Korea (49 FR 18336, April 30, 1984). We began the current review of the order under our old regulations. After the promulgation of our new regulations, the petitioners, another domestic interested party, and respondents requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We therefore published a notice of initiation of the review on October 25, 1985 (50 FR 43432).

Scope of the Review

Imports covered by the review are sales of color television receivers, complete or incomplete, from Korea. The Department defines such merchandise as all color television receivers regardless of tariff classification. The merchandise is currently classifiable under item numbers 684.9247, 684.9250, 684.9252, 684.9254, 684.9256, 684.9258, 684.9260, 684.9270, 684.9275, 684.9655, 684.9656, 684.9660, 684.9858, and 684.9663 of the Tariff Schedules of the United States Annotated.

The review covers the three known manufacturers and/or exporters of Korean color television receivers to the United States currently covered by the order, and generally the period May 1, 1984 through March 31, 1985.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price ("ESP"), both as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"), as appropriate. Purchase price and exporter's sales price were based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made adjustments, where applicable, for ocean freight, marine insurance, U.S. and Korean inland freight, U.S. and Korean brokerage fees, Korean customs clearing fees, wharfage, export license fees, forwarding and handling charges, discounts, royalties, rebates, commissions to unrelated parties, and the U.S. subsidiary's selling expenses. Where applicable, we made an addition for import duties collected

and rebated on imported raw materials used to produce subsequently exported merchandise, in accordance with section 353.10(d)(1)(ii) of the Commerce Regulations. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market at or above the cost of production to provide a basis for comparison. Home market price was based on the packed delivered price to unrelated purchasers in the home market. We accounted for taxes imposed in Korea, but rebated or not collected by reason of the exportation of the merchandise to the United States, by subtraction from home market price as best information available. Where applicable, we made adjustments for inland freight, forwarding, rebates, credit expenses, discounts, warranty, advertising and sales promotion, royalties, differences in the physical characteristics of the merchandise, and packing. We made further adjustments, where applicable, for indirect selling expenses to offset commissions and U.S. selling expenses for ESP calculations.

We disallowed a claim for a level of trade adjustment because the information the respondent provided did not demonstrate that distinct trade levels exist in the home and U.S. markets. We disallowed a claim for bad debt because the adjustment would be insignificant in relation to the price of the affected transaction. No other adjustments were claimed or allowed.

An allegation was made by the petitioners that sales by Samsung Co., Ltd. and Gold Star Co., Ltd., were at prices below their costs of production. We compared the home market sales price to costs of production and found that the very low percentage of below cost sales did not justify excluding those sales from our calculations.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Daewoo Electronics Co., Ltd	05/01/84-03/31/85	14.25
Gold Star Co., Ltd	05/01/84-03/31/85	4.71
Samsung Electronics Co., Ltd	04/25/84-03/31/85	1.55

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 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. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the Administrative review including the results of its analysis of any such comments of hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages started above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For any future entries of this merchandise from a new export not covered in this or prior administrative reviews, whose first shipments occurred after March 31, 1985 and who is unrelated to any reviewed firm, a cash deposit of 14.25 percent shall be required. These deposit requirements are effective for all shipments of Korean color televison receivers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556 August 13, 1985).

Dated: July 22, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-16885 Filed 7-25-86 8:45 am]

BILLING CODE 3510-05-M

[Docket No. 60738-6138]

Foreign Policy Controls on Exports of Goods and Technology to the Republic of South Africa and Namibia

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Notice of Extension of foreign policy controls on exports to South Africa and Namibia.

SUMMARY: The Department of Commerce, in consultation with the Department of State, has extended foreign policy controls on exports to South Africa and Namibia pursuant to section 6 of the Export Administration Act of 1979, as amended (the Act), for the period from July 13, 1986, through July 12, 1987. These controls had been made effective upon enactment of the Export Administration Amendments Act of 1985. The extension continues the embargo on the export of goods and technology to the South African military and police.

FOR FURTHER INFORMATION CONTACT: Joan Sitnik, Strategic Planning and Policy Division, Office of Technology and Policy Analysis, Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-4830).

Dated: July 24, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86-17034 Filed 7-25-86; 11:17 am]

BILLING CODE 3510-DT-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Textile Consultations With the Government of Japan To Review Trade in Categories 310/318, 315/320pt. 317pt. and 347/348

July 23, 1986.

On June 30, 1986, the Government of the United States, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested consultations with the Government of Japan with respect to gingham and other yarn-dyed fabrics of cotton in Category 310/318, cotton printcloth in Category 315/320pt., cotton sateen fabric in Category 317pt. and cotton trousers in Category 347/348, produced or manufactured in Japan.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of cotton textile products in Categories 310/318, 315/320pt. (printcloth), 317 pt. (sateens), and 347/

348, produced or manufactured in Japan and exported to the United States during the twelve-month period which began on June 30, 1986 and extends through June 29, 1987 of 19,042,936 square yards (Cat. 310/318), 10,562,022 square yards (Cat. 315/320pt.), 8,869,181 square yards (Cat. 317pt.) and 1,442,422 dozen (Cat. 347/348).

Summary market statements concerning these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of these categories, or to comment on domestic production or availability of textile products included in the categories, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Japan—Market Statement

Categories 310/318—Yarn-Dyed Fabric

June 1986

Summary and Conclusions

United States imports of cotton yarn-dyed fabric, in Categories 310/318 from Japan were 21.4 million square yards during the year ending April 1986, up 45 percent from the 14.7 million square yards imported a year earlier. Japan was the largest supplier of this fabric, accounting for 38 percent of the total imports.

The sharp and substantial increases of imports from Japan which are being offered at duty paid landed values below the U.S. producers price are severely disrupting the U.S. markets for cotton yarn-dyed fabrics.

The U.S. industry producing yarn-dyed cotton and cotton/polyester blended fabrics has been adversely affected by imports.

Production and Market Share

U.S. production of cotton and cotton/polyester yarn-dyed fabrics fell sharply in 1984. This decline continued into 1985. Production in 1985 was 131.7 million square yards, down 13 percent from 1984.

The domestic producers' share of the market for domestically produced and imported fabric declined drastically from 86 percent in 1983 to 73 percent in 1985. In addition, the domestic producers experienced a declining market for fabric since imports of yarn-dyed apparel rapidly increased in 1984 and continued upward in 1985.

Imports and Import Penetration

Japan ships a wide variety of fabrics in both categories. Shipments include 100 percent cotton and blend fabrics such as 55 percent cotton/45 percent polyester They also cover a wide range of yarn counts from the teens to the eighties. Most of the shipments are of thirties and forties yarn counts. The duty-paid landed values are below those of comparable U.S. produced fabrics. Representative examples of these differences are provided below.

Japan—Market Statement

Category 315/320 Pt.—Cotton Printcloth

June 1986.

Summary and Conclusions

U.S. imports of cotton printcloth—categories 315/320 pt.—from Japan increased more than 400 percent to 11.1 million square yards during the year ending April 1986 from 2.1 million square yards during the previous twelve months. This increase occurred after Japan's imports increased elevenfold in calendar year 1985.

This sharp and substantial increase in imports of low-valued fabric is disrupting the U.S. market for cotton printcloth.

U.S. Production and Producers' Market Share

U.S. production of cotton printcloth trended downward through 1982 when the U.S. market was severely impacted by recession and by a large carryover of printcloth stocks which had been imported in 1981. Production under these conditions was only 339 million square yards in 1982. After a slow start, it increased to 426 million square yards in 1983 and to 450 million in 1984. Production in 1985, at 415 million square yards, dropped 8 percent from 1984.

The apparent market for cotton printcloth in erratic, with changes mainly reflecting changes in stocks held by importers and producers. Although the market has varied, there has been a distinct downward trend in the U.S. producers' share of the market. In 1980, the domestic producers provided 81 percent of the Category 315 market; in 1985, they provided 59 percent. When Category 320 pt. printcloth fabric is included, the domestic producers' market share falls to 58 percent in 1985. Category 320 pt. printcloth import data are not available prior to 1985.

Imports and Import Penetration

Imports of Category 315 have been erratic but with a distinct upward trend. Imports in 1984 were a record 338 million square yards, nearly three times the 1980 imports of 116 million square yards. Imports temporarily dropped in 1985 due to embargoes on entries from certain countries and heavy stocks of unsold fabric in the marketing channels. However, Category 315 imports were up 108 percent, 181 million square yards, in the first four months of 1986. Year ending April 1986 imports reached 380 million square yards. When Category 320 part imports are included, cotton printcloth fabric imports reached 186 million square yards in the first four months of 1986 and 393 million square yards during year ending April 1986.

The ratio of imports to domestic production tripled from 23.4 percent in 1980 to 68.9 percent in 1985. When Category 320 pt. printcloth imports are included, the ratio increased to 72.5 percent in 1985.

Duty-Paid Values and U.S. Producer Prices

Approximately 72 percent of Japan's Categories 315/320 Pt. imports are entered under TSUSA Nos. 322.2927 and 322.3927. These fabrics are cotton printcloth with yarn count in the twenties and thirties, respectively. These fabrics are priced below the U.S. prices for identical fabrics.

Japan—Market Statement

Category 317 Pt—Cotton Sateen Fabric

June 1986.

Summary and Conclusions

United States imports of Category 317 pt. — cotton sateen fabric from Japan totalled 9.2 million square yards for the year ending in April 1986, an increase of 144 percent over the 3.8 million square yards imported a year earlier; 4.9 million square yards of this entered during January–April 1986. Japan is now the second largest supplier of cotton sateen fabric accounting for 18 percent of the year ending April 1986 imports. In the absence of restraints, this rapid import growth is expected to accelerate.

The market for cotton sateen fabric is disrupted by imports and the sharp and disruptive growth trend of Japanese cotton sateen fabric is a major contributor.

U.S. Production and Market Share

U.S. production of cotton sateen fabric dropped from 58.1 million square yards in 1982 to 45.6 million in 1983, a 21 percent decline. Production in 1984 partially recovered from 1983, however, the improvement was short-lived. Production in 1985 dropped to 47.0 million square yards, down 2 percent from 48.1 million square yards in 1984.

The U.S. producer's share of the market for domestically produced and imported cotton sateen fabric declined from 72.3 percent in 1982 to 52.9 percent in 1985.

U.S. Imports and Import Penetration

U.S. imports of cotton sateen fabrics doubled between 1982 and 1984 from 22.2 million square yards to 45.3 million square yards. Although sateen fabric imports

declined slightly in 1985 to 42.0 million square yards, imports during the first four months of 1986 were more than doubled over the same period a year earlier. Imports during the year ending April 1986 were 52.5 million square yards. The import to production ratio increased from 38.3 percent in 1982 to 89.2 percent in 1985.

Import Value vs Domestic Producer Price

Approximately 61 percent of cotton sateen fabric is entering from Japan under TSUSA No. 322.3950. These imports enter at duty-paid values below the U.S. producer price.

Japan—Market Statement

Category 347/348—Cotton Trousers etc.

June 1986.

Summary and Conclusions

U.S. imports of Category 347/348 from Japan were 1,488,067 dozen during year-ending April 1986, compared to 1,325,872 dozen a year earlier, a 12 percent increase. Japan is the third largest supplier of Category 347/348 and the largest uncontrolled supplier, accounting for six percent of total imports during the year-ending April 1986. Imports reached 665,285 dozen in the first four months of 1986, an increase of 32 percent over the level in the first four months of 1985.

The U.S. market for Category 347/348 has been disrupted by imports. The sharp and substantial increase in imports from Japan has contributed to this disruption. Absence of control on Catergory 347/348 imports from Japan would create a real risk of further disruption.

U.S. Production and Market Share

In 1983, U.S. cotton trouser production declined by 419,000 dozen. In 1984, production rebounded to 40,895,000 dozen, two percent above the 1982 level.

The market for domestically produced and imported trousers grew by seven million dozen between 1982 and 1984. However, U.S. producers participated little in this expansion as their share of the market fell from 75 to 68 percent.

U.S. Imports and Import Penetration

Imports of Category 347/348 increased from 13,133,000 dozen in 1982 to 18,076,000 dozen in 1983, a 38 percent increase. Import growth continued as imports reached 19,174,000 dozen in 1984, a six percent increase over the previous year. The ratio of imports to domestic production increased from 33 percent in 1982 to 46 percent in 1983 to 47 percent in 1984.

Duty-Paid Value and U.S. Producer Price

Approximately 69 percent of Category 347/348 imports during the first four months of 1986 from Japan entered under the following two TSUSA numbers: 384.4725—women's, girls' and infants' other cotton shorts, not knit, not ornamented; 384.4765—women's other cotton trousers and slacks, except those of denim, not knit, not ornamented. These garments from Japan entered the U.S. at landed, duty paid values below U.S. producers' prices for comparable garments.

[FR Doc. 86-16883 Filed 7-25-86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations with Korea To Review Trade in Category 626

July 23, 1986.

On June 24, 1986, the Government of the United States requested consultations with the Government of the Republic of Korea with respect to pile and tufted fabric of man-made fibers in Category 626, produced or manufactured in Korea. This request was made on the basis of the agreement of December 1, 1982, as amended, between the Governments of the United States and the Republic of Korea relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations with Korea, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Category 626, produced or manufactured in Korea and exported to the United States during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Anyone wishing to comment or provide data or information regarding the treatment of this category is invited to submit such comments or information in 10 copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly.

Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW, Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-16884 Filed 7-25-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Election Devices; Advisory Committee Meeting

SUMMARY: Working Group C (Mainly Opto Electronics) of the DOD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Tuesday & Wednesday, 29 & 30 July 1986.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Gerald Weiss, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging devices, infrared detectors and lasers. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 7, 1986.

[FR Doc. 86-16855 Filed 7-25-86; 8:45 am]

BILLING CODE 3810-01-M

DOD IG Performance Review Board; Membership

AGENCY: Department of Defense Inspector General.

ACTION: Notice of Membership of the DOD IG Performance Review Board.

SUMMARY: This notice announces the appointment of the members of the Performance Review Board (PRB) of the Inspector General. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance and performance awards to the Inspector General.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Gerald. R. Sandaker, Chief, Employee Management Relations and Development Branch, Office of Personnel and Security, Inspector General, 400 Army Navy Drive, Arlington, VA, telephone number (202) 693-0257.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the enclosed are names of executives who have been appointed to serve as members of the Performance Review Board. They will serve a one year renewable term effective on July 1, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 7, 1986.

Charles L. Cipolla
James H. Curry
Raymond J. DeCarli
Michael C. Eberhardt
John W. Fawsett
Daniel R. Foley
William K. Keesee
Richard D. Lieberman
Robert J. Lieberman
John W. Melchner
Jack L. Montgomery
Richard T. Russ
William F. Thomas
Richard W. Townley
Stephen A. Trodden
Bertrand G. Truxell

[FR Doc. 86-16854 Filed 7-25-86; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following request for renewal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information:

(1) Type of submission;

(2) Title of Information Collection and Form Number if applicable;

(3) Abstract statement of the need for and the uses to be made of the information collected;

(4) An estimate of the number of responses;

(5) An estimate of the total number of hours needed to provide the information;

(6) To whom comments regarding the information collection are to be forwarded; and

(7) The point of contact from whom a copy of the information proposal may be obtained.

Revision

DoD FAR Supplement Part 15 and Related Clauses in Part 52

The reporting requirement contained in 215.872 is in the form of a proposal to be submitted by contractors who want to participate in the Industrial Modernization Incentives Program (IMIP). This information will be used by contracting officers to negotiate a sharing arrangement with contractors.

Businesses or others for profit/small business or organizations

Responses: 100.

Burden Hours: 22,400

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, DC 20301-1155, telephone (202) 746-0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Edward Springer, at the address above. This is a revision of an existing collection.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 7, 1986.

[FR Doc. 86-16853 Filed 7-25-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

Applications for New Awards Under the Educational Research Grant Program for Fiscal Year 1987

AGENCY: Department of Education.

ACTION: Notice Affecting Applications for New Awards under the Educational Research Grant Program for Fiscal Year 1987.

SUMMARY: On April 22, 1986, the Secretary published in the **Federal Register** at 51 FR 15050 an application notice announcing a competition under the Educational Research Grant Program (ERGP) for educational research grants in reading and literacy. Final regulations for the ERGP were published in the **Federal Register** on May 28, 1986 (51 FR 19314).

This notice lists the selection criteria to be used in evaluating applications and establishes the distribution of an additional 25 points among the selection criteria listed in § 700.31 of the regulations for the ERGP.

SUPPLEMENTARY INFORMATION: In evaluating applications under this program, the Secretary uses the selection criteria in § 700.31 of the regulations. The maximum possible number of points specified in the regulations for these criteria is 75. In addition, the regulations authorize the Secretary to reserve and to distribute 25 additional points to bring the total to a maximum of 100 points. In evaluating applications, the Secretary will distribute these reserved points as follows:

1. *Plan of operation* (§ 700.31(a)). 5 additional points will be added for a possible total of 15 points.

2. *Significance* (§ 700.31(f)). 5 additional points will be added for a possible total of 20 points.

3 *Technical soundness* (§ 700.31(g)). 10 additional points will be added for a possible total of 25 points.

4. *Applicant's commitment and capacity* (§ 700.31(h)). 5 points have been assigned to this criterion.

The maximum value for each selection criterion, including the reserved points, is as follows:

1. Plan of operation (§ 700.31(a)). (15 points)

2. Quality of key personnel (§ 700.31(b)). (20 points)

3. Budget and cost effectiveness (§ 700.31(c)). (5 points)

4. Evaluation plan (§ 700.31(d)). (5 points)

5. Adequacy of resources (§ 700.31(e)). (5 points)

6. Significance (§ 700.31(f)). (20 points)

7. Technical soundness (§ 700.31(g)). (25 points)

8. Applicant's commitment and capapcity (§ 700.31(h)). (5 points)

FOR FURTHER INFORMATION CONTACT: Eleanor Chiogioji, Office of Educational Research and Improvement, U.S.

Department of Education, 555 New Jersey Avenue, NW., Washington, DC 20208. Telephone (202) 357–6021.

Program authority: 20 U.S.C. 1221e (b) and (e).

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research Grant Program)

Dated: July 22, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–16809 Filed 7–25–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Dose Assessment Advisory Group; Renewal

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act and the Interim Rule on Advisory Committee Management (41 CFR 101–6.1015) and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Dose Assessment Advisory Group (DAAG) charter has been renewed for a one year period ending on July 15, 1987.

The purpose of DAAG is to provide the Secretary of Energy and the Manager, Nevada Operations Office, with advice and recommendations pertaining to the Offsite Radiation Exposure Review Project concerning the evaluating and amount of radiation potentially received by members of the Offsite population surrounding the Nevada Test Site (NTS) as a result of nuclear test operations conducted at the NTS.

I certify that the DAAG is necessary and in the public interest. The DAAG will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463), the Department of Energy Organization Act (Pub. L. No. 95–91), and other rules and regulations issued in implementation of those statutes.

Further information regarding the DAAG may be obtained from Gloria Decker (202/252–8990).

Issued in Washington, DC, on July 23, 1986.

Charles R. Tierney,

Advisory Committee Management Officer.

[FR Doc. 86–16859 Filed 7–25–86; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Utilization; Inventions and Innovative Programs; M.S. Caspe Co.

AGENCY: U.S. Department of Energy.

ACTION: Notice of Intent to Increase the Scope of Work under Grant Number DE–FG01–86CE15250 with M.S. Caspe Company.

SUMMARY: The United States Department of Energy, Office of Energy Utilization, Inventions and Innovative Programs, is preparing a grant modification to increase the work effort under Grant Number DE–FG01–86CE15250.

The purpose of the grant is to survey the feasibility of an earthquake barrier system. The existing grant was awarded on January 10, 1986, in response to an unsolicited proposal from the inventor of the system. After conducting four conceptual building surveys on the feasibility of the system the need for shake table tests was identified. The purpose of the modification is to permit shake table tests to be conducted. The tests are scheduled to start in August.

Eligibility

Award of this effort shall be limited to M.S. Caspe Company, because the inventor is the only entity having rights to this invention .

The term of this effort is estimated to be six months with an estimated cost of $31,745.

For further information contact: U.S. Department of Energy, Office of Procurement Operations, Attention: Rose Mason, MA–453.2, 1000 Independence Avenue SW., Washington, DC 20585.

Issued in Washington, DC, on July 18, 1986.

Edward T. Lovett,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 86–16860 Filed 7–25–86; 8:45 am]

BILLING CODE 6450–01–M

Alaska Power Administration

Divestiture Work Plan and Alternatives

AGENCY: Alaska Power Administration, Department of Energy.

ACTION: Notice of availability of work plan and alternatives study and request for comments.

SUMMARY: The Alaska Power Administration (APAd) has developed a work plan and a study of alternative structures for divestiture of the Eklutna and Snettisham hydroelectric projects. Notice is hereby given that the work plan and alternatives study are available for public review and that APA requests public comments on both documents. Comments received by September 15, 1986, will be considered prior to implementing the divestiture plan. APAd is excluded from section 208 of Pub. L. 99–349, which prohibits further studies or proposals for the sale of the other four Power Marketing Administrations without specific Congressional authorization.

DATE: The work plan and alternatives study are available immediately upon request at the address below at no charge.

Public comments are invited, in writing, by September 15, 1986.

ADDRESS: Alaska Power Administration, 709 W. 9th Street, P.O. Box 50, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Robert J. Cross, Administrator, or Helen E. Heim, Assistant to the Administrator, at address above. Telephone No: (907) 586–7405, Commercial or FTS.

SUPPLEMENTARY INFORMATION: The Alaska Power Administration (APAd) is a unit of the U.S. Department of Energy and is responsible for operation, maintenance, transmission, and power marketing for the two Federal hydroelectric projects in Alaska. These are the 30,000 kilowatt Eklutna Project which has served the Anchorage and Palmer areas since 1955, and 47,160 kilowatt Snettisham Project which has been Juneau's main power source since 1975.

An expansion of the Snettisham Project—the 31,000 Kilowatt Crater Lake unit—is under construction by the Corps of Engineers, with power production expected in October, 1988.

APA sells power at wholesale to five electric utilities and to the State of Alaska for a State-owned hatchery facility at Snettisham.

Sale of the projects to the State of Alaska or other non-Federal ownership was proposed along with the President's budgets for FY 1986 and 1987.

APAd and the State of Alaska Office of Management and Budget prepared a study and report on issues surrounding the proposed sale (Alaska Power Administration Transfer Study, April, 1986). The report identified as potential purchasers electric utilities now served by the two projects and the State of Alaska through its Alaska Power Authority. The report contains considerable information on the two projects, as well as information on APAd's organization and finances.

APAd has prepared a work plan and an evaluation of alternative structures for accomplishing the divestiture and is requesting public review and comment to implementing the plan.

Briefly the plan has objectives of obtaining workable proposals for purchasing the projects for consideration by the Congress in 1987,

with expectation that Congressional authorization, implementation of the sale, and closeout of the Alaska Power Administration could be accomplished by the end of FY 1989, or possibly sooner.

The evaluation of alternatives identifies a fairly broad range of policy options for structuring the sale and discusses several major issues raised by these options.

Comments are requested in writing, directed to APAd at the address published above. Comments received by September 15, 1986, will be considered prior to implementing the divestiture plan.

Dated: July 14, 1986.

Robert J. Cross,

Administrator.

[FR Doc. 86-16843 Filed 7-25-86; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

Correction

In FR Doc. 86-16469 beginning on page 26296 in the issue of Tuesday, July 22, 1986, make the following correction:

On page 26296, in the third column, in the table, in the entry for Virginia, the Dollars per million BTU's figure should read "1.57".

BILLING CODE 1505-01-M

Federal Energy Regulatory Commission

[Docket No. RM85-1-000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (CLARCO Gas Company, Inc. et al.); Order Denying Requests for Waiver

Issued: July 22, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

CLARCO Gas Company (CLARCO), Texas Gas Exploration Corporation (TGEC), Quintana Petroleum Corporation (Quintana), and Petro-Energy Exploration, Inc. and Santo Resources, Inc. (Petro/Santo) filed requests for waiver of the transitional provisions of §§ 284.105 and 284.223(g)(1) of the regulations adopted by Order No. 436.[1] We deny the requests.

[1] FERC Statutes and Regulations, Regulations Preambles 1982-1985, ¶ 30,665, 50 FR 42408 (October 18, 1985).

CLARCO Gas Company

The relevant facts have been set out in prior orders dealing with this request. *See* "Order Denying Request For Waiver", 34 FERC ¶ 61,386 (March 28, 1986) and "Order Granting Rehearing, Clarifying Prior Orders, and Granting Requests For Waivers", 35 FERC ¶ 61,339 (June 16, 1986). In the latter order, we withheld a final decision in order to afford CLARCO an opportunity to submit a copy of an agreement, executed on or before October 9, 1985, between Northern Gas Marketing, Inc. and Northern Illinois Gas Company, demonstrating that the destination or use of the gas was of a nature which qualifed for transitional treatment.

By letter dated June 19, 1986, CLARCO has advised us that Northern Gas Marketing is unwilling to release a copy of its contract with Northern Illinois and, therefore, that it is not possible for CLARCO to make the requisite showing. Since such showing is necessary, the petition for waiver must be denied.

Texas Gas Exploration Corporation

On August 1, 1985, TGEC, a producer, entered into an agreement to sell gas to Tenngasco Corporation from Block 18, West Delta area, offshore Louisiana. The gas was to be delivered to the Bastian Bay processing plant in Plaquemines Parish, Louisiana. United Gas Pipe Line Company agreed to transport the gas, after processing, on behalf of Tenngasco to Tennessee Gas Pipeline Company, a divison of Tenneco Inc., under a Natural Gas Policy Act (NGPA) section 311 transportation agreement entered into prior to October 9, 1985. Tennessee agreed to transport the gas to Tenngasco under an existing section 311 transportation agreement. The sale and transportation of Block 18 gas commenced on September 18, 1985.

TGEC states that "in order to provide a more economical means of transporting this gas," Tenngasco and Tennessee agreed to amend their transportation agreement so that Tennessee could take deliveries at the Bastian Bay plant. The amendment was not executed until after October 9, 1985. Facilities to connect the Bastian Bay plant to Tennessee's system were completed on October 25, 1985, at an approximate cost of $151,100.

In the June 16, 1986 order referred to above, we stated tht eligibility for transitional treatment must be evidenced by a written agreement—"executed on or before October 9, 1985"—for either the sale or transportation of the gas to an appropriate destination or end use. By TGEC's admission, such an agreement was not executed until after October 9, 1985. The petition for waiver is therefore denied.

Quintana Petroleum Corporation

On June 19, 1985, Quintana, a producer, requested that Mountain Fuel Resources, Inc. make a written commitment to transport gas from Quintana's Sand Hills field in Moffat County, Colorado, at a mutually agreeable price.[2] Quintana's letter stated that "in all probability, our purchasers would arrange transportation with you and take delivery of our gas . . . ." On July 5, Mountain Fuel indicated in writing that it was agreeable to transporting the Sand Hills gas, stated the terms contained in its transportation tariff, and invited Quintana to contact Mountain Fuel if it needed "any further information . . . regarding our offer." In reliance on Mountain's Fuel's offer of transportation, Quintana agreed, on October 17, to sell the gas to Pacific Gas & Electric Company (PG&E).

On October 4, Mountain Fuel orally agreed to add a receipt point with Quintana in order to transport the gas on behalf of PG&E to Northwest Pipeline Corporation under an existing NGPA section 311 Transportation agreement. That oral agreement was not executed in writing. Northwest Pipeline would transport the gas on behalf of PG&F to El Paso Natural Gas Company under an existing NGPA section 311 transportation agreement. Finally, El Paso would transport the gas to PG&E under an existing NGPA section 311 transportation agreement. Northwest Pipeline and El Paso do not need to amend their NGPA section 311 agreements with PG&E because no new receipt points are being added.

In order to connect the Sand Hills field to Mountain Fuel's system, Quintana commenced constructing gathering facilities on October 7. The final tie-in to Mountain Fuel's facilities was completed on December 20, at an approximate cost of $203,000.

Pursuant to the test adopted in our June 16 order, although construction or other expenditure of funds may be in reliance or an oral sales or transportation agreement, in order for a waiver to be granted the oral agreement must subsequently be executed in written form on or before October 9, 1985. Here, the contract to sell the gas to PG&E was not signed at all of Quintana's working interest owners until October 17, 1985, and, at that time,

[2] On June 24, 1986, Quintana filed a pleading renewing its request.

"was returned to PG&E for its execution." Also, as indicated above, the transportation agreement between Mountain Fuel and Quintana was not amended in writing. Accordingly, the petition for waiver is denied.

Petro-Energy Exploration, Inc. and Santo Resources, Inc.

On March 14, 1985, Petro-Energy, a producer, agreed to sell gas to United Texas Products Corporation for resale to several high-priority and users. Prior to October 9, 1985, Panhandle Eastern Pipe Line Company commenced transporting the gas on behalf of the high-priority and users under former § 157.209(a) of the Regulations.

On July 30, 1985, Petro/Santo purchased the Waynoka well in Woods County, Oklahoma. In August, United Texas orally agreed to purchase gas from the Waynoka well if Petro/Santo agreed to construct a gathering line from the well to Panhandle's system. It was contemplated that the gas would serve as an additional source of supply for the high-priority end users.

On September 19, 1985, United Texas "orally requested" that Panhandle add the Waynoka well to the transportation service. Construction of the gathering line was completed on October 7, 1985, at an approximate cost of $22,900. A sales agreement between United Texas and Petro/Santo covering the gas from the Waynoka well was executed on October 16, 1985. According to a supplement to the petition filed on April 22, 1986, the Waynoka well involves a new receipt point that is not included in a written transportation agreement.

Since neither the sales contract for the gas nor the transportation agreement to move the gas to the end users was reduced to writing prior to October 9, 1985, the request for waiver is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16830 Filed 7-25-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Howell Petroleum Corp.); Order Denying Request for Waiver

Issued: July 22, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On February 14, 1986, Howell Petroleum Corporation filed a request for clarification or waiver of the transitional provisions of Order No. 436 [1] as they apply to a transportation transaction to be performed under section 311 of the Natural Gas Policy Act of 1978.[2] We will deny Howell's request.

On June 1, 1985, Howell and Southern Natural Gas Company entered into an agreement granting Southern the "option, but not the obligation" to purchase 100 percent of the natural gas produced from Block 64, Main Pass Area, offshore Louisiana, through October 1, 1987. In addition, the June 1 agreement provides that, if requested in writing by Howell, Southern will release all gas from Block 64 for sale by Howell to Louisiana Industrial Gas Supply System or to other third-party purchasers for their system supply. In order for the gas to reach the third-party purchasers under this aspect of the June 1 agreement, the agreement further provides that Southern will transport the gas to mutually agreeable points onshore for a term ending not later than October 1, 1987. However, Southern's agreement to transport Block 64 gas is conditioned specifically upon the execution of a transportation agreement between Southern and the third-party purchasers.

After the June 1 agreement was executed, and prior to October 9, 1985, Howell commenced constructing a platform and flow system in Block 64. Construction was not completed prior to October 9 due to two hurricanes. Howell has spent in excess of $600,000 for the Block 64 facilities.

On February 13, 1986, Howell requested in writing that Southern release its gas purchases from Block 64 and treansport the gas for sale by Howell to SNG Trading Inc. and Entrade Corporation, or both.

Howell argues that we should waive the restrictions in § 284.105 of the Commission's Regulations and allow the transportation transaction to the third-party purchasers to go forward under the economic substance test adopted in *Judel Glassware Co., Inc.*, 33 FERC ¶ 61,386 (1985). Howell states that it expended substantial funds and constructed significant facilities before October 9 in reliance on the June 1 agreement.

On June 16, 1986, we issued an order on rehearing in *CLARCO Gas Company*, 35 FERC ¶ 61,339, which further refined the test used to justify a waiver. That order held that a showing of economic substance could be evidenced by (1) an agreement (either oral or written) entered into prior to October 9, 1985, between two or more parties (*e.g.*, a transporter and a shipper, or a buyer and a seller) that commits the parties to an element of the transaction (*e.g.*, the transportation of the gas, the sale of the gas to be transported, or storage of the gas before or after transportation), (2) the construction of significant facilities or the expenditure of substantial funds prior to October 9, 1985 in reliance on that agreement, and (3) if the agreement relied upon was oral, execution of the agreement in writing prior to October 9, 1985.

The order further held that we also would require a showing that the transaction for which waiver was sought was of a type which qualifies for transitional treatment, *i.e.*, that the gas is destined for the system supply of an interstate or intrastate pipeline or local distribution company, or is for a high priority end-user. Such destination or use must be evidenced by a written agreement executed on or before October 9, 1985.

Howell's request does not satisfy the requirements. The June 1 agreement did not commit Southern to purchase the gas. Rather, it only gave Southern an option to buy, an option which it did not exercise. Insofar as the transportation of the gas by Southern is concerned, such transportation, as indicated, was conditioned on the subsequent execution of a transportation agreement between Southern and third-party purchasers. The June 1 agreement did not specify the third-party purchasers or the delivery points to which Southern was to transport the gas. Under that agreement, no transportation by Southern was contemplated until the execution of a separate agreement with the third-party purchasers. Inasmuch as Howell did not request transportation until February 13, 1986, presumably a transportation agreement was not executed prior to October 9, 1985. Moreover, SNG Trading and Entrade, to our knowledge, are marketers. Consequently, even if the later sales agreement had been executed timely, the transaction still would not have qualified for transitional treatment because there is no written agreement executed on or before October 9, 1985, evidencing an appropriate destination or end-use of the gas. Accordingly, we will not waive the restrictions of § 284.105.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16831 Filed 7-25-86; 8:45 am]

BILLING CODE 6717-01-M

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[1] 33 FERC ¶ 61,007 (1985), FERC Statutes and Regulations ¶ 30,665 (1985).

[2] The request was supplemented on March 7 and April 21, 1986.

[Docket No. RM85-1-154]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Midwestern Gas Transmission Co.); Order Denying Rehearing

Issued July 22, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On February 5, 1986, the Panhandle Producers and Royalty Owners Associatiion and the Independent Petroleum Association of Mountain States (Producer Associations) filed a petition for rehearing of an order issued January 7, 1986, in the captioned preceeding. That order granted Midwestern Gas Transmission Company (Midwestern) a waiver of the regulations adopted by Order No. 436[1] to the extent necessary to perform transportation services under the order on its Northern System without subjecting its Southern System to the requirements of those regulations.[2] An order granting rehearing to provide an opportunity for consideration of the arguments raised by the Producer Associations was issued on February 28, 1986.

The Producer Associations raise several claims in their rehearing petition. First, they argue that the "discrete systems" test is bad policy and contrary to the intent of Order No. 436. We note that in their comments preceding the adoption of Order No. 436, the Producer Associations recommended that any pipeline electing to become an open access transporter should be required to apply on a "family-of-companies" or "ultimate parent entity" basis, *i.e.*, that all affiliated pipelines, interestate and intrastate, should be required to become open access transporters. The recommendation was denied on the ground that appropriate action would be taken whenever it was shown that a pipeline was attempting to evade the nondiscriminatory access condition, *e.g.*, by manipulating its corporate structure or creating affilated entities outside the jurisdiction of the self-implementing program.[3]

That is not the case here. As pointed out in the January, 1986 order, Midwestern's Northern and Southern Systems, which are not physically interconnected, have been treated separately since the inception of the pipelines in 1959. Except in rare instances, primarily involving an effort by Midwestern to dispose of some high-cost gas, each system has, and continues to have, completely separate and independent supply sources, customers and tariffs, as well as its own purchased gas adjustment clause. For all intents and purposes, the two systems are separate interstate pipelines under common ownership. No evasion of the open access requirement, actual or attempted, has been shown. Regulation of the two systems for these purposes as separate entities is not contrary to Order No. 436.

The Producer Associations assert that the effect of the order is to provide a competitive advantage to Canadian gas imports [4] and that the order

> is bad public policy becaue it artificially encourages the importation of Canadian gas . . . This in turn hurts the nation's balance of payments and further depresses the development of long-term gas reserves.

The authority under section 3 of the Natural Gas Act to determine whether the importation of gas is consistent with the public interest is vested in the Secretary of Energy by sections 301 and 402(f) of the Department of Energy Organization Act.[5] This authority has been transferred by the Secretary to the Administrator of the Economic Regulatory Administration.[6] Thus, we have no jurisdiction to evaluate the policy issue raised by the Producer Associations.

Next, applicants claim that notice should have been given of the waiver request and an opportunity provided for comments to be filed prior to reaching a decison. In light of the urgency of the matters involved, requests for waiver of the regulations adopted in Order No. 436 have been processed as expeditiously as possible, based on information contained in the filings. We perceive no necessity to change this well established mode of procedure, particularly since the Producers Associations' basic argument, as stated above, already had been fully considered and denied in Order No. 436.

The Producer Associations have not indicated what relief, if any, they seek in asserting a claim to notice and an opportunity to comment in advance of the January 7, 1986 order. The decision whether to issue a blanket certificate for Midwestern's Northern System, without at the same time requiring the pipeline involuntarily to accept a similar certificate for its Southern System, was entirely a matter of Commission policy on the best manner of implementing Order No. 436 in an unusual situation. The arguments raised against the waiver have been fully considered in our review of the rehearing application and are not persuasive.

Applicants further claim that Midwestern's filing "in fact constituted a request for an adjustment under section 502(c) of the NGPA" and therefore should have been processed under the procedures specified in Subpart K of Part 385 of the Regulations, 18 CFR 385.1101–385.1117. Section 502(c) permits the Commission to adopt a rule to make such adjustments to its rules, and orders having the applicability and effect of a rule, "as may be necessary to prevent special hardship, inequity or an unfair distribution of burdens." Subpart K was adopted for that purpose. Requests for relief under Subpart K are processed initially by the Commission's staff. Any person aggrieved or affected by a staff decision may appeal such order to the Commission.

Requests for waiver of the Order No. 436 regulations could have been processed under Subpart K. However, with our receipt of the first waiver applications shortly after Order No. 436 was issued, we decided that such requests could be processed faster, and more efficiently, if they were resolved directly by the Commission without an intervening staff order. Almost all of the numerous waiver requests have been handled in this manner and the procedure has proved satisfactory. The Producer Associations have not shown how they have been aggrieved by the decision not to process these requests under Subpart K, nor how the result in this case would have been any different if those procedures had been followed.

Finally, the Producer Associations contend that the January, 1986 order granting a waiver to Midwestern was arbitrary and capricious. We disagree. The reasons for the decision were amply stated in the body of the order and involved entirely Midwestern's historical origins and operations. No additional evidence was necessary to find that "Midwestern's Northern and Southern Systems have historically operated, in effect, as two separate pipelines." [7]

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[1] 33 FERC ¶61,007, 50 FR 42,408 (October 18, 1985), FERC Statutes and Regulations, Regulations Preambles, ¶ 30,665.

[2] 34 FERC ¶ 61,007 (1986).

[3] FERC Statutes and Regulations, Regulations Preambles, ¶ 30,665 at 31,508–09 (1985).

[4] The sole source of policy for Midwestern's Northern System is TransCanada Pipelines Limited, a Canadian pipeline supplier.

[5] 42 U.S.C. 7101, *et seq.*, I FERC Statutes and Regulations ¶ 1001–1172.

[6] Delegation Order No. 0204–111, superceding Delegation Order No. 0204–54, I FERC Statutes and Regulations 9912 (1984).

[7] 34 FERC at 61,021 (1986).

Accordingly, the application for rehearing is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16832 Filed 7-25-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RM85-1-000, CP84-79-001, CP84-80-001, CP84-498-001, CP85-706-001]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Northwest Pipeline Corp.), Order Granting Clarification

Issued: July 22, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On May 22, 1986, Northwest Pipeline Corporation filed a request for clarification of Order No. 436 as to whether transportation authorized on or before October 9, 1985, under § 157.209(b)(3) [1] of our regulations is authorized to continue under the transitional provisions of Order No. 436. This order grants the request.

Specifically, Northwest states that it applied for, and received, transportation authorization under § 157.209(b)(3) for the four docketed transactions listed above. According to Northwest, some of its prior notice applications were protested. However, the protests were resolved and withdrawn, thereby authorizing the transportation. Generally, the dockets cited in its request for clarification call for an initial period of transportation from five to twenty years, with continued transportation thereafter on a year-to-year basis until terminated by either party.

Northwest states that when the Commission issued Order No. 436, it removed § 157.209 from its regulations. According to Northwest, the Commission provided for transitional authorization for the other transportation programs authorized under that section,[2] but did not address existing transportation under § 157.209(b)(3). Northwest contends that these arrangements should be permitted to continue for the term of their original certificates.

We grant Northwest's petition. At the time we issued Order No. 436, we did not intend to affect transportation arrangements under § 157.209(b)(3). Section 157.209(b)(3) was intended to provide pipelines seeking to transport gas for the system supply of a local distribution company, interstate pipeline or intrastate pipeline the alternative of performing such transportation under its section 7 blanket certificate rather than Subparts B and D or Part 284. FERC Stats. & Regs. ¶ 30,477, at 30,610. Since a section 7(c) certificate would be permitted to run for its full term, no time limitation (other than that resulting from the application) was placed in § 157.209(b)(3). Moreover since these transactions are authorized under section 7(c) of the Natural Gas Act and are not limited-term certificates, the pipeline is required to receive an abandonment authorization prior to terminating this service.

There is not reason to treat this transportation any differently than transportation for high-priority end users under § 157.209(a)(1) of our former regulations. Unlike transportation for low-priority users under § 157.209(e), the decision in *Maryland People's Counsel* v. *FERC*, 761 F.2d 780 (D.C. Cir. 1985) did not concern itself with this provision.

Accordingly, we clarify that, pursuant to the transitional provisions of Order No. 436, transportation authorized under § 157.209(b)(3) which commenced on or before October 9, 1985, is deemed to be authorized for the full term originally certificated, subject to the provisions of § 284.7. In all other respects, the terms and conditions existing prior to November 1, 1985, shall continue in effect.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16833 Filed 7-25-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Riverside Pipeline Company); Order Denying Request for Waiver

Issued: July 22, 1986.

Before Commissoners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On June 3, 1986, Riverside Pipeline Company, an intrastate pipeline, filed a request for a "hardship extension" of a transportation transaction performed by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. under section 311 of the Natural Gas Policy Act of 1978 (NGPA). We will construe Riverside's request as a request for waiver of the restrictions in the transitional provisions of Order No. 436,[1] and will deny it.

Riverside operates a gathering system that connects wells owned by LLOG Exploration Company, a producer and affiliate of Riverside, to Tennessee's system. LLOG's wells are in the Blind Bay field, offshore Louisiana.

Riverside sells the gas from the LLOG wells to Monterey Pipeline Company, an intrastate pipeline. In 1984, Tennessee agreed to transport the gas on behalf of Riverside under section 311 of the NGPA from a connection with Riverside in Plaquemines Parish, Louisiana, to a connection with Monterey in Patterson, Louisiana. On May 29, 1986, Tennessee ceased transporting gas due to the expiration of the two-year transportation term provided for section 311 transactions under the Commission's Regulations as they existed before November 1, 1985.

Riverside claims that LLOG spent in excess of $5,500,000 to drill its wells in the Blind Bay field. In addition, Riverside states that in 1984 it constructed gathering facilities to connect LLOG's wells to Tennessee's system. Riverside claims that, without an extension of the NGPA section 311 transportation service, it will suffer an economic hardship.

Riverside notes in its petition that it has attempted to persuade Tennessee to file an application to transport the Blind Bay field gas under section 7(c) of the Natural Gas Act. Riverside alleges that Monterey has declined to accept gas from Tennessee under a section 7(c) certificate because it would "subject their entire intrastate pipeline system to Federal regulations."

We find no extraordinary circumstances that would justify waiver of the transitional provisions adopted in Order No. 436. Under the Commission's Regulations as they existed prior to November 1, 1985, a transportation service under section 311 of the NGPA could continue for two years unless extended for another two years by the transporter. The parties did not extend the agreement prior to October 9, 1985, and the transportation arrangement terminated on May 29, 1986. Any "extension"of the arrangement now would constitute a new arrangement subject to the requirements of Order No. 436. Accordingly, we will not waive the restrictions in the transitional provisions of Order No. 436.

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[1] In relevant part, that section provides:

(b) Subject to the notice requirements of § 157.205, the certificate holder is authorized to transport natural gas: . . . (3) on behalf of any:

(i) Local distribution company;

(ii) Interstate pipeline; or

(iii) Intrastate pipeline.

[2] Briefly, § 284.105 establishes the transition rules for interstate pipeline transportation under section 311 and Order No. 60. Section 284.125 establishes the transition rules for intrastate pipeline transportation under section 311 and Order No. 63. Section 284.223(g) establishes the transition rules for interstate pipeline transportation for high- and low-priority end users.

[1] 33 FERC ¶ 61,007 (1985), FERC Statutes and regulations ¶ 30,665 (1985).

By the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 86-16834 Filed 7-25-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. QF85-292-001, etc.]

Archbald Power Corp., et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, Etc.

July 21, 1986.

Comment date: Thirty days from publication in the **Federal Register** in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Archbald Power Corp.

[Docket No. QF85-292-001]

On June 25, 1986, Archbald Power Corporation (Applicant), c/o Independent Power Systems International, Inc., 321 North Lake Boulevard, Suite 210, North Palm Beach, Florida 33408, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. The notice of the original application was published in the **Federal Register** on April 1, 1985. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Lackawanna County, Pennsylvania. The facility will consist of a boiler and an extraction condensing steam-turbine generating unit. Low pressure steam extracted from the turbine will be used to heat water that will be circulated in a nearby greenhouse for heating purposes. The primary energy source will be anthracite culm. The net electric power production capacity will be 20.2 megawatts. Construction is scheduled to be completed and commercial operation to begin by late 1988.

2. Cogentrix of Michigan, Inc.

[Docket No. QF86-897-000]

On July 3, 1986, Cogentrix of Michigan, Inc. (Applicant), of 4828 Parkway Plaza Boulevard, Two Parkway Plaza, Suite 290, Charlotte, North Carolina 28210, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Adrian, Michigan. The facility will consist of three stoker-fired boilers and one extraction/condensing steam turbine generating unit. Extraction steam produced by the facility will be used to provide process steam for the Stauffer-Wacker Silicones Corporation, plant located in Adrian, Michigan. The net electric power production capacity of the facility will be 52.5 MW. The primary energy source will be coal. The facility is scheduled for operation about December 31, 1987.

3. Turbo Power Systems

[Docket No. QF86-900-000]

On July 8, 1986, Turbo Power Systems (Applicant), of 10497 Town and Country Way, Suite 500, Houston, Texas 77024, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the New Village Measurement & Regulation Station, Warren County, New Jersey. The facility will consist of a combustion turbine, a heat recovery steam generator, an extraction steam turbine-generator, steam/gas heat exchanger and a turbo expander. The extracted steam will be sold to either transcontinental Gas Pipe Line Corporation or Elizabethtown Gas Co. for use in their gas line pressure reduction stations. The maximum electric power production capacity of the facility will be 13,500 kW. The primary source of energy will be natural gas. The installation of the facility is scheduled to commence during the second quarter of 1987.

4. Turbo Power Systems

[Docket No. QF86-901-000]

On July 8, 1986, Turbo Power Systems (Applicant), of 10497 Town and Country Way, Suite 500, Houston, Texas 77024, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle cogeneration facility will be installed at Transcontinental Gas Pipe Line Corporation's Mount Laurel Measurement and Regulation Station located in Mount Laurel Township, New Jersey. The facility will consist of a gas-fired water heater, water/gas heat exchanger and a turbo expander. Thermal energy from the facility will be used to generate hot water for sale to either Transcontinental Gas Pipe Line Corporation or Public Service of New Jersey Electric and Gas Co. for use in their gas line pressure reduction stations. The electric power production capacity of the facility will be 1,850 kW. The primary energy source will be natural gas. The installation is scheduled to begin in the second quarter of 1987.

5. WV Hydro, Inc.

[Docket No. QF86-913-000]

On July 10, 1986, WV Hydro, Inc. (Applicant), of 120 Calumet Court, Aiken, South Carolina 29801, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 8 megawatt hydroelectric facility will be located on the Monongahela River in Monongalia County, West Virginia.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16836 Filed 7-25-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 8890-001, etc.]

Burlington Energy Development Associates et al.; Surrender of Preliminary Permits

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Burlington Energy Development Associates

[Project No. 8890-001]

July 16, 1986.

Take notice that the Burlington Energy Development Associates, permittee for the Newton Upper Falls Project No. 8890 located on the Charles River in Middlesex and Norfolk Counties Massachusetts, has requested that its preliminary permit be terminated. The preliminary permit was issued on July 17, 1985, and would have expired on December 31, 1986. The permittee states that analysis of the Newton Upper Falls Project did not indicate feasibility for development.

The permittee filed the request on July 2, 1986.

2. Bear Hydro Co.

[Project No. 8898-001]

July 21, 1986.

Take notice that Bear Hydro Company, permittee for the Bear Creek Project No. 8898 has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8898 was issued on June 7, 1985, and would have expired on November 30, 1986. The project would have been located on Bear Creek, in Humboldt County, California.

The permittee filed the request on June 20, 1986.

3. Horse Linto Hydro Co.

[Project No. 8897-001]

July 21, 1986.

Take notice that Horse Linto Hydro Company, permittee for the Horse Linto Creek Project, FERC No. 8897, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8897 was issued on July 11, 1985, and would have expired on June 30, 1987. The project would have been located on Horse Linto Creek, in Humboldt County, California.

The permittee filed the request on June 20, 1986.

4. Streamline Hydro, Inc.

[Project No. 8944-001]

July 21, 1986.

Take notice that Streamline Hydro, Inc., permittee for the proposed Dry Gulch Creek Project No. 8944, has requested that its preliminary permit be terminated. The preliminary permit was issued on July 19, 1985, and would have expired on December 31, 1986. The project would have been located on Dry Gulch Creek, in Clear Creek County, Colorado.

The permittee filed the request on July 9, 1986.

5. Streamline Hydro, Inc.

[Project No. 8934-002]

July 21, 1986.

Take notice that Streamline Hydro, Inc., permittee for the proposed Blue Creek Project No. 8934, has requested that its preliminary permit be terminated. The preliminary permit was issued on July 19, 1985, and would have expired on December 31, 1986. The project would have been located on Blue Creek, in Clear Creek County, Colorado.

The permitted filed the request on July 8, 1986.

Standard Paragraphs

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16835 Filed 7-25-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9994-000 et al.]

Hydroelectric Applications (City of Banning, CA et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Conduit exemption.

b. Project No: 9994-000.

c. Date Filed: May 16, 1986.

d. Applicant: City of Banning, California.

e. Name of Project: San Gorgonio Energy Recovery.

f. Location: City of Banning Water Supply, in Riverside County, California. Township 2S and Range 1E.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Eldridge W. Sinclair, Public Utilities Director, City of Banning, P.O. Box 998, 176 East Lincoln, Banning, CA 92220.

i. Comment Date: August 25, 1986.

j. Description of Project: The proposed project would consist of installing turbine generators at well sites #1 and #4. The two generating units would have a combined capacity of 479 kW and an average annual generation of 3.10 GWh.

Purpose of Exemption—An exemption, if issued, gives an Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. Purpose of Project: Project power would be used by the applicant.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

2. a. Type of Application: Transfer of License.

b. Project No: 5074-002.

c. Date Filed: June 3, 1986.

d. Applicant: L. Maurice Baker (Licensee) and Baker Power Company (Transferee).

e. Name of Project: Mill Creek.

f. Location: On Mill Creek, on Lands administered by the Bureau of Land Management, near Scottsburg, in Douglas County, Oregon.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Persons:

L. Maurice Baker, Suite 804, Oregon Bank Building, Portland, OR 97201

Jay R. Bingham, Bingham Engineering, 100 Lindbergh Plaza II, 5160 Wiley Postway, Salt Lake City, UT 84116, (503) 224-3020

i. Comment Date: September 3, 1986.

j. Description of Transfer: On December 27, 1985, a major license was issued to L. Maurice Baker for the operation and maintenance of the Mill Creek Project No. 5074. It is proposed to transfer the license to the Baker Power Company. L. Maurice Baker proposes to transfer all his right, title, and interest in the project to Baker Power Company because he has concluded that financing, construction, and operation of

the project can best be achieved by a corporate entity.

The Transferee is a corporation organized under the laws of the State of Nevada, and qualified to do business in the State of Oregon. The licensee certifies that he has fully complied with the terms and conditions of his license, and obligates himself to pay all annual charges accrued under the license to the date of transfer. The Transferee accepts all the terms and conditions of the license, and agrees to be bound thereby to the same extent as though it was the original licensee.

k. This notice also consists of the following standard paragraphs: B and C.

3 a. Type of Application: Small Conduit Exemption.

b. Project No.: 9968–000.

c. Date Filed: April 14, 1986.

d. Applicant: Massachusetts Water Resources Authority.

e. Name of Project: Aqueduct Transfer.

f. Location: At the junction of the Hultman and Weston aqueducts, Town of Southborough, Worcester County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. William A. Brutsch, P.E., Director, Massachusetts Water Resources Authority, Waterworks Division, 20 Somerset Street, 8th Floor, Boston, MA 02108, (617) 727–1759.

i. Comment Date: September 2, 1986.

j. Description of Project: The proposed project would consist of: (1) The existing connection between two aqueducts; (2) an existing structure, known as the Weston Aqueduct Head House, to be modified internally to house a proposed 750-kW-capacity turbine-generator; (3) a proposed 6-foot-diameter penstock 130 feet long; (4) an existing 13.8 kV transmission line, to be relocated, and (5) appurtenant facilities.

The net hydraulic head is 80 feet. The estimated annual energy production is 5.4 million kWh. Project power would be sold to Boston Edison Company. The existing facilities are owned by the Metropolitan District Commission.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

4 a. Type of Application: Major License.

b. Project No.: 7041–001.

c. Date Filed: June 26, 1985.

d. Applicant: Potter Township, Pennsylvania.

e. Name of Project: Emsworth.

f. Location: On the Ohio River in Allegheny County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Joseph J. Liberati, President, Econeco, Inc., Milne Drive, Monaca, Pennsylvania 15061, (412) 775–0314.

i. Comment Date: September 22, 1986.

j. Description of Project: The project would utilize the Corps of Engineers' Emsworth Lock and Dam and would consist of: (a) A forebay and intake channel about 2,000 feet long and 200 feet wide excavated around the left (South) abutment of the existing Emsworth main channel dam; (b) a reinforced concrete powerhouse 135 feet by 168 feet by 82 feet high containing three pit or bulb type hydropower units of 6,667 kW for a total installed capacity of 20,000 kW; (c) a control house 60 feet by 96 feet by 15 feet high; (d) a step-up substation about 90 feet by 100 feet adjacent to the control house; (e) a single wood pole transmission line about 1,800 feet long on an existing route; and (f) appurtenant facilities. The applicant estimates that the average annual energy generation will be 105 GWH.

k. It is anticipated that the project generation will be sold to one of the large electric utilities located in the vicinity of the project.

l. This notice also consists of the following standard paragraphs: A3, A9, B and C.

5 a. Type of Application: Transfer of License.

b. Project No.: 7175–005.

c. Date Filed: May 16, 1986.

d. Applicant: Wyoming Hydro, Inc. (Licensee) and Resource Management Company (Transferee).

e. Name of Porject: Woodrull Narrows.

f. Location: On the Bear River, partially on land administered by the Bureau of Land Management, in Uinta County, Wyoming.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person:

Bruce N. Willoughby, Murane & Bostwick, 350 West A Street, Suite 100, Casper, WY 82601, (307) 234–9345

McNeill Watkins II, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 17th St. NW., Washington, DC 20036, (202) 857–9885

i. Comment Date: August 20, 1986.

j. Description of Transfer: On September 6, 1984, a major license was issued to Wyoming Hydro, Inc. for the construction, operation, and maintenance of the Woodruff Narrows Project No. 7175. It is proposed to transfer the license to the Resource Management Company. Wyoming Hydro, Inc. requests the transfer to secure financing for the project. The transferee is a limited partnership organized under the laws of the State of Wyoming.

The licensee certifies that it has fully complied with the terms and conditions of its license, as amended, and obligates itself to pay all annual charges accrued under the license to the date of transfer. The transferee accepts all the terms and conditions of the license, as amended, and agrees to the bound thereby to the same extent as though it was the original licensee.

k. This notice also consists of the following standard paragraphs: B, C.

6 a. Type of Application: Preliminary Permit.

b. Project No.: 10022–000.

c. Date Filed: June 23, 1986.

d. Applicant: Commission of Public Works of the City of Spartanburg, South Carolina.

e. Name of Project: Lake Blalock Hydro Project.

f. Location: On the Pacolet River near Spartanburg, Spartanburg County, South Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Persons:

Donald P. Melnick, R. W. Beck and Associates, Fourth & Blanchard Building, 2121 Fourth Avenue, Seattle, WA 98121, (803) 582–6375

J. Daniel Bennett, P.E., Commission of Public Works of the City of Spartansburg, SC, 200 Commerce Street, P.O. Box 251, Spartanburg, SC 29304, (803) 582–6375

i. Comment Date: September 18, 1986.

j. Description of Project: The proposed project would consist of: (1) The existing 720-foot-long and 73-foot-high H. Taylor Blalock Dam; (2) an existing 760-acre reservoir with 14,105 acre-feet of storage at an elevation of 700 m.s.l.; (3) a proposed penstock approximately 9 feet-in-diameter and 466 feet long; (4) a new reinforced concrete powerhouse housing one 2500-kW generator; (5) a new tailrace; (6) a proposed 12.4-kV transmission line approximately 650 feet long; and (7) appurtenant facilities. The Applicant estimates that the average annual generation would be 9.3 GWh. All project energy would be sold to Duke Power Company. The Applicant owns the dam and reservoir and all project lands.

k. This notice also consists of the following standard pargraphs: A5, A7, A9, B, C, and D2.

1. *Proposed Scope of Studies Under Permit*—A preliminary permit, is issued, does not authorize construction. The Applicant seeks issuance of preliminary permit for a period of 36 months during

which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for PERC license. Applicant estiamtes that the cost of the studies under permit would be $100,000.

7 a. Type of Application: Transfer of License.

b. Project No.: 6066–022.

c. Date Filed: May 23, 1986.

d. Applicant: Eveready Machinery Company, Inc., and McCallum Enterprises, Inc.

e. Name of Project: Derby Dam.

f. Location: Housatonic River in New Haven and Fairfield Counties, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. R.J. McCallum, Jr., Eveready Machinery Company, 805 Housatonic Avenue, P.O. Box 1780, Bridgeport, CT 06601–1780, (203) 334–9471.

i. Comment Date: August 28, 1986.

j. Description of the Proposed Transfer of License: The applicants propose to transfer the license to McCallum Enterprises, Inc., because it would be in the public interest and it would facilitate construction. The Derby Dam project has not been constructed. Transferee has proposed to construct, operate, and utilize the full output of the project in accordance with the license.

k. This notice also consists of the following standard paragraphs: B and C.

8a. Type of Application: Preliminary Permit.

b. Project No.: 9946–000.

c. Date Filed: March 17, 1986.

d. Applicant: Ochoco Irrigation District.

e. Name of Project: Prineville Power.

f. Location: At the Bureau of Reclamation's Arthur R. Bowman Dam, on the Crooked River, in Crook County, Oregon. Township 17S and Range 16E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Keith Palmer, Ochoco Irrigation District, P.O. Box 6, 1001 North Deer, Prineville, OR 97754, (503) 447–6449.

i. Comment Date: September 18, 1986.

j. Description of the Project: The proposed project would utilize the Bureau of Reclamation's Arthur R. Bowman Dam and Reservior and would consist of: (1) A 6-foot-diameter steel penstock lining a new 130-foot-long, 10-foot-diameter concrete tunnel that would divert flow from the outlet tunnel to the powerplant; (2) a power plant, to be built in a newly excavated cavern 178 feet below the crest of the dam, housing a single generating unit with a capacity of 2,900 kW and an average annual generation of 17,070,000 kWh; and (3) the upgrading of an existing distribution line to a three-phase 24.9-kV transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $75,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: The project power would be sold to Pacific Power and Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

9 a. Type of Application: Minor License.

b. Project No: 9758–000.

c. Date Filed: December 30, 1985.

d. Applicant: Edward T. Navikis.

e. Name of Project: Gold Hill.

f. Location: On Bear River, near the town of Auburn, in Placer County, California, in Sections 2 and 3, T13N, R8E, M.D.M.&B.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contract Person: Mr. Edward T. Navikis, Renewable Energy Ventures, P.O. Box 1578, Grass Valley, CA 95945, (916) 432–2560.

i. Comment Date: September 18, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) An existing 200-foot-long, 20-foot-high concrete and mansonry rock diversion dam with a crest elevation of 1519 feet msl, impounding approximately 23 acre-feet of storage; (2) an exsiting 9-foot-wide, 5-foot-deep, 300-foot-long rock-lined power canal; (3) a 6-foot-deep forebay pond; (4) a penstock intake; (5) three 40-foot-long steel penstocks ranging in diameter from 36 to 72 inches; (6) a concrete and wood powerhouse, containing three generating units with a total rated capacity of 750 kW at a net head of 30 feet with a total hydraulic capacity of 425 cfs, discharging directly into the Bear River; (7) a 0.48/12-kV transformer switchyard; and (8) a 600-foot-long, 12-kV transmission line connecting to a Pacific Gas and Electric Company distribution line. Applicant's estimated average annual generation of 3,133,000 kWh would be sold to a local utility. The existing structures are owned by the Nevada Irrigation District.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

10 a. Type of Application: Preliminary Permit.

b. Project No: 10013–000.

c. Date Filed: June 5, 1986.

d. Applicant: Peak Power Associates.

e. Name of Project: Black Lassic and South Shanty Power Project.

f. Location: On Black Lassic Creek and South Shanty Creek, within Six Rivers National Forest, in Trinity County, California. (In Sections 10, 11, 15, 21, 22, 28 and 29 of T1S, R6W, MDB&M)

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Edward Shillinger, 6460 Fickle Hill Road, Arcata, CA 95521.

i. Comment Date: September 25, 1986.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 20-foot-long diversion dam on Black Lassic Creek at elevation 4,200 feet m.s.l.; (2) a 4-foot-high, 20-foot-long diversion dam on South Shanty Creek at elevation 4,200 feet m.s.l.; (3) a 36-inch-diameter, 1,500-foot-long diversion conduit; (4) a 36-inch-diameter, 8,400-foot-long penstock; (5) a powerhouse with a total installed capacity of 2,500 kW operating under a head of 1,200 feet; and (6) a 3.5-mile-long, 12.5-kV transmission line from the powerhouse interconnecting with an existing Pacific Gas & Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 5 million kWh to be sold to PG&E.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 10020–000.

c. Date Filed: June 18, 1986.

d. Applicant: Peak Power Associates.

e. Name of Project: Glen Creek Power Project.

f. Location: On Glen Creek, near town of Forest Glen, within Trinity National Forest, in Trinity County, California (In Sections 13 and 14 of T1S, R3E, MDB&M)

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Edward Shillinger, 6460 Fickle Hill Road, Arcata, CA 95521.

i. Comment Date: September 25, 1986.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 20-foot-long diversion dam at elevation 3,500 feet m.s.l.; (2) a 2-foot-diameter, 100-foot-long diversion

pipeline; (3) a 2-foot-diameter, 5,000-foot-long penstock; (3) a powerhouse with a total installed capacity of 700 kW operating under a head of 500 feet; and (4) a 1,700-foot-long, 12.5-kV transmission line from the powerhouse interconnecting with an existing Pacific Gas & Electric Company (PG&E) transmission line. The Applicant estimates the annual energy generation at 2 million kWh to be sold to PG&E.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

12 a. Type of Application: Minor License.

b. Project No.: 8974–001.

c. Date Filed: December 30, 1985.

d. Applicant: Southern New Hampshire Hydroelectric Development Corporation.

e. Name of Project: Upper Factory Dam.

f. Location: On the Cocheco River in Strafford County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: John N. Webster, President, Southern New Hampshire Hydroelectric Development Corporation, P.O. Box 1073, Dover, NH 03820, (207) 384–5334.

i. Comment Date: September 3, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) The wooden A-Frame gravity Upper Factory Dam (now breached), 13.5 feet high and 150 feet long, with a spillway crest elevation of 96.2 feet mean sea level (msl); (2) new 2.5-foot-high flashboards; (3) a reservoir with a surface area of 20 acres at elevation 98.7 feet msl; (4) a new concrete intake structure at the right end of the dam; (5) a new powerhouse with 2 turbine-generator units with a total installed capacity of 500 kW; (6) a short tailrace; and (7) other appurtenances. Applicant estimates an average annual generation of 2,628,000 kWh. Existing facilities are owned by the New Hampshire Water Resources Board.

The application was filed within the Applicant's preliminary permit term for this project.

k. Purpose of Project: Project energy would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D2.

13 a. Type of Application: License (5 MW or Less).

b. Project No.: 9882–000.

c. Date Filed: January 21, 1986.

d. Applicant: Dallas County Hydro Company.

e. Name of Project: Adel Dam.

f. Location: On the North Raccoon River near Adel, Dallas County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Rex J. Harvey, Dallas County Hydro Company, 811 First Street, Redfield, IA 50233, (515) 833–2303.

i. Comment Date: September 8, 1986.

j. Description of Project: The proposed project would consist of: (1) A 15.5-foot-high, 165-foot-long concrete main dam including new 1.5-foot-high flashboards; (2) an upstream 4.5-foot-high, 140-foot-long concrete diversion dam including new 0.5-foot-high flashboards; (3) a 109-acre-foot impoundment having a surface area of 50 acres; (4) an instream reconstructed powerhouse to contain five generating units with a combined rated capacity of 420 kW operating under a head of 13 feet; (5) a 70-foot-long transmission line connecting the powerhouse to an existing Iowa Power Company 7.6–kV line; and (6) appurtenant structures. The Applicant estimates the construction cost of the project at $710,000. The Applicant estimates that the average annual energy generation would be 2.2 GWh. The project energy would be sold to Iowa Power Company. The dam is owned by the City of Adel, Iowa.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, & D1.

14 a. Type of Application: Preliminary Permit.

b. Project No.: 9965–000.

c. Date Filed: April 4, 1986.

d. Applicant: City of Ione.

e. Name of Project: Sutter Creek Water Power Project.

f. Location: On Sutter Creek, near the town of Ione, Amador County, California. (In Section 30 of T6N, R10E, MDB&M).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—835(r).

h. Contact Person: Mr. Robert R. Patterson, City of Ione, P.O. Box 398, Ione, CA 95640, (209) 274–2412.

i. Comment Date: September 5, 1986.

j. Description of Project: The proposed project would consist of: (1) A 170-foot-high, 710-foot-long diversion dam at elevation 330 feet; (2) a 50-foot-wide, 350-foot-long concrete spillway; (3) a 40-foot-high, 200-foot-long saddle dike at elevation 460 feet; (4) a 6-foot-diameter, 250-foot-long steel penstock; (5) a powerhouse containing one generating unit with a rated capacity of 760 kW operating under a head of 150 feet; and (6) a 4,000-foot-long, 12.5–kV transmission line interconnecting with an existing Pacific Gas & Electric Company (PG&E) transmission line. The project's estimated annual generation of 3.2 million kWh will be sold to PG&E.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 9992–000.

c. Date Filed: May 12, 1986.

d. Applicant: County of Santa Cruz, California.

e. Name of Project: Big Creek Water Power Project.

f. Location: On Big Creek, near the town of Davenport, in Santa Cruz County, California (In Sections 4, 5 and 8 of T10S, R3W, MDB&M).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Dwight L. Herr, County Counsel, 701 Ocean Street, Santa Cruz, CA 95060, (408) 425–2041.

i. Comment Date: September 3, 1986.

j. Description of Project: The proposed project would consist of: (1) A 400-foot-high, 1,200-foot-long storage dam at elevation 1,300 feet; (2) an additional 80-foot-high, 450-foot-long diversion dam at elevation 900 feet; (3) a 26-inch-diameter, 2,000-foot-long penstock for storage dam; (4) a 26-inch-diameter, 2,000-foot-long penstock for diversion dam; (5) a powerhouse with an installed capacity of 1,500 kW at storage dam operating under a head of 400 feet; (6) a powerhouse with an installed capacity of 100 kW at diversion dam operating under a head of 200 feet; (7) a 2.5-mile-long, 12–kV transmission line from the storage dam powerhouse to an existing Lockhead Missile and Space Company (LMSC) transmission line; and (8) a 0.7-mile-long, 12–kV transmission line from the diversion dam powerhouse to an existing Pacific Gas and Electric Company (PG&E) transmission line. The applicant estimates that the total annual energy generation of 9 million kWh will be sold to LMSC and PG&E.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

16 a. Type of Application: Preliminary Permit.

b. Project No.: 10009–000.

c. Date Filed: June 4, 1986.

d. Applicant: Power Innovations.

e. Name of Project: Turkey Creek.

f. Location: Turkey Creek, near Telluride, in San Miguel County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Philip C. Todd, 9865 E. Windrose Drive, Scottsdale, AZ 85260, (602) 860–0925.

i. Comment Date: September 8, 1986.

j. Description of Project: The proposed project would consist of: (1) A 2-foot-high, 2-foot-wide, 6-foot-long concrete diversion weir; (2) a 10-inch-diameter, 5,000-foot-long steel penstock; (3) a powerhouse containing a single Pelton turbine-generator unit with an installed capacity of 300 kW and producing an estimated average annual generation of 1.7 GWh; (4) a two feet square concrete tailrace discharging water to Turkey Creek; and (5) a 300-foot-long tap transmission line to interconnect the project to an existing San Miguel Power Association 44–kV line. Project power would be sold to either the Colorado-Ute Electric Association, Inc. or the Public Service Company of Colorado. The proposed penstock would be partially located on Uncompahgre National Forest lands. The proposed project would be located in Sections 7, and 8, Township 42 North, Range 9 West, New Mexico Principal Meridian, San Miguel, Colorado.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $30,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

17 a. Type of Application: Preliminary Permit.

b. Project No.: 10015–000.

c. Date Filed: June 9, 1986.

d. Applicant: City of Big Rapids, Michigan.

e. Name of Project: Big Rapids Water Power Project.

f. Location: On the Muskegon River in Mecosta County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Donald W. Lystra, Ayres, Lewis, Norris & May Inc., 2330 E. Stadium Boulevard, Ann Arbor, MI 48104, (313) 971–7800.

i. Comment Date: September 3, 1986.

j. Description of Project: The existing breached dam is owned by the City of Big Rapids, Michigan. The proposed project consists of: (1) a 298-foot-long dam with a left and right earthen embankment. The original dam had a hydraulic height between 17 and 20 feet. The dam would be surmounted with 6 Tainter gates; (2) a proposed powerhouse containing one generating unit rated at 2,000 kW. The powerhouse will be constructed at the west side of the dam and on an existing concrete foundation that also supports the dam; (3) an existing reservoir with a surface area of 17 acres and a storage capacity of 34 acre-feet at powerpool elevation of 890.4 feet USCS. The reservoir is proposed to be raised to consist of a surface area of 270 acres and a storage capacity of 1,545 acre-feet at powerpool elevation of 904.3 feet USGS; (4) a proposed transmission line; and (5) appurtenant facilities. The estimated average annual energy output for the project is 10,500,000 kWh.

k. Purpose Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $10,000.

l. Purpose of Project: Energy produced at the project would be sold to Consumers Power Company.

m. This notice also consists of the following standard paragraphs A5, A7, A9, B, C, & D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial devlepment application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing prelminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing develoment application must submit to the Commission, on or before the specified comment date for the particular application, either a competing devlepment application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminiary permit and development application or notice of intent. Any competing preliminary permit or development applications or notices of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial prelimiary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of

application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice though direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Perservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Geme agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: July 22, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–16827 Filed 7–25–86 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. QF86–891–000 etc.]

O'Brien Energy Systems, Inc. et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, Etc.

July 18, 1986.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. O'Brien Energy Systems, Inc.

[Docket No. QF86–891–000]

On July 10, 1986, O'Brien Energy Systems, Inc. (Applicant), of Green & Washington Streets, Downingtown, Pennsylvania 19335, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping cycle cogeneration facility will be located at the site of Newark Boxboard Company, at 17 Blanchard Street, in Newark, New Jersey. The facility will consist of a combustion turbine generator, a waste heat recovery steam generator, and an extraction condensing steam turbine generator. The primary energy source will be natural gas. Heat recovered by the system will be utilized for process by the Newark Boxboard Company. The maximum electric power production capacity of the facility will be approximately 46 MW. Installation of the facility will begin in 1987.

2. Littleton/Englewood Bi-City Wastewater Treatment Plant

[Docket No. QF86-887-000]

On July 30, 1986, Littleton/Englewood Bi-City Wastewater Treatment Plant of 2900 South Platte River Drive, Englewood, Colorado 80110, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility is located in Englewood, Colorado and consists of two 225 kW internal combustion engine generator units. The maximum electric power production capacity of the facility is 450 kW. The primary source of energy is methane gas produced by anaerobic digestion of municipal sewage sludge.

3. O'Brien Energy Systems, Inc.

[Docket No. QF86-892-000]

On July 10, 1986, O'Brien Energy Systems, Inc. (Applicant), of Green & Washington Streets, Downingtown, Pennsylvania 19335, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping cycle cogeneration facility will be located at the site of Mead Paper Company at their Specialty Paper Division in South Lee, Massachusetts. The facility will consist of a combustion turbine generator, a waste heat recovery steam generator and an extraction-condensing steam turbine generator. The primary energy source will be natural gas. Heat recovered by the system will be utilized for process by the Mead Paper Company. The maximum electric power production capacity of the facility will be approximately 49.9 MW. Installation of the facility will begin in 1987.

4. O'Brien Energy Systems, Inc.

[Docket No. QF86-893-000]

On July 1, 1986, O'Brien Energy Systems, Inc. (Applicant), of Green & Washington Streets, Downingtown, Pennsylvania 19335, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping cycle cogeneration facility will be located at the site of Haverhill Paperboard Corporation, at South Kimball Street in Haverhill, Massachusetts. The facility will consist of two half-sized circulating fluidized-bed boilers and a condensing-extraction steam turbine generator. The steam extracted will be utilized for various process by the Haverhill Paperboard Corporation. The maximum electric power production capacity will be approximately 48 MW. The primary energy source for the facility will be coal. Installation of the facility will begin in 1988.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16837 Filed 7-25-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-121-001]

Eastern Shore Natural Gas Co., Tariff Filing in FERC Gas Tariff

July 22, 1986.

Take notice that Eastern Shore Natural Gas Company (ESNG) on July 16, 1986, filed the following revised tariff sheets for inclusion in its FERC Gas Tariff, Original Volume No. 1.

Second Substitute Thirty-Second Revised Sheet No. 6
Second Substitute Thirty-Second Revised Sheet No. 12

The purpose of this filing is to comply with pargraph (A) of the Commission's order issued July 1, 1986 requiring ESNG to file revised tariff sheets which reflect separately identified cost components attributable to transportation and storage costs.

ESNG states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 29, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person, wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16838 Filed 7-25-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-140-000]

Florida Gas Transmission Co.; Limited Term Waiver of Tariff

July 22, 1986.

Take notice that Florida Gas Transmission Company (FGT) on 7-11-86, filed with the Federal Energy Regulatory Commission (Commission) a Motion requesting a limited term waiver of section 17, *Unauthorized Over-run Provisions*, of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. Such Waiver would permit FGT's resale customers to purchase gas for use by priorities 5-9 end-users in excess of Buyer's priorities 5-9 Annual Volumetric Entitlements without incurring a penalty payment. The waiver would be limited to the contract year beginning October 1, 1985 and extending through September 30, 1986.

FGT states that it has been notified by certain of its resale customers that their current requirements for gas for use by priorities 5-9 end-users are in excess of their priorities 5-9 Annual Volumetric Entitlements. Absent the requested waiver such resale customers would be required to either curtail deliveries of gas for use by priorities 5-9 end-users or be subject to the penalty provisions of section 17.2 of FGT's FERC Gas Tariff.

The requested waiver being sought by FGT will permit FGT's resale customers to continue supplying gas for use by priorities 5-9 end-users.

Concurrently with this Motion FGT states that it is filing a letter requesting that the Commission hold in abeyance for a period not to exceed ninety (90) days consideration of FGT's application in Docket No. CP68-179-006. This application would authorize the

voluntary and temporary relinquishment of all or part of any resale customer's unused priority 5–9 Annual Volumetric Entitlement (Priority 5–9 Entitlement) and the transfer of said unused Priority 5–9 Entitlement by FGT to other resale customers of FGT who have notified FGT of their desire to purchase gas in excess of such customer's Priority 5–9 Entitlement.

Finally, FGT states that granting its Motion would moot for the period of the waiver any adverse consequences to customers who take volumes of natural gas in excess of their priorities 5–9 entitlements.

Copies of the filing were served on FGT's jurisdictional customers and interested parties and state commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 29, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–16839 Filed 7–25–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86–3–59–000,001]

Northern Natural Gas Co.; Division of Enron Corp.; Change in Rates and Tariff Revisions

July 22, 1986.

Take notice that on July 11, 1986, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing with the Commission to be effective August 10, 1986 the following tariff sheets to be included in Northern's FERC Gas Tariff, Third Revised Volume No. 1:

Third Revised Volume No. 1

Forty-First Revised Sheet No. 4a
Thirty-Fourth Revised Sheet No. 4b
Seventh Revised Sheet No. 69
Original Sheet No. 69a
Sixth Revised Sheet No. 70
Fourth Revised Sheet No. 70c
Original Sheet No. 70c.1

Northern states that the purpose of the revised tariff sheets is to adjust its jurisdictional natural gas sales rates to reflect its purchased gas costs from Canadian suppliers on an "as-billed" basis. Northern is proposing to move to its jurisdictional natural gas sales demand rates only the demand portion of its Canadian gas costs while leaving the commodity portion to such costs included in its jurisdictional natural gas sales commodity rates. Northern currently has pending before the Commission in Docket No. RP85–206 an Offer of Settlement and Stipulation and Agreement of Settlement (S&A) which provides for its present market area sales one-part demand rate to be separated into two separate components, a D–1 Demand Rate and a D–2 Demand Rate. Northern proposes to assign the demand portion of its Canadian gas costs to the D–2 component of Northern's demand rates. However, if the S&A is not approved by the Commission prior to effectuation of Northern's proposal herein, Northern proposes to collect the demand portion of its purchase gas costs in its one-part demand rate until such time as the Commission approves Northern's S&A.

Under the D–2 methodology, the as-billed treatment for Canadian costs will decrease Northern's jurisdictional market area commodity sales rates by 8.93¢ per Mcf, the D–1 demand rate will remain the same, and the D–2 demand rate will be increased by 4.94¢ per Mcf. Based upon Northern's currently effective rate methodology, the as-billed treatment for Canadian costs will decrease Northern's jurisdictional market area commodity sales rate by 8.93¢ per Mcf and increase Northern's jurisdictional market area demand sales rate by 90.8¢ per Mcf.

Copies of the filing were served on all of Northern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before July 29, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–16840 Filed 7–25–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85–210–002]

Ringwood Gathering Co.; Compliance Filing

July 22, 1986.

Take notice that on July 14, 1986, Ringwood Gathering Company (Ringwood) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1 in compliance with the Commission's July 2, 1986, order in Docket Nos. RP85–210 and CP86–116:

Second Revised Sheet No. 1
Second Substitute Sheet No. 4
Original Sheet No. 4–A
Original Sheet No. 4–B
Original Sheet Nos. 65–73
Original Sheet Nos. 74–82
Original Sheet Nos. 83–96.

Ringwood states that these tariff sheets set forth a revised Table of Contents for Ringwood's Gas Tariff, Original Volume No. 1; new rates for sales for resales to be effective April 1, 1986; rate schedules for firm and interruptible self-implementing transportation service to be effective immediately; and the general terms and conditions for transportation services pursuant to Part 284 of the Commission's regulations, 18 CFR 284 (1986).

Ringwood states that the new rates for sales and transportation service were supported in and appended to the settlement approved in the July 2, 1986, order. Accordingly, Ringwood requests any necessary waiver of the data requirements of §§ 154.62 and 154.63 of the Regulations, 18 CFR 154.62 and 154.63 (1985). Ringwood further requests waiver of the thirty (30) day notice requirements so that (1) Original Sheet Nos. 4, 4–A, and 4–B, which were approved in the Commission's July 2, 1986 order, can become effective as of April 1, 1986; and (2) the remaining tariff sheets can become effective immediately, *i.e.*, as of July 14, 1986. Such action will permit Ringwood and its producers to immediately commence the limited term release and spot sales program which Ringwood claims is necessary to alleviate excess deliverability problems resulting from a drastic decline in takes by Ringwood's sole primary customer. Ringwood, therefore, submits good cause has been shown for the requested waiver.

Copies of this filing have been mailed to Ringwood's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before July 30, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16841 Filed 7-25-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-589-000 et al.]

Colorado Interstate Gas Co. et al.; Natural Gas Certificate Filings

Take notice that the followings filings have been made with the Commission:

1. Colorado Interstate Gas Company

[Docket No. CP86-589-000 and RP86-104-000]

July 15, 1986.

Take notice that on June 25, 1986, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket Nos. CP86-589-000 and RP86-104-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity to enable it to provide transportation services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its proposed program would provide the transportation services contemplated by Order No. 436 without seriously and adversely affecting the rates and services to its existing customers.

Applicant stated that in providing the transportation services for which authorization is sought in the application, it would comply with the conditions in paragraph (c) of § 284.221 of the Commission's Regulations.

As part of its application, Applicant submitted a Stipulation and Agreement, indicating that it would be willing to accept such a blanket certificate on the condition that, in the issuance of a blanket certificate, the Commission also approve the Stipulation and Agreement attached to and incorporated in Applicant's application. Initial comments on the settlement agreement may be filed on or before August 5, 1986; reply comments may be filed on or before August 20, 1986.

Comment date: August 5, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Williston Basin Interstate Pipeline Company

[Docket No. CP86-591-000]

July 16, 1986.

Take notice that on June 27, 1986, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismark, North Dakota 58501, filed in Docket No. CP86-591-000 a request pursuant to §§ 157.205 and 157.211 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to acquire and operate an existing sales tap and appurtenant facilities (Pennington County, South Dakota) to continue to deliver an estimated annual 7,116 Mcf of natural gas to Montana-Dakota Utilities Company (Montana-Dakota). Williston Basin indicates that this tap inadvertently was omitted in the transfer of properties from Montana-Dakota under the blanket certificate issued in Docket No. CP82-487-000 *et al.* Cost to purchase these facilities is estimated to be $1,770.

Comment date: September 2, 1986, in accordance with Standard Paragraph G at the end of this notice.

3. Independent Producers Association of Mountain States v. Pandandle Eastern Pipe Line Company and Colorado Interstate Gas Company

[Docket No. CP86-584-000]

July 16, 1986.

Take notice that on June 20, 1986, Independent Producers Association of Mountain States (IPAMS), 518 17th Street, Suite 1214, Denver, Colorado 80802, filed a complaint and request for initiation of investigation and immediate relief in Docket No. CP86-584-000 pursuant to Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR 385.206), alleging that the actions of Panhandle Eastern Pipe Line Company (PEPL) and Colorado Interstate Gas Company (CIG), regarding transportation of natural gas for others, are unduly discriminatory, anti-competitive and preclude IPAMS member producers and marketers access to PEPL's and CIP's systems.

IPAMS also alleges that PEPL and CIG have used their marketing affiliates, Panhandle Trading and Mountain Industrial Gas, respectively, to monopolize spot market transactions on those systems.

IPAMS asserts that the anti-competitive and unduly discriminatory actions of PEPL and CIG have resulted in the exclusion of natural gas produced and/or marketed by the members of IPAMS from markets controlled by these two pipelines who, according to IPAMS, have initiated transportation under the Commission's interim Section 311 "non-discriminatory" program. IPAMS asserts that because PEPL's and CIG's marketing affiliates are non-jurisdictional entities, they are not subject to Commission regulation. Therefore, IPAMS further asserts that economic efficiencies and consumer benefits conceived by the Commission in establishing open-access transportation under Order No. 436 will be lost should the Commission fail to remedy this situation.

Specifically, IPAMS alleges that PEPL took actions (1) disrupting the spot market on its system through intermittent transportation availability; (2) passing information not available to the general public to its marketing affiliate; (3) misquoting transportation tariffs to potential shippers; and (4) imposing unnecessary capacity constraints on its system.

IPAMS also alleges that CIG erected market barriers through its rate case filing in Docket No. RP85-122-000. In this regard, IPAMS asserts that CIG proposed patently anti-competitive tariff and rate changes, proffered no evidentiary support, and counted on regulatory delay to keep such restraints in place for a substantial time period to guard its market from competition.

Specifically, IPAMS requests that the Commission:

(1) Institute an investigation, pursuant to section 14(a) of the Natural Gas Act, 15, U.S.C. sec. 717m, and Section 1b.8 of the Commission's Rules of Practice and Procedure including,

(a) a shortened response period, and

(b) a conference before the full Commission;

(2) Pending the outcome of such investigation, issue an order pursuant to sections 5 and 16 of the Natural Gas Act, 15 U.S.C. sections 171d and 717o:

(a) requiring both PEPL and CIG to transport gas for all persons requesting such transportation under the rules and regulations set forth by the Commission in Order Nos. 436, *et seq.*;

(b) prohibiting PEPL or CIG from transporting natural gas on a blanket

basis in transactions in which one of their affiliates is a party if either PEPL or CIG refuses to so transport under Order No. 436;

(c) conditioning any application for section 7(c) certificates for PEPL's and CIG's affiliates upon true and effective non-discrimination and open access for any person seeking transportation service on their systems;

(d) requiring PEPL and CIG to transport, under such interim authority as the Commission deems appropriate, natural gas for IPAMS members during the pendency of the requested investigation or until such time as open access transporation is offered and actually available; and

(e) prohibiting CIG from applying the currently effective definition of "full requirements customer" in its P–1 and G–1 Rate Schedules, and charging more than 32 cents per Mcf for transportation to its on-system markets.

(3) Granting such other relief as the Commission may deem necessary and appropriate pursuant to Sections 5 and 16 of the Natural Gas Act, both on an interim basis and after, and as a result of, the requested investigation.

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, PEPL and CIG are to respond by July 31, 1986.

Comment date: July 31, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice

4. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP86–601–000]

July 16, 1986.

Take notice that on July 3, 1986, Arkla Energy Resources, a division of Arkla, Inc. (AER), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP86–601–000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install two sales taps for the delivery of natural gas to Arkansas Louisiana Gas Company (ALG), a local distribution company, for resale to residential and commercial customers in McClain County, Oklahoma, and Union County, Arkansas, under the certificates issued in Docket Nos. CP82–384–000 and CP82–384–001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is explained that AER proposes to install one sales tap on its Line AD–EAST in McClain County, Oklahoma, in order to deliver natural gas to ALG for service to Mr. Ronald E. Mills, a residential customer. It is stated that Mr. Mills would use approximately 90 Mcf of natural gas per year.

It is also explained that AER proposes to install one sales tap on its Line KT–1 in Union County, Arkansas, in order to deliver natural gas to ALG for distribution to 299 residential customers and 11 commercial customers. It is stated that these customers would use an estimated total of 22,650 Mcf of natural gas per year.

Comment date: September 2, 1986, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 after the tiame allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–16828 Filed 7–25–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP86–137–003 et al.]

Natural Gas Pipeline Co. of America et al.; Natural Gas Certificate Filings

July 18, 1986.

Take notice that the followings fillings have been made with the Commission:

1. Natural Gas Company of America

[Docket No. CP86–137–003]

Take notice that on July 8, 1986, Natural Gas Pipeline Company of America (Petitioner), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP86–137–003, a petition to amend the order issued May 1, 1986, in Docket No. CP86–137–000 pursuant to Section 7 of the Natural Gas Act so as to authorize the transportation of natural gas on an interruptible basis for Inland Steel Company (Inland) and for pre-granted abandonment of such service for an additional term ending April 30, 1987. Petitioner also states that it proposes to increase the maximum daily volume transported to 60 billion Btu equivalent, all as more fully set forth in the petition to amend which in on file with the Commission and open to public inspection.

It is stated that pursuant to Amendment No. 6 dated June 24, 1986 (Amendment), to the gas transportation agreement dated February 18, 1985, as amended, Petitioner and Inland purpose to extend the term of the agreement until April 30, 1987, and to increase the maximum daily volume transported from the previously authorized 26 billion Btu equivalent to 60 billion Btu equivalent for use in Inland's Indiana Harbor Works.

Comment date: August 8, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP86-613-000]

Take notice that on July 11, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86-613-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) to establish a new delivery point to its customer Consolidated Gas Transmission Corporation (Consolidated) under Applicant's blanket certificate issued in Docket No. CP82-413-000 on September 1, 1982, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant states that pursuant to Consolidated's request, it has agreed to establish a new delivery point to be known as the Institute Sales Meter Station and will be located near the Town of Institute in Kanawha County, West Virginia. The average maximum daily quantity to be delivered at this new delivery point is 6,180 dekatherm and the peak day maximum quantity is 18,540 dekatherms. According to Applicant, the new delivery point is necessary to enable Consolidated to operate its system more efficiently in the Zone 3 area. All costs associated with the construction of the proposed new delivery point will be borne by Consolidated. Such costs are estimated at $175,000.

Applicant does not propose to increase or decrease the total daily and/or annual quantities it is authorized to deliver to Consolidated. Applicant asserts that the establishment of the proposed new delivery point is not prohibited by Applicant's current effective tariff and that it has sufficient capacity to accomplish the deliveries at the proposed new delivery point without detriment or disadvantage to any of Applicant's other customers.

Comment date: September 2, 1986, in accordance with Standard Paragraph G at the end of this notice.

3. Natural Gas Pipeline Company of America

[Docket No. CP86-593-000]

Take notice that on June 30, 1986, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP86-593-000 an application pursuant to section 7(c) of the Natural Gas Act for authorization to transport up to a maximum of 1.3 billion Btu's per day of natural gas on an interruptible basis for MidCon Marketing Corp. (Marketing), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Natural requests authority to provide an interruptible transportation service for Marketing for a period of two years from the date of first delivery and month to month thereafter, pursuant to the terms and conditions contained in a gas transportation agreement between Natural and Marketing dated June 27, 1986.

Natural states that it would transport natural gas for the account of Marketing for ultimate delivery to Dean Foods Company (Dean Foods), an end-user. The proposed end use of the gas is to be for the processing of dairy and specialty foods products at Dean Foods' plants located in Boone, McHenry, Lee and Winnebago Counties, Illinois. Natural would receive natural gas for the account of Marketing at the existing interconnection between the facilities of Natural and the measurement facilities of ONG Transmission Company (ONG) located in Woodward County, Oklahoma. Natural would redeliver volumes of gas for the account of Marketing less fuel gas and unaccounted for gas volumes to Northern Illinois Gas Company (NIGAS) at existing points of interconnection between the measurement facilities of Northern and the facilities of NIGAS located in Du Page and East Livingston Counties, Illinois, for redelivery by NIGAS to Dean Foods' plants in Boone, McHenry, Lee and Winnebago Counties, Illinois.

Natural proposes to charge Marketing the following transportation rates:

Point of receipt	Point of delivery	Transportation rate (/MMBtu) (cents)
ONG-Woodward County, OK.	Du Page County, IL	30.32
ONG-Woodward County, OK.	Livingston County, IL	30.32
M.V.-Caddo County, OK.	Du Page County, IL	30.32
M.V.-Caddo County, OK.	Livingston County, IL	30.32

Comment date: August 8, 1986, in accordance with Standard Paragraph F at the end of this Notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16829 Filed 7-25-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51632; FRL-3054-2]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-six such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86-1257, 86-1258, 86-1259, P 86-1260, 86-1261, 86-1262, P 86-1263, 86-1264, 86-1265 and P 86-1266—September 30, 1986.

P 86-1267—October 4, 1986.

P 86-1268, 86-1269, 86-1270, P 86-1271, 86-1272, 86-1273, P 86-1274, 86-1275, 86-1276, P 86-1277, 86-1278, 86-1280, P 86-1281, 86-1282, 86-1283, P 86-1284, 86-1285, 86-1286 and P 86-1287—October 5, 1986.

P 86-1288 and 86-1289—October 6, 1986.

P 86-1290, 86-1291, 86-1292 and P 86-1293—October 7, 1986.

Written comments by:

P 86-1257, 86-1258, 86-1259, P 86-1260, 86-1261, 86-1262, P 86-1263, 86-1264, 86-1265 and P 86-1266—August 31, 1986.

P 86-1267—September 4, 1986.

P 86-1268, 86-1269, 86-1270, P 86-1271, 86-1272, 86-1273, P 86-1274, 86-1275, 86-1276, P 86-1277, 86-1278, 86-1280, P 86-1281, 86-1282, 86-1283, P 86-1284, 86-1285, 86-1286 and P 86-1287—September 5, 1986.

P 86-1288 and 86-1289—September 6, 1986.

P 86-1290, 86-1291, 86-1292 and P 86-1293—September 7, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-51632]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-1257

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylate methacrylate polymer.

Use/Production. (G) Industrial coating polymer. Prod. range: 50,000 to 300,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 27 workers, up to 8 hrs/da, up to 193 da/yr.

Environmental Release/Disposal. 3 to 83 kg/batch released to land. Disposal by incineration and approved landfill.

P 86-1258

Manufacturer. Confidential.

Chemical. (G) Styrenated hydroxy functional methacrylic acrylic polymer.

Use/Production. (G) industrial coating polymer. Prod. range: 200,000 to 1,200,000 kg/yr.

Toxicity Date. No date submitted.

Exposure. Manufacture and processing: Dermal, a total of 28 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 3 to 84 kg/batch released to land. Disposal by incineration and approved landfill.

P 86-1259

Manufacturer. Confidential.

Chemical. (G) Ethoxypropene derivative.

Use/Production. (G) Chemical intermediate. Prod. range: 150 to 900 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal, a total of 12 workers, up to 1.6 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. No release. Less than 3 to 28 kg/batch incinerated.

P 86-1260

Manufacturer. Confidential.

Chemical. (G) Substituted imidazolyl (substituted phenyl)alkanamide.

Use/Production. (G) Contained use in an article. Prod. range: 18,000 to 20,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 30 workers, up to 1.8 hrs/day, up to 20 day/yr.

Environmental Release/Disposal. Released to water. Less than 2 to 50 kg/batch incinerated with < 100 kg/batch by biological treatment.

P 86-1261

Manufacturer. Confidential.

Chemical. (G) Organic/inorganic copolymer.

Use/Production. (G) For use as an absorbent. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1262

Manufacturer. Confidential.

Chemical. (G) Organic/inorganic copolymer.

Use/Production. (G) For use as an absorbent. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1263

Manufacturer. Olin Corporation.

Chemical. (S) Phosphoric acid, 1,2-ethanediyl tetrakis (2 chloro-1-methylethyl) ester.

Use/Production. (S) Industrial and commercial flame retardant for flexible polyurethane foams. Prod. range: Confidential.

Toxicity Data. Acute oral: 1.58 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Irritant; LC_{50} 200 mg/1.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1 hr/da, up to 55 da/yr.

Environmental Release/Disposal. No release.

P 86-1264

Manufacturer. Confidential.

Chemical. (G) Mixed polyol ester of normal and branched chain monocarboxylic acids.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Disposal by publicly owned treatment work (POTW).

P 86-1265

Manufacturer. Confidential.

Chemical. (G) Unsaturated isophthalic polyester-acrylate copolymer.

Use/Production. (S) Industrial high solids air-dry enamels. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers.

Environmental Release/Disposal. Confidential.

P 86–1266

Manufacturer. Confidential.

Chemical. (G) Dehydrated castor isophthalic alkyd resin.

Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 workers.

Environmental Release/Disposal. Confidential.

P 86–1267

Manufacturer. Confidential.

Chemical. (G) Poly(oxyalkylene)polyol.

Use/Production. (G) Rigid polyurethane foam. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 6 workers, up to 0.5 hr/da, up to 18 da/yr.

Environmental Release/Disposal. Release to land. Disposal by approved landfill and navigable waterway.

P 86–1268

Manufacturer. Hewlett-Packard-ICO.

Chemical. (G) Food dye, new salt form.

Use/Production. (S) Commercial and consumer ink for thermal ink-jet printing on paper. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: A total of 6 workers.

Environmental Release/Disposal. Minimal release. Disposal by POTW.

P 86–1269

Importer. American Hoechst Corporation.

Chemical. (G) Modified polyamidoamine.

Use/Production. (S) Commerical component for title adhesive. Import range: 1,000 to 3,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–1270

Importer. American Hoechst Corporation.

Chemical. (G) Fatty acid modified alkyd resin.

Use/Production. (S) Industrial binder in herbicide formulation. Import range: 2,000 to 70,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 4 workers, up to 3 hrs/da.

Environmental Release/Disposal. 10 kg released. Disposal by POTW.

P 86–1271

Importer. American Hoechst Corporation.

Chemical. (G) Epoxy resin.

Use/Import. (S) Commerical component for tile adhesive.

Import range. 5,000 to 15,000 kg/yr.

Toxicity Data. No date submitted

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–1272

Manufacturer. Hewlett-Packard-ICO.

Chemical. (G) Food dye, new salt form.

Use/Production. (S) Commerical and consumer ink for thermal ink-jet printing on paper. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 6 workers.

Environmental Release/Disposal. Minimal release. Disposal by POTW.

P 86–1273

Importer. Nuodex Inc.

Chemical. (G) Low molecular weight polybutadiene oil containing carboxyl groups.

Use/Import. (S) Industrial and commercial coatings, impregnation agent wood. Import range: 50,000 to 200,000 kg/yr.

Toxicity Data. Acute oral: >10,000 mg/kg; Irritation: Skin—Slight, Eye-Non irritant; Ames test; Not mutagenic.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–1274

Manufacturer. Confidential.

Chemical. (G) Acrylate copolymer.

Use/Production. (G) Laminating adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1275

Manufacturer. Confidential.

Chemical. (G) Mixed polyol ester of normal and branched chain monocarboxylic acids.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Disposal by POTW.

P 86–1276

Manufacturer. Confidential.

Chemical. (G) Urethane modified alkyd.

Use/Production. (G) Dispersively used industrial coating. Prod. range: 23,500 to 116,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 74 workers, up to 8 hrs/da, up to 12 da/yr.

Environmental Release/Disposal. 3 to 135 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1277

Manufacturer. Evans Chemetics/W.R. Grace and Company.

Chemical. (S) Trimethylolpropane trithioglycolate acetic acid, mercapto-, 2-ethyl-2-(((mercapto acetyl)oxy)methyl)-1,3-propane-diyl ester.

Use/Production. (S) Industrial and commercial epoxy curing agent in adhesive mix Prod. range: 4,536 to 5,443 kg/yr.

Toxicity Data. Acute oral: 5g/kg; Irritation: Skin-Very slight.

Exposure. Manufacture; Dermal, a total of 29 workers, up to 3 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. 0.036 to 0.64 kg/batch released to air and water. Disposal by chemical treatment plant and scrubber.

P 86–1278

Manufacturer. Confidential.

Chemical. (G) Fatty acid modified polyester.

Use/Production. (G) Industrial coating having an open use. Prod. range: 93,000 to 372,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 46 workers, up to 8 hrs/da, up to 161 da/yr.

Environmental Release/Disposal. 1.5 to 175 kg/batch released to land. Disposal by incineration, approved landfill, sanitary sewer and commercial disposer.

P 86–1280

Manufacturer. Confidential.

Chemical. (G) Substituted fatty acid amide.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 16 workers, up to 8 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. No release known. Disposal by approved landfill or heat recovered.

P 86–1281

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Monosubstitutedalkylbenzenediazonium chloride.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release expected.

P 86–1282

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Monosubstitutedalkylbenzenesulfonyl chloride.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Disposal by navigable waterway.

P 86–1283

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Monosubstitutedalkylbenzenesulfonamide.

Use/Production. (S) Indistrial intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Disposal by navigable waterway.

P 86–1284

Manufacturer. Confidential.

Chemical. (G) Polyester-modified epoxy methacrylate.

Use/Production. (G) Vehicle for electronic coatings. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

P 86–1285

Importer. Crescent Chemical Company, Inc.

Chemical. (S) 2-naphthalene carbonxamide, 3-hydroxy-N-(2,4-dimethoxyphenyl)-, potassium salt.

Use/Production. (S) Industrial textile dyeing, azoic coupling component of a 2 component dyeing system. Prod. range: 5,000 to 10,000 kg/yr.

Toxicity Data. Acute oral: 15.0 g/kg; Irritation: Skin Slight, Eye-Non irritant; Biodegradable test: Not biodegradable.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–1286

Importer. Crescent Chemical Company, Inc.

Chemical. (S) 2-naphthalenecarboxamide, 3-hydroxy-7-methoxy-N-phenyl-, potassium salt.

Use/Import. (S) Industrial textile dyeing azoic coupling component of a 2 component dyeing system. Import range: 1,000 to 3,000 kg/yr.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Non irritant, Eye—Non irritant; Biodegradability test: Not biodegradable.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–1287

Importer. Crescent Chemical Company, Inc.

Chemical. (S) 2-naphthalenecarboxamide, 3-hydroxy-N-methoxy-7-(2-methylphenyl)-, potassium salt.

Use/Import. (S) Industrial textile dyeing azoic coupling component of a 2 component dyeing system. Import range: 5,000 to 10,000 kg/yr.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Non irritant, Eye—Non irritant; Biodegradability test: Not biodegradable.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–1288

Manufacturer. Confidential.

Chemical. (G) Anionic substituted aromatic.

Use/Production. (G) For use as fibers finish component. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1289

Manufacturer. Confidential.

Chemical. (G) Anionic substituted aromatic.

Use/Production. (G) For use as fibers finish component. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1290

Manufacturer. Confidential.

Chemical. (G) Substituted phthalocyanine.

Use/Production. (G) Chemical intermediate. Prod. range: 1,820 to 9,200.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 10 workers, up to 1.2 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. No release. Less than 5 kg/batch incinerated.

P 86–1291

Manufacturer. Confidential.

Chemical. (G) Derivative of amines, polyethylene poly-compounds with (polybutenyl) succinic anhydride.

Use/Production. (G) Lubricating oil additive. Prod. range: Confidential.

Toxicity Data. Acute dermal: 5.0 g/kg; Acute dermal: 5.0 g/kg; Irritation: Skin—Non irritant, Eye—Mild; Ames test: Non-mutagenic; Skin Sensitization: Non-sensitizer.

Exposure. Confidential.

Environmental Release/Disposal. 1 kg/batch released. Disposal by incineration.

P 86–1292

Manufacturer. Confidential.

Chemical. (G) Polymer of acrylic acid esters, a vinyl monomer, and a methacrylic ester.

Use/Production. (G) Laminating adhesive to prepare plastic food pouches. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 5 workers, up to 4 hrs/da, up to 49 da/yr.

Environmental Release/Disposal. 1 to 10 kg/batch released to water. Disposal by approved landfill.

P 86–1293

Manufacturer. Confidential.

Chemical. (G) Anionic polymer.

Use/Production. (G) Textile finish. Prod. range: Confidential.

Toxicity Data. Acute dermal: 2,000 mg/kg; Irritation: Skin—moderate; Ames test: Non-mutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Disposal by POTW.

Dated: July 11, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86–16535 Filed 7–25–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

ITU World Administrative Radio Conference Advisory Committee; Meetings

July 18, 1986.

In the matter of Advisory Committee for the ITU World Administrative Radio Conference on the use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing it (Space WARC Advisory Committee); Working Group Meetings.

Working Group A: Allotment Planning.
Chairman: Donald M. Jansky, (202) 467–6400.
Vice Chairmen: Jeffrey Binckes, (301) 428–4712; Michael W. Mitchell, (703) 442–6126.
Date: Wednesday, September 17, 1986.
Time: 1:30 p.m.
Location: Chadbourne & Parke, 1101 Vermont Avenue NW., Suite 900, Main Conference Room, Washington, DC 20005.
Agenda: (1) Status of Proposals; (2) Review of IFRB Report; 3) Sharing Criteria.

Working Group B: Improved Regulatory Procedures.
Chairman: R. A. Hedinger, (201) 949–5057.
Vice Chairmen: Hans J. Weiss, (301) 428–4777; Robert Mazer, (202) 289–3000.
Date: Wednesday, September 17, 1986.
Time: 9:30 a.m.
Location: Chadbourne & Parke, 1101 Vermont Avenue NW., Suite 900—Main Conference Room, Washington, DC 20005.
Agenda: Discussion of Input Papers.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–16886 Filed 7–25–86; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 22, 1986.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Copies of the submission are available from Jerry Cowden, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0024
Title: Section 76.29, Special temporary authority rules in the cable television service
Action: Extension
Respondents: Licensees of cable television systems
Estimated Annual Burden: 300 Responses; 300 Hours.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–16880 Filed 7–25–86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 86–753]

Approval of Application For Unlisted Trading Privileges

Dated: July 18, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: On April 24, 1986, The Midwest Stock Exchange, Inc. filed with the Federal Home Loan Bank Board ("Board") an application ("Application"), pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f–1 [17 CFR 240.12f–1] thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchange:

Nevada Savings and Loan Association (FHLBB No. 5992)
Common Stock, $1.00 Par Value
Western Savings and Loan Association (FHLBB No. 1920)
Common Stock, $1.00 Par Value
Columbia Savings and Loan Association (FHLBB No. 6325)
Series A Cumulative Convertible Preferred Stock $1.00 Par Value

Notice of the Application and opportunity for hearing was published in the Federal Register on June 16, 1986, and interested persons were invited to submit written data, views and arguments within 15 days. See Board Resolution No. 86–577, dated June 16, 1986. (51 FR 21804 June 16, 1986). The Board received no comments with respect to the Application. Notice is hereby given that the Board approved the Application for unlisted trading privileges in these securities on July 7, 1986.

SUPPLEMENTARY INFORMATION: The Board finds that the approval of the Application for unlisted trading privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities registered with the Securities and Exchange Commission ("Commission") pursuant to section 6 of the Act, the Midwest Stock Exchange is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under Sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system contemplated by Rule 11Aa3–1 under the Act [17 CFR 240.11Aa3–1]. The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Midwest Stock Exchange are executed at prices which are reasonably related to those occurring in other markets. Further, the approval of the Application will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Board received no comments indicating that the granting of the Application would not be consistent with the maintenance of fair and orderly markets and the protection of investors.

Accordingly, pursuant to section 12(f)(1)(B) of the Act, the Application for unlisted trading privileges in the above named securities was approved on July 7, 1986.

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 86–16920 Filed 7–25–86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Community Banks, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the

Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 18, 1986.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Community Banks, Inc.*, Millersburg, Pennsylvania; to acquire 100 percent of the voting shares of Peoples Safe Deposit Bank of St. Clair, St. Clair, Pennsylvania.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Barnett Banks of Florida, Inc.*, Jacksonville, Florida; to acquire 80 percent of the voting shares of First National Bank of Live Oak, Live Oak, Florida.

2. *Barnett Banks of Florida, Inc.*, Jacksonville, Florida; to acquire 80 percent of the voting shares of Hamilton County Bank, Jasper, Florida.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Citizens Bancshares of Beebe, Inc.*, Beebe, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Citizens Bank, Beebe, Arkansas.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *AmeriGroup Financial Corporation*, Houston, Texas; to acquire 100 percent of the voting shares of Ameriway Bank/Woodway, N.A., Houston, Texas. Comments on this application must be received by August 20, 1986.

2. *Crandall Bancshares, Inc.*, Crandall, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Crandall, Crandall, Texas.

Board of Governors of the Federal Reserve System, July 22, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-16816 Filed 7-25-86; 8:45 am]

BILLING CODE 6210-01-M

Applications To Engage de Novo in Permissible Nonbanking Activities; Kansallis-Osake-Pankki, et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting wouuld be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 15, 1986.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Kansallis-Osake-Pankki*, Helsinki, Finland; to engage *de novo* in an office of its subsidiary, Kansallis Finance, Ltd., Helsinki, Finland, in New York City, New York, in financial leasing and commercial finance activities. Such activities include leveraged and non-leveraged leasing of capital equipment and other personal property and acting as an agent, broker or advisor in connection with such leases; factoring, financing or conditional sales contracts of, and other extensions of credit secured by capital equipment and other personal property and the servicing of such leases, contracts and extensions of credit pursuant to § 225.25(b)(1) and (5) of the Board's Regulation Y.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The Chattahoochee Financial Corporation*, Marietta, Georgia; to engage *de novo* through its subsidiary, Chattahoochee Services, Inc., Marietta, Georgia, in management consulting services to entities engaged in the formation of *de novo* financial institutions pursuant to § 225.2(b)(11) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 22, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-16817 Filed 7-25-86; 8:45 am]

BILLING CODE 6210-01-M

Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company; Midlantic Corp.

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that

outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 18, 1986.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Midlantic Corporation*, Edison, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Midlantic Banks, Inc., Edison, New Jersey, and thereby indirectly acquire Midlantic National Bank, Newark, New Jersey; Midlantic National Bank/North, West Paterson, New Jersey; Midlantic National Bank/South, Mount Laurel, New Jersey; Midlantic National Bank/Merchants, Neptune, New Jersey; Midlantic National Bank/Sussex & Merchants, Newton, New Jersey; Midlantic National Bank/Union Trust, Wildwood, New Jersey, and 15.9 percent of Statewide Bancorp, Toms River, New Jersey, and thereby indirectly acquire First National Bank of Toms River.

Applicant has also applied to acquire Continental Bancorp, Inc., Philadelphia, Pennsylvania, and thereby indirectly acquire Continental Bank, Norristown, Pennsylvania; York Bancorp, Inc., York, Pennsylvania, and thereby indirectly acquire The York Bank and Trust Company, York, Pennsylvania; and United Penn Corporation, Wilkes-Barre, Pennsylvania, and thereby indirectly acquire United Penn Bank, Wilkes-Barre, Pennsylvania.

Applicant has also applied to: (1) Engage through Midlantic Banks, Inc., Edison, New Jersey, in making and servicing loans pursuant to § 225.25(b)(1) of the Board's regulation Y; (2) acquire indirectly Midlantic Holdings, Inc., Edison, New Jersey and its subsidiary, Midlantic National Bank and Trust Co./Florida, and thereby engage in trust company functions pursuant to 225.25(b)(3) of the Board's Regulation Y; (3) acquire indirectly Midlantic Home Mortgage Corporation, Melville, New York, and its subsidiary, Midlantic Commercial Leasing Corp., New York, New York, and thereby engaged in making and servicing loans and leasing personal or real property pursuant to §§ 225.25(b) (1) and (5) of the Board's Regulation Y; (4) acquire indirectly Midlantic Commercial Co., Inc., New York, New York, and thereby engage in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y; (5) acquire indirectly Middle States Leasing Corp., Inc., Edison, New Jersey, and thereby engage in leasing personal or real property pursuant to § 225.25(b)(5) of the Board's Regulation Y; (6) acquire indirectly Greater Jersey Mortgage Co., Edison, New Jersey, and thereby engage in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y; (7) acquire indirectly Midlantic Brokerage Services, Inc., Edison, New Jersey and thereby engage in securities brokerage pursuant to § 225.25(b)(15) of the Board's Regulation Y; (8) acquire indirectly Lenders Life Insurance Company, Phoenix, Arizona, and thereby engage in underwriting credit life, accident and health insurance pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 22, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-16818 Filed 7-25-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Comprehensive Cancer Control Demonstration Program Announcement and Notice of Availability of Funds for Fiscal Year 1986

The Centers for Disease Control (CDC), announces that competitive applications are being accepted to support a State-wide Comprehensive Cancer Control Demonstration Project. The Catalog of Federal Domestic Assistance number is 13.283.

Authority

This program is authorized under section 301 of the Public Health Service Act.

Availability of Funds

It is expected that approximately $250,000 will be available in Fiscal Year 1986 to fund one award. The award will be funded with a 12-month budget period and a 3-year project period. It is planned that $250,000 will be available each year. A continuation award within the project period will be made on the basis of satisfactory progress in meeting project objectives and availability of funds. The funding estimate outlined above may vary and is subject to change.

Eligible Applicants

The official health agencies of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Trust Territories of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa are eligible to apply for a cooperative agreement.

Type of Assistance

The award resulting from this announcement will be a cooperative agreement.

Objectives and Collaborative Activities

A. Objectives

1. Develop the framework for and organize a State-wide, integrated approach to cancer prevention and control.

2. Conduct a State-wide comprehensive survey of secondary prevention applications for certain cancers.

3. Develop the methodology required for implementation of interventive programs concentrating on smoking abatement, diet modification, and reduction of alcohol misuse.

4. Measure and evaluate state-of-the-art treatment techniques utilized for selected cancers.

5. In conjunction with Objectives 1, 2, 3, and 4, determine the feasability, cost, resources required, and evaluation procedures for a State to mount a comprehensive cancer control initiative.

B. Cooperative Activities

1. Recipient Activities

Develop a framework for and organize a State-wide integrated approach to cancer prevention and control. The development and implementation of this framework should include the following sequential approaches: assessment of current activities and resources; design and elaboration of interventions; implementation of interventions; and evaluation.

Specifically: a. Assess the current activities and resources related to cancer prevention and control within the State, which should include (1) the nature and extent of cervical and breast cancer screening, including: (a)

Populations being served, (b) individuals at greatest risk of disease, (c) predominant risk factors, (d) numbers, communities and types of providers delivering service, (e) screening techniques utilized, (f) cost of service, and (g) the population's perceptions as to the need for such screening.

(2) An evaluation of different modalities to deliver cervical and breast cancer screening to indigent populations.

b. Develop specific intervention programs concentrating in the areas of smoking abatement, alcohol misuse reduction, and diet modification. The intervention should consider the current legislative, economic, and social climates existing within the State. Factors including per capita alcohol consumption, dietary patterns, cigarette usage, advertising restrictions or lack thereof, and general consumer response to the programs should be assessed to determine whether specific methods are viable.

c. Conduct an assessment of state-of-the-art treatment techniques for selected cancers. Compare specific therapies on target cancer tumors including malignant melanoma, Hodgkin's disease, childhood leukemia, breast cancer, cervical cancer, and seminoma. The network of physicians offering treatment for these selected cancers throughout the State should be documented to allow for regional comparisons of treatment and patient access to treatment, as well as patient access to certain treatment regimens considering socioeconomic factors such as race, sex, income, occupation, and years of education. State-of-the-art treatment techniques should be evaluated, comparing remission and survival rates (when possible) versus patient access to and acceptance of treatment and costs.

d. Analyze all information and publish findings in appropriate media.

2. Centers for Disease Control (CDC)

a. Assist in the planning and organization of a State-wide comprehensive cancer prevention and control program.

b. Collaborate in all phases of the comprehensive cancer demonstration project including; development of methodologies for selection of participants, training of staff, review of protocols, and information collection analysis and evaluation.

c. Provide epidemiologic and other technical assistance in both planning and implementation of project activities.

d. Facilitate interchange, as needed, with other State agencies, groups, and projects involved in similar activities.

e. Collaborate in the interpretation, presentation and publication of findings.

Reports

Progress reports will be submitted on a quarterly basis, due 30 days after each quarter. Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

Applications

A. Copies—Place of Submission

The original and two copies of the application should be submitted on Form PHS 5161–1 by August 25, 1986 to: Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE, Room 321, Atlanta, Georgia 30305.

Application forms may be obtained from the above address.

B. Deadlines

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

C. Late Applications

Applications which do not meet the criteria in either paragrah 1 or 2 immediately above are considered late applications and will not be considered in the current competition and will be returned to the applicant.

D. Reviews

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Review Criteria

A. Initial Applications

Applications will be reviewed and evaluated based on the evidence submitted which specifically describes the applicant's ability to meet the following criteria:

1. Adequacy and completeness of the project plan and methodology, including a description of:

a. The requirements, problems, objectives, complexities, and interactions required of this cooperative agreement.

b. How closely objectives of the proposal fit the objectives for which applications were invited.

c. Project development and implementation including action steps and time frames.

d. How surveillance, planning, epidemiologic evaluation, and coordinating activities will be conducted.

e. How project baseline data will be collected.

f. How specific intervention strategies aimed at reducing morbidity and mortality in the targeted population will be formulated, implemented, and evaluated.

2. Qualifications and adequacy of time allocation of the applicant's existing staff and staff to be assigned to this project and the facilities, capabilities, office space, necessary equipment, and support staff resources available for the performance of this project.

3. Documentation that significant resources are committed to this project. In addition, the applicant must document that it has a developed public health department, available census and vital data, and an established and ongoing State-wide cancer registry.

4. Documentation that the are covered by the application is State-wide.

5. The soundness of proposed methods to achieve objectives and of the evaluation plan to monitor effectiveness.

6. Explanation of budget request including justification for individual budget items.

B. Continuation Applications

1. A continuation application within the project period shall include:

a. The accomplishments of the current budget period showing that the applicant is meeting its objectives;

b. The objectives for the new budget period which are realistic, specific, and measurable;

c. The methods described to achieve these objectives;

d. The evaluation plan to allow managemet to monitor whether the methods are effective in achieving objectives;

e. The budget request which is fully explained, adequately justified, reasonable, and consistent with the intended use of the cooperative agreement funds.

Content of Application

Applicants are required to include a narrative which must:

A. Describe the applicant's understanding of the requirements, problems, objectives, complexities, and interactions required of this cooperative agreement.

B. Describe how the applicant will develop and implement this project including a time schedule.

C. Document the ability to provide the staff, knowledge, and resources to perform their part of this project, and describe the approach to be used in carrying out their responsibilities.

D. Identify and provide the qualifications and time allocation of the existing staff and staff to be assigned to this project, and the facilities/capabilities, office space, necessary equipment, and support staff resources available for the performance of this project.

E. Document that the project is Statewide and other resources available to carry-out the project.

F. Specify how the project will be administered, including the organizational structure.

G. Describe plans to publish results and designate responsibilities for scientific publications and authors, summary documents, news releases, etc.

Information

Information on application procedures, copies of application forms, and other material may be obtained from: Mr. Luther E. DeWeese, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE, Room 321, Atlanta, Georgia 30305, (404) 262–6575 or FTS 236–6575.

Technical assistance may be obtained form the Division of Chronic Disease Control:

Richard B. Rothenberg, M.D., Assistant Director for Science, Division of Chronic Disease Control, Center for Environmental Health, Centers for Disease Control, Atlanta, Georgia 30333, (404) 452–4251 or FTS 236–4251

William H. Gimson, Public Health Advisor, Division of Chronic Disease Control, Center for Environmental Health, Centers for Disease Control, Atlanta, Georgia 30333, (404) 452–4251 or FTS 236–4251.

Dated: July 22, 1986.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 86–16844 Filed 7–25–86; 8:45 am]

BILLING CODE 41604–18–M

Health Resources and Services Administration

Advisory Committees; Notice of Meetings

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 August 1986:

Name: National Advisory Council on Nurse Training.

Date and Time: August 11–13, 1986, 9:00 a.m.

Place: Conference Room M Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on August 11, 9:00 a.m.—12:30 p.m.

Closed for remainder of meeting.

Purpose: The Council advisers the Secretary and Administrator, Health Resources and Services Administration, concerning general regulations and policy matters arising in the administration of Title XXVII, National Health Service Corps, Health Professions Education, Nurse Training Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRSA.

Agenda: Agenda items for the open portion of the meeting will cover announcements; consideration of minutes of the previous meeting; reports by the Director, Bureau of Health Professions, the Financial Management Officer, BHPr., the Director, Division of Nursing, and staff reports. The meeting will be closed to the public on August 11, at 12:30 p.m. for the remainder of the meeting for the review of grant applications for advanced nurse training grants, nurse practitioner grants, special project grants, national research service awards, and research project grants. The closing is in accordance with the provision set forth in section 552b(c)(6), Title U.S. Code and the Determination by the Acting Administrator, Health Resources and Services Administration, pursuant to section 10(d) of Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should write to or contact Dr. Mary S. Hill, Bureau of Health Professions, Health Resources and Services Administration, Room 5C–04, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6193.

Agenda items are subject to change as priorities dictate.

Dated: July 23, 1986.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 86–16862 Filed 7–25–86; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

Consensus Development Conference On Infantile Apnea and Home Monitoring; Meeting

Notice is hereby given of the NIH Consensus Development Conference on "Infantile Apnea and Home Monitoring" sponsored by the National Institute of Child Health and Human Development, the National Heart, Lung, and Blood Institute, the Division of Maternal and Child Health, HRSA, the Food and Drug Administration, and the NIH Office of Medical Applications of Research to be held on September 29 and 30 and October 1, 1986, in the Masur Auditorium of the Warren Grant Magnuson Clinical Center (Building 10) at the National Institues of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. The meeting is open to the medical community (continuing medical education credit will be offered) and the general public at no charge.

The occurrence of apnea in the premature infant is a significant problem, with the incidence estimated at 30 to 50 percent. In infants who are 28 to 29 weeks or less in gestational age, the incidence increases to 90 percent. Infantile apnea can be associated with many underlying disorders but the exact pathogenesis has yet to be understood. In addition, the treatment of this condition is an unresolved issue and approaches include pharmacotherapy and mechanical respiratory support. Many infants are discharged from the nursery on home monitoring, but specific indications for its use and for its discontinuation need clarification.

The relationship of infantile apnea to the occurrence of SIDS is yet to be determined. Although many infants with prolonged apnea are not victims of SIDS and many SIDS victims were never observed to have prolonged apnea, it appears that the risk of death from SIDS is somewhat greater in the group of infants with prolonged apnea than in the general population.

A draft report, including options for a consensus statement will be prepared by the panel and distributed to all registrants prior to the meeting. The draft report will consider the following key questions:

- What is known about the relation of neonatal and infant apnea to each other and to mortality (especially SIDS) and morbidity in infancy?
- What is the efficacy and safety of currently available home devices for detecting infant apnea?
- What evidence exists regarding the effectiveness of home monitoring in reducing infant mortality (especially SIDS) and morbidity?
- What recommendations can be made at present regarding the circumstances for the use of home apnea monitoring in infancy?
- What further research is needed on home apnea monitoring for infants?

The conference will bring together pediatricians, neonatologists, family practitioners, a lawyer, an ethicist, epidemiologists, medical engineers, nurses, consumers and members of the public. Following two days of presentations by members of the panel and discussion by the audience, the panel will consider the available evidence and modify as needed its draft report.

On the third day, Consensus Panel Chairman George A. Little, M.D., Professor and Chairman, Department of Maternal and Child Health at the Dartmouth Medical School in Hanover, New Hamsphire, will read the consensus statement before the conference audience and invite comments and questions.

Information on the program may be obtained from Ms. Barbara McChesney, Prospect Associates, 2115 East Jefferson Street, Suite 401, Rockville, Maryland 20852 or call (301) 468–6555.

Dated: July 18, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–16888 Filed 7–25–86; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute, National Institutes of Health, October 22–23, 1986. The meeting will be held in Conference Room 5A16 (A Wing), Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on October 22 from 9:00 a.m. to recess and from 8:30 a.m. to adjournment on October 23 to discuss new initiatives, program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland 20892, phone (301) 496–2533, will furnish substantive program information.

Dated: July 18, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

[FR Doc. 86–16889 Filed 7–25–86; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; National High Blood Pressure Education Program Coordinating Committee; Meeting

Notice is hereby given of the meeting of the National High Blood Pressure Education Program Coordinating Committee sponsored by the National Heart, Lung, and Blood Institute, on September 26, 1986, 8 a.m. to 1 p.m., Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland, (301) 657–1234.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

For the detailed program information, agenda, list of participants, and meeting summary contact: Dr. Edward J. Roccella, Coordinator, National High Blood Pressure Education Program, Office of Prevention, Education and Control National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A18, Bethesda, Maryland 20892, (301) 496–1051.

Dated: July 21, 1986.

Betty J. Beveridge,

Comittee Management Officer, NIH.

[FR Doc. 86–16890 Filed 7–25–86; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; National Cholestrol Education Program Coordinating Committee; Meeting

Notice is hereby given of the meeting of the National Cholestrol Education Program Coordinating Committee sponsored by the National Heart, Lung, and Blood Institute, on October 7, 1986, 8:30 a.m. to 3 p.m., Crowne Plaza Holiday Inn, 1750 Rockville Pike, Rockville, Maryland 20850, (301) 468–1100.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National Cholestrol Education Program. Attendance by the public will be limited to space available.

For copy of agenda, list of participants, and meeting summary, contact: Dr. James I. Cleeman, Coordinator, National Cholestrol Education Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A18, Bethesda, Maryland 20892, (301) 496–1051.

Those who wish to attend please contact Sharman DeWeese, University Research Corporation, Suite 430 North, 1776 East Jefferson Street, Rockville, Maryland 20852, (301) 230–1340.

Dated: July 21, 1986.

Betty J. Beveridge,

Comittee Management Officer, NIH.

[FR Doc. 86–16891 Filed 7–25–86; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–86–1623–FR2272]

Interstate Land Sales Registration; Administrative Proceedings

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Office of Lender Activities and Land Sales Registration, Interstate Land Sales Registration Division, HUD.

ACTION: Notice of Proceedings and Opportunity for Hearing.

SUMMARY: The Interstate Land Sales Registration Division gives public notice of its attempt to serve upon certain persons (defined by statute (15 U.S.C. 1701) as individuals, unincorporated

organizations, partnerships, associations, corporations, trusts, or estates) at their last known addresses, a notice requiring revisions to their Statement of Record. Service of this notice was attempted by mail and was found to be undeliverable. Therefore, in accordance with 44 U.S.C. 1508, the Department is publishing this Notice of Proceedings and Opportunity for Hearing in Order to effect constructive notice upon the persons listed in the attached Appendix.

DATE: Requests for hearings should be filed on or before August 12, 1986.

ADDRESS: Requests shall be filed with the docket Clerk for Administrative Proceedings, Room 10251, HUD Building, 451 Seventh Street, SW., Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Roger G. Henderson, Branch Chief, Land Sales Enforcement Branch, Department of HUD, Room 6278, Washington, DC 20410. Telephone: (202) 755–0502. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Notice of Proceedings and Opportunity for Hearing is issued pursuant to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1706(d)) and related regulations at 24 CFR 1710.45(b)(1) and 24 CFR 1720.215). The Department hereby serves the following Notice of Proceedings and Opportunity for Hearing to the persons listed in the attached Appendix:

Notice of Proceedings and Opportunity for Hearing

I

Docket No. ———
In the matter of: (subdivision) ———
(developer) ———
Representative Respondent ———
OILSR No. ———

The Secretary in administering the Interstate Land Sales Full Disclosure Act of 1968, 15 U.S.C. 1701 et seq., and its Regulations finds his public files disclose that:

A. Respondent is a corporation organized under the laws of the State of ——— and has its principal office in ———.

B. The mailing address of Respondent's last known principal office or place of business is ———.

C. The Respondent filed a Statement of Record and Property Report for the above subdivision, located in ——— County, ——— State, which Statement of Record and Property Report, as amended, if any amendments have been filed, became effective on ——— and is still effective.

D. ——— is an authorized Representative of Respondent.

(Information for completing the above format follows. The captioned matters in the Appendix are listed alphabetically by subdivision in each State. Paragraph I of the Notice of Proceedings and Opportunity for Hearing includes the captions of the separate matters. Information for the completion of the captions of each of the matters is set out in columns 1 and 2 of the aforementioned Appendix. Information for Lines A, B and C above is set out in columns 3, 4 and 5 respectively of the Appendix. Information for Line D of Paragraph I is contained in the caption of the matter, and the same information is supplied in the last line of Column 1 of the Appendix. The entire Notice is completed by inserting the applicable information from the Appendix in the appropriate blanks of paragraph I. In this form it is constructively noticed that the Notice of Proceedings and Opportunity for Hearing is served upon the persons listed in column 1 of the Appendix.)

II

The Interstate Land Sales Registration Division (ILSRD) from its records or from other sources has obtained information which tends to show, and it so alleges, that the Statement of Record and Property Report of the subdivision captioned above include untrue statements of material fact, or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading, to wit:

The developer has failed to file amendments (including an annual report of activity) to comply with revised regulations of the Interstate Land Sales Registration Division or, alternatively, to file documentation establishing that no such amendments are necessary by the time required in 24 CFR 1710.23(a) and/or 1710.310 (1984 edition), as amended by 49 FR 31366 (August 6, 1984) (as codified in the 1985 edition).

III

In view of the allegations contained in Part II above, the Secretary will provide an opportunity for a public hearing to determine:

A. Whether the allegations set forth in Part II are true, and in connection therewith to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest and for the protection of purchasers pursuant to the Interstate Land Sales Full Disclosure Act.

IV

If the Respondent desires a hearing, he shall file a request for hearing accompanied by an answer within 15 days after service of this Notice of Proceedings. Respondent is hereby notified that if he fails to file a response pursuant to 25 CFR 1720.240 and 1720.245 within 15 days after service of this Notice of Proceedings, Respondent shall be deemed in default, and the proceedings shall be determined against him, the allegations of which shall be determined to be true, and an order suspending the Statement of Record will be issued. The said order shall remain in effect until the Statement of Record and Property Report have been amended in accordance therewith, and thereupon the order shall cease to be effective.

V

Any request for hearing, answer, motion, amendment to pleadings, offer of settlement or correspondence forwarded during the pendency of this proceedings shall be filed with the Docket clerk for Administrative Proceedings, Room 10251, HUD Building, 451 Seventh Street SW., Washington, DC 20410. All such papers shall clearly identify the type of matter and the docket number as set forth in this Notice of Proceedings.

VI

It is hereby ordered, that upon request of the Respondent a public hearing for the purpose of taking evidence on the questions set forth in Part III hereof be held before an Administrative Law Judge, HUD Building, 451 Seventh Street SW., Washington, DC 20410, at 10:00 a.m. on the 30th day after receipt of the answer or at such other time as the Secretary or a designee may fix by further order.

This Notice of Proceedings shall be served upon the Respondent pursuant to 24 CFR 1720.170 and/or 44 U.S.C. 1508.

Dated: July 23, 1986.

Susan K. Zagame,

General Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

APPENDIX

In the matter of (subdivision) developer, representative and title; respondent (1)	OILSR No. and land sales enforcement branch docket No. (2)	State of organization and location of principal office (3)	Last known mailing address (4)	Location of subdivision (county, State) and effective date (5)
Arizona:				
Palm Springs #15, Plam Springs Arizona, Inc., Sol Goldman, President.	0-01173-02-0175; M-86-013	Arizona; Chicago, IL	5909 North Lincoln Avenue, Chicago, IL 60645.	Pinal County, AZ July 2, 1970
Arkansas:				
Sugar Loaf Mountain Estates, 3 F of Arkansas, Inc., Henry S. Fuller, President.	0-06005-03-206; M-85-082, Order of Suspension returned as undeliverabe.	Arkansa; Higden, AR	Route 1, Higden, AR 72067	Van Buren County, AR August 23, 1982
California:				
Salton City, Trust Number 1350 with Fn Realty Services, Inc., Dennis Paul, Operating Beneficiary.	C-0-06356-4-1055; M-86-034	California; Beverly Hills, CA	723 Rochester Avenue, Coquitlam, B.C., Canada V3K 2V8.	Imperial County, CA October 30, 1984
Colorado:				
Cortina Filing No. 1, Mesa Cortina West, Ltd., Jerry B. Ledingham, President.	0-01373-05-95; M-83-003	Colorado; Littleton, CO	918 East Davies Avenue, Littleton, CO 80122.	Summit County, CO December 1, 1970
Idaho:				
Lake Cascade Ranch & Lake Cascade Forest 1 & 2, an Idaho Gerneral Partnership Bernard L. Shalz, Partner.	0-05392-12-0085; M-85-1002	Idaho; Boise, ID	P.O. Box 8861, Boise, ID 83707.	Valley County, ID November 6, 1978
Kentucky:				
Agape Shores, Woodhaven Sales Realty Harold Moscovich, Stockholder.	0-05687-20-128; M-85-114	Kentucky; Montreal, Quebec, Canada.	8181 Rue Edison, Montreal, Quebec, Canada.	Brechingridge County, KY October 20, 1980
New Mexico:				
Meadow Lake, Meadow Lake Partnership, Ltd., Max Lee Kiehne, General Partner.	0-06190-36-0268; M-86-021	New Mexico; Albuquerque, NM	4010 Calisle Boulevard, N.E., Albuquerque, NM 87107.	Valencia County, NM December 19, 1983
Tierra Grande, Sun Dutch Industries Corp., Michael Heraty, Executive Vice President.	0-06011-36-262; M-86-012	New Mexico; Albuquerque, NM	Suite 333, The Summit Bldg., 4001 Indial School Road, Albuquerque, NM 87110.	Valencia and Socorro Counties, NM July 14, 1982
New York:				
AuSable Acres, AuSable Acres, Inc. L. Paul McGreevy, President.	0-00393-37-001 & A-C; M-86-027.	New York; Jay, NY	Jay, NY 12941	Essex County, NY July 10, 1969
Texas:				
Arrowhead, Paticipation Development Corp. (Texas) Inc., Billy L. Turner, President.	0-05805-49-1085; M-85-021	Texas; Dallas, TX	717 N. Harwood Street, Suite 1740, Dallas, TX 75201.	Henderson County, TX July 14, 1981
Washington:				
Crescent Bar Recreational Vehicle Home Park, Crescent Properties, Inc., H. Frederick Peterson, President.	0-4127-56-120 & A; M-85-085.	Washington; Seattle, WA	2200 Sixth Avenue, Seattle, WA 98121.	Grant County, WA August 27, 1975

[FR. Doc. 86-16887 Filed 7-25-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted for Review

The proposal for the collection of information listed has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirements and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the OMB Interior Desk Officer at (202) 395-7340.

Title: 25 CFR Part 41, Subchapter E—Tribally Controlled Community Colleges and Navajo Community College Annual Report, Pub. L. 95-471.

Abstract: Information generated by the annual report from the Tribally Controlled Community Colleges will be compiled for program evaluation and statistical data. This information will be used as the basis for reports to Congress.

Frequency: Annually
Description of Respondents: Indian/Alaskan Native students applying for admission to postsecondary schools.
Annual Response: 20
Annual Burden Hours: 100 hours
Bureau Clearance Officer: Anne Bolton (202) 343-1676.

Henrietta Whiteman,

Deputy to the Assistant Secretary/Director—Indian Affairs (Indian Education Programs).

[FR Doc. 86-16848 Filed 7-25-86; 8:45am]

BILLING CODE 4310-02-M

Bureau of Land Management

[M-61201; MT-930-06-4212-13; MTM-61201]

Realty Action—Exchange of Public and Private Lands; Montana

AGENCY: Bureau of Land Management—Lewistown District Office, Interior.

ACTION: Notice of Realty Action M-61201—Exchange of public and private lands, Blaine, Hill, and Chouteau Counties, Montana.

SUMMARY: This exchange is between the United States of America and Bob Inman. 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 1976, 43 U.S.C. 1716:

Principal Meridian Montana

T. 30 N., R. 11 E.,
Sec. 1, NE¼SE¼.
T. 24 N., R. 16 E.,
Sec. 15, NW¼SW¼;
Sec. 17, NE¼NW¼;
Sec. 18, Lot 3;
Sec. 21, W½NE¼, SW¼SW¼.
T. 26 N., R. 17 E.,
Sec. 12, NW¼NW¼;
Sec. 13, SE¼SW¼.
T. 27 N., R. 17 E.,
Sec. 26, SW¼NW¼, NE¼SW¼;
Sec. 34, SE¼SE¼.
T. 29 N., R. 17 E.,
Sec. 8, Lot 2.
T. 31 N., R. 17 E.,
Sec. 12, SE¼NE¼, E½SE¼, SW¼SE¼
T. 37 N., R. 17 E.,
Sec. 12, SW¼SW¼;
Sec. 26, S½SW¼.
T. 24 N., R. 18 E.,
Sec. 25, SE¼NE¼;
Sec. 36, SW¼NE¼.
T. 26 N., R. 18 E.,
Sec. 3, Lot 4;
Sec. 9, NE¼SW¼;
Sec. 18, SE¼SW¼;
Sec. 19, SE¼NE¼;
Sec. 20, NW¼NW¼.
T. 27 N., R. 18 E.,
Sec. 25, SE¼SE¼;
Sec. 34, SW¼SW¼.
T. 31 N., R. 18 E.,
Sec. 7, Lots 1-4.

T. 26 N., R. 19 E.,
Sec. 7, NE¼SE¼.
T. 27 N., R. 19 E.,
Sec. 30, SW¼NE¼.
T. 28 N., R. 19 E.,
Sec. 13, S½NE¼, NW¼SE¼.
T. 32 N., R. 19 E.,
Sec. 3, Lot 3;
Sec. 22, SE¼NE¼, NE¼SE¼;
Sec. 26, W½SW¼.
T. 32 N., R. 20 E.,
Sec. 19, W½NE¼, NW¼SE¼.
T. 31 N., R. 22 E.,
Sec. 18, SE¼SE¼.
T. 32 N., R. 22 E.,
Sec. 6, Lot 4.
T. 34 N., R. 22 E.,
Sec. 23, N½;
Sec. 24, E½;
Sec. 26, NW¼, N½SW¼.
T. 36 N., R. 22 E.,
Sec. 14, SE¼NE¼;
Sec. 19, Lot 3;
Sec. 31, SE¼NW¼.
T. 34 N., R. 23 E.,
Sec. 11, SW¼NE¼, SW¼NW¼, N½SW¼, W½SE¼;
Sec. 14, N½NE¼;
Sec. 15, N½NW¼.
T. 36 N., R. 24 E.,
Sec. 14, N½NW¼, SW¼NW¼.
T. 34 N., R. 25 E.,
Sec. 4, Lot 2;
Sec. 9, SE¼NE¼, E½SE¼;
Sec. 10, W½W½.
T. 35 N., R. 25 E.,
Sec. 32, E½NE¼;
Sec. 33, N½, SW¼, NE¼SE¼;
Sec. 34, NW¼NW¼.
Aggregating 4,370.90 acres.

In exchange for these lands, the United States Government will acquire the surface estate in the following described land:

Principal Meridian Montana

T. 24 N., R. 21 E.,
Sec. 12, Lot 4.
T. 26 N., R. 21 E.,
Sec. 1, Lots 1–4, S½NE¼, E½SW¼, N½SE¼, SW¼SE¼;
Sec. 12, W½NE¼, E½NW¼, NW¼NW¼.
T. 24 N., R. 22 E.,
Sec. 18, Lot 6–7, 12, SW¼SE¼;
Sec. 19, Lot 1, NE¼, NE¼SE¼;
Sec. 20, SW¼NE¼, NW¼NW¼, S½NW¼, N½SW¼, W½SE¼;
Sec. 29, W½NE¼.
T. 26 N., R. 22 E.,
Sec. 6, Lots 3–4, S½NW¼.
T. 28 N., R. 22 E.,
Sec. 17, W½SW¼, W½E½SW¼;
Sec. 18, E½SW¼, SE¼;
Sec. 19, Lots 1–4, NE¼, E½W½, E½W½ SW¼, NW¼SE¼;
Sec. 20, Lots 1–3, E½NW¼, NW¼NW¼;
Sec. 30, Lot 1, NW¼NE¼, N½NW¼.
Aggregating 2,860.31 acres.

DATES: For a period of 45 days from the date of this notice in the **Federal Register**, interested parties may submit comments to the Bureau of Land Management, at the address below. 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 the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership. All minerals shall be reserved to the United States together with the right to prospect for, mine, and remove 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. All valid existing rights and reservations of record including the following: M–044769, Montana Highway Commission; M–57527, Big Flat Electric; M–59069, Triangle Telephone Coop; M–020631, Montana Highway Commission; M–59070, Hill County Electric Coop.

4. The following right-of-way will be reserved to the United States of America, GF–079895, Department of Energy.

5. Value equalization by cash payment of $2,463.50 will be paid to the United States of America by Robert Inman.

6. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with local officials. The public interest will be served by completion of this exchange as the Bureau of Land Management will be acquiring portions of the Nez Perce Trail, increased public access, and crucial wildlife staging and production area.

Dated: July 18, 1986.

Wayne Zinne,

District Manager.

[FR Doc. 86–16690 Filed 7–25–86; 8:45 am]

BILLING CODE 4310-DN-M

Fish and Wildlife Service

Fish Health Protection Policy and Salmonid Fish Health Protection Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and request for comments.

SUMMARY: This notice is to inform interested parties that the U.S. Fish and Wildlife Service is requesting public comments on its extant fish health policy. This policy provides guidelines for controlling the spread of serious diseases in salmonids in Service facilities.

DATE: Comments must be received by August 25, 1986.

ADDRESS: Copies of the policy may be obtained, and comments forwarded to: Chief, Division of Program Operations—Fisheries, Room 637, Matomic Building, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Brown, address above, telephone (202) 653–8746.

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Service is in the process of revising its current Fish Health Protection Policy and Salmonid Fish Health Protection Program, dated May 30, 1984, to consider including additional diseases and to review current population sampling procedures and diagnostic techniques. All comments will be considered by the Service in revising the policy.

Dated: July 22, 1986.

F. Eugene Hester,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 86–16774 Filed 7–25–86; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

National Outer Continental Shelf Advisory Board, Pacific Regional Technical Working Group Committee; Meeting

AGENCY: Minerals Management Service, Interior Pacific OCS Region.

ACTION: National Outer Continental Shelf Advisory Board, Pacific Regional Technical Working Group Committee; Notice and Agenda for Meeting.

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463.

The Pacific Regional Technical Working Group Committee of the

National OCS Advisory Board is scheduled to meet August 19, 1986 from 8:00 a.m. to 4:00 p.m., in the Tiffany Ballroom of the Biltmore Hotel, 515 S. Olive Street, Los Angeles, California 90013.

The Agenda for the meeting covers the following topics:

- Update:
  - Proposed 5-Year OCS Oil & Gas Leasing Program
  - Congressional Negotiations on Leasing Offshore California with Department of the Interior
  - Draft Fiscal Year 1988 Pacific OCS Region Environmental Studies Plan/ Discussion
  - Area Identification Lease Sale 91
- Post Lease Projects Update
- Review of Pacific OCS Issues and Activities
- Legal Protection for Fishermen
- Lease Sale 91 Scoping Meeting Comments Recap and Discussion
- Update: Egg and Larval Committee

Minutes of the meeting will be available for public inspection and copying at the following locations:

Pacific OCS Region, 1340 West Sixth Street, Room 275, Los Angeles, CA 90017

Office of the Offshore Information Service, Minerals Management Service, Department of the Interior, Washington, DC 20240

James W. Sutherland,

Acting Director, Pacific OCS Region.

[FR Doc. 86-16819 Filed 7-25-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 12, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by August 12, 1986.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Barbour County

Eufaula, *Lore Historic District (Boundary Increase)*, Roughly bounded by Browder St., Van Buren Ave., Washington St., and Sanford Ave.

Montgomery County

Montgomery, *Lower Commerce Street Historic (Boundary Increase)*, Roughly bounded by Central of Georgia RR tracks, N. Lawrence St., Madison Ave., and Commerce St.

ALASKA

Kenai Peninsula Borough

Cooper Landing, *Cooper Landing Historic District*, AK 1

ARIZONA

Gila County

Payson Vicinity, *Natural Bridge Lodge*, Off AZ 87

CALIFORNIA

Los Angeles County

Los Angeles, *Little Tokyo Historic District*, 301—369 First and 106—120 San Pedro Sts.

Pomona, *Edison Historic District*, 500 block of W. Second, and 637 and 611 W. Second

Orange County

Santa, Ana, *Pacific Electric Railway Depot*, 426 E. Fourth St.

DELAWARE

Kent County

Wyoming Vicinity, *Lewis Family Tenant Agricultural Complex*, CR 227

New Castle County

Newark Vicinity, *Ott's Chapel*, CR 397

Wilmington, *Curlett House*, 705—705½ E. Sixth St.

ILLINOIS

Cook County

Chicago, *Sheffield Historic District (Boundary Increase)*, Roughly bounded by Armitage, Howe, Willow, Kenmore, Wisconsin, and Halsted

Du Page County

Villa Park, *Villa Avenue Train Station*, 220 S. Villa Ave.

Hancock County

Carthage, *Carthage Courthouse Square Historic District*, Roughly bounded by Main, Adams, Wabash, and Madison

Kane County

Aurora, *Stolp Island Historic District*, Stolp Island

Aurora, *West Side Historic District*, Roughly bounded by W. Downer Pl., Lake St., Garfield Ave., and S. Highland St.

Kankakee County

Kankakee, *Riverview Historic District*, Roughly bounded by River and Eagle Sts., Wildwood Ave., and Kankakee River

Massac County

Metropolis, *McCartney, R. W., Music Hall*, 116—120 E. Fourth St.

Winnebago County

Rockford, *The Limestones*, 118—122 S. Main

LOUISIANA

Caddo County

Oil City, *Trees City Office and Bank Building*, 207 Land Ave.

East Baton Rough Parish

Baton Rouge Vicinity, *Kleinpeter House*, Perkins Rd.

East Feliciana Parish

Clinton, *Hope Terrace*, Church and Silliman Sts.

St. Bernard Parish

St. Bernard Vicinity, *Sebastopol Plantation House*, LA 46

Webster County

Minden, *McDonald House*, 328 Lewisville Rd.

MASSACHUSETTS

Suffolk County

Boston, *Richardson Block*, 133—151 Pearl and 109—119 High Sts.

Boston, *Sears' Crescent and Sears' Block*, 38—68 and 70—72 Cornhill

MICHIGAN

Allegan County

Fillmore, *Old Wing Mission*, 5298 E. One hundred and forty-seventh Ave.

Lenawee County

Tecumseh, *Brookside Cemetery (Tecumseh MRA)*, N. Union St.

Tecumseh, *Catlin, Dr. Samuel, House (Tecumseh MRA)*, 213 E. Chicago Blvd.

Tecumseh, *Hall, Joseph E., House (Tecumseh MRA)*, 210 S. Oneida St.

Tecumseh, *Hayden, William, House (Tecumseh MRA)*, 108 W. Pottawatamie

Tecumseh, *Kempf, George J., House (Tecumseh MRA)*, 212 E. Kilbuck St.

Tecumseh, *Sparks, G.P., House (Tecumseh MRA)*, 509 E. Logan St.

Tecumseh, *St. Elizabeth's Church (Tecumseh MRA)*, 302 E. Chicago Blvd.

Tecumseh, *Tecumseh Historic District (Boundary Increase) (Tecumseh MRA)*, 704–710 W. Chicago Blvd.

Tecumseh, *Temple, Samuel W., House (Tecumseh MRA)*, 115 W. Shawnee St.

MINNESOTA

Cook County

Grand Marais, *Bally Blacksmith Shop*, Broadway and First Sts.

Kandiyohi County

Willmar, *Spicer, John M., House*, 515 Seventh St. NW

Willmar, *Willmar Hospital Farm for Inebriates Historic District*, Off US 71

Otter Tail County

Fergus Falls, *Barnard Mortuary*, 119 N. Union Ave.

Fergus Falls, *Clement, C.C., House*, 608 N. Burlington Ave.

Fergus Falls, *Mason, John W., House*, 205 W. Vernon Ave.

Fergus Falls, *Webber, E.J., House*, 506 W. Lincoln Ave.

Steele County

Owatonna, *Owatonna Water Works Pumping Station*, W. School St. and Mosher Ave.

MONTANA

Deer Lodge County

Anaconda, *Club Moderne*, 811 E. Park

NEW JERSEY

Burlington County

Lumberton, *Eayres Plantation and Mill Site*, Eayrestown—Red Lion Rd. and East Bella Bridge Rd.

Essex County

Newark, *Belleville Avenue Congregational Church*, 151 Broadway
Newark, *Passaic Machine Works—Watts, Campbell & Co.*, 1270 McCarter Hwy.

Mercer County

Site #1—18th Century Vessel

Passaic County

Paterson, *Great Falls of Paterson and Society for Useful Manufactures Historic District (Boundary Increase)*, 6 Mill St.

Union County

Rahway, *Rahway Theatre*, 1601 Irving St.

NEW YORK

Suffolk County

Flanders, *Benjamin, James, Homestead*, 1182 Flanders Rd.

RHODE ISLAND

Providence County

Johnston, *Eddy Homestead*, 2543 Hartford Ave.
Providence, *Providence Lying-In Hospital*, 50 Maude St.

SOUTH CAROLINA

Fairfield County

Winnsboro vicinity, *Mount Olivet Presbyterian Church (Fairfield County MRA)*, Off SC 200

SOUTH DAKOTA

Codington County

Watertown, *Mount Hope Cemetery Mausoleum*, Mt. Hope Cemetery off US 81

Haakon County

Midland, *Bank of Midland Building*, Main St.

Jackson County

Kadota, *Chicago, Milwaukee, and St. Paul Railroad Depot*, South end of Kadota adjacent to Chicago, Milwaukee, St. Paul, and Pacific RR

McPherson County

Leola, *Hoffman, Amos, House*, SD 10

Minnehaha County

Sioux Falls, *Carpenter Hotel*, 221 S. Phillips Ave.

VERMONT

Windham County

West Townshend, *West Townshend Village Historic District*, Roughly Main St. from Old Rt. 30 to VT 30, and Town Rds. 7, 23, 47, 49, and 50

WASHINGTON

Columbia County

Dayton Vicinity, *Weinhard, Jacob, House (Historic Houses of Dayton TR)*,
Dayton, *Bishop, A. H., House (Historic Houses of Dayton TR)*, 622 E. Richmond
Dayton, *Brining, John, House (Historic Houses of Dayton TR)*, 410 N. First
Dayton, *Dexter House No. 1 (Historic Houses of Dayton TR)*, 515 S. Fourth
Dayton, *Dexter House No. 2 (Historic Houses of Dayton TR)*, 507 N. Third
Dayton, *Flintner, Frank, House (Historic Houses of Dayton TR)*, 214 S. Sixth
Dayton, *Isreal, J. Grover, House (Historic Houses of Dayton TR)*, 305 S. Sixth
Dayton, *Kelley, Mancel, House (Historic Houses of Dayton TR)*, 1301 S. Fifth
Dayton, *Mill House (Historic Houses of Dayton TR)*, 504 N. First
Dayton, *Nilsson, Andrew, House (Historic Houses of Dayton TR)*, 312 E. Patit
Dayton, *Pietrzycki, Dr. Marcel, House (Historic Houses of Dayton TR)*, 415 E. Clay
Dayton, *South Side Historic District House (Historic Houses of Dayton TR)*, Roughly bounded by Clay, Third, Park, and First Sts.
Dayton, *Thronson, J.A., House (Historic Houses of Dayton TR)*, 510 S. Fourth
Dayton, *Washington Street Historic District (Historic Houses of Dayton TR)*, Roughly between Patit Creek and Third St. on Washington St.

Spokane County

Spokane, *Benewah Milk Bottle*, S. 321 Cedar

WISCONSIN

Portage County

Stevens Point, *Mathias Mitchell Public Square—Main Street Historic District*, Roughly Main St. from Strongs Ave. to Second St.

Winnebago County

Menasha, *Menasha US Post Office Building*, 84 Racine St
The review of this nomination, which was received (07/15/86), is being expedited.

NEW YORK

Rensselaer County

Troy, *Central Troy Historic District*, Roughly bounded by Grand St., Fifth Ave., Third, Adams, First, River, and Fulton Sts.

[FR Doc. 86-16810 Filed 7-25-86; 8:45 am]
BILLING CODE 4310-70-M

Potential 1987 U.S. World Heritage Nominations

AGENCY: National Park Service, U.S. Department of the Interior.

ACTION: Notice and request for public comment.

SUMMARY: On April 8, 1986, the Department of the Interior, through the National Park Service, set forth in a public notice the process and schedule that will be used in calendar year 1986 to identify and prepare U.S. nominations to the World Heritage List (51 FR 11986). In addition, the March 4 notice identified the criteria and requirements that U.S. properties must satisfy before nomination for World Heritage status, and solicited public comments and suggestions regarding cultural and natural properties that should be considered as potential U.S. nominations this year. This notice announces and invites comment on the potential 1987 U.S. World Heritage nominations as described below.

In addition, responses to the March 4 notice identified properties which are not presently included on the U.S. Indicative Inventory of Potential Future Nominations to the World Heritage List, normally a prerequisite to consideration for nomination. Due to the lateness of comments received on these properties, the Department will continue to study the properties in question regarding their suitability for possible addition to the U.S. Indicative Inventory. The Federal Interagency Panel for World Heritage will review the properties at its July meeting and will make final recommendations regarding possible additions to the Inventory. Proposed additions to the Inventory will be announced in the **Federal Register** with a request for review and comment.

DATES: Written comments or recommendations regarding any property listed herein as a potential 1987 U.S. World Heritage nomination must be received within 30 days after publication of this notice to ensure full consideration. The final list of proposed 1987 nominations will be selected from among the potential nominations, and will be published in the **Federal Register.** A draft nomination document will be prepared for any property selected as a proposed nomination. In November 1986, the Federal Interagency Panel for World Heritage will review the accuracy, completeness, and suitability of the draft 1987 nomination(s)' documentation and will make recommendations to the Assistant Secretary of the Interior for Fish and Wildlife and Parks. The Assistant Secretary will subsequently transmit any approved nomination(s) on behalf of the United States to the World Heritage Committee Secretariat, through the Department of State, by December 15 for evaluation by the World Heritage Committee in a process that could lead to inscription on the World Heritage List by fall 1987. Notice of transmittal of U.S.

nominations will be published in the **Federal Register.**

Decisions with regard to possible additions to the U.S. Indicative Inventory will be based upon comments received and upon further study and will be announced in the final **Federal Register** notice, as outlined above, of this year's procedure.

ADDRESS: Written comments or recommendations should be sent to the Director, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127. Attention: World Heritage Convention–773.

FOR FURTHER INFORMATION CONTACT: Mr. David G. Wright, Associate Director, Planning and Development, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127, Telephone: (202) 343–6741.

SUPPLEMENTARY INFORMATION: The Convention Concerning Protection of the World Cultural and Natural Heritage, now ratified by the United States and 89 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world.

Participating nations identify and nominate their sites for inclusion on the World Heritage List, which currently includes 216 cultural and natural properties. The World Heritage Committee judges all nominations against established criteria.

Under the Convention, each participating nation assumes responsibilities for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, and rehabilitation of World Heritage properties situated within its borders.

In the United States, the Department of the Interior is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convention in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515; 16 U.S.C. 470a–1, a–2). On May 27, 1982, the Interior Department published in the **Federal Register** the policies and procedures which it uses to carry out this legislative mandate (47 FR 23392). The rules contain additional information on the Convention and its implementation in the United States, and identify the specific requirements that U.S. properties must satisfy before they can be nominated for World Heritage status, i.e., the property must have previously been determined to be of national significance, its owner must concur in writing to its nomination, and its nomination must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment.

The Federal Interagency Panel for World Heritage assists the Department in implementing the Convention by making recommendations on U.S. World Heritage policy, procedures, and nominations. The Panel is chaired by the Assistant Secretary for Fish and Wildlife and Parks, and includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; National Oceanic and Atmospheric Administration, Department of Commerce; Forest Service; Department of Agriculture; the U.S. Information Agency; and the Department of State.

Potential 1987 U.S. World Heritage Nominations

The Department of the Interior, through the National Park Service, has identified the following as potential 1987 U.S. nominations to the World Heritage List. A brief description is provided for each potential nomination, along with the World Heritage criteria that it appears to satisfy. The final list of proposed 1987 U.S. nominations to the World Heritage List will be selected from among the potential nominations included herein. Identification on a property as a potential 1987 nomination does not confer World Heritage status on it. A draft nomination document will be prepared for each property that is ultimately selected as a proposed 1987 nomination. The Department encourages all interested parties to comment and make recommendations on the potential nominations, as these comments and additional evaluation will serve as the basis for identifying proposed 1987 nominations.

The following have been identified as potential 1987 U.S. World Heritage nominations:

I. Cultural Properties

Architecture: Early United States

Monticello, Charlottesville, Virginia. (38°0′N; 78°30′W). Thomas Jefferson, the third American President, was a great architect who practiced the Classic Revival style. In Monticello, his mansion, he combined elements of Roman, Palladian, and 18th century French design with features expressing his extraordinary personal inventiveness. Criteria: (i) A unique artistic achievement, a masterpiece of the creative genius; and (ii) has exerted great influence, over a span of time and within a cultural area of the world, on development in architecture.

University of Virginia Historic District, Charlottesville, Virginia. (38°0′N; 78°30′W). Includes original classrooms and professors' quarters housed in pavilions aligned on both sides of an elongated terraced court, as well as the domed Rotunda, a scaled-down version of the Pantheon. This building was the focal point of Thomas Jefferson's design. Jefferson envisioned a community of scholars living and studying in an architecturally unified complex of buildings. Criteria: (i) A unique artistic achievement, a masterpiece of the creative genius; and (ii) has exerted great influence, over a span of time and within a cultural area of the world, on developments in architecture.

Hawaiian

Pu'uhonua Honaunau National Historical Park, Hawaii. (19°25′N; 155°33′W). This area (formerly known as City of Refuge National Historical Park) includes sacred ground where vanquished Hawaiian warriors, noncombatants, and kapu breakers were granted refuge from secular authority. Prehistoric housesites, royal fishponds, and spectacular shore scenery are features of the park. Criteria: (v) An outstanding example of a traditional human settlement which is a representative of a culture which has become vulnerable under the impact of irreversible change, and (vi) associated with an ideal of universal significance.

Dated: July 9, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–16811 Filed 7–25–86; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-177]

Negotiated Motor Common Carrier Rates

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time to file replies to petition to reopen.

SUMMARY: On July 3, 1986, the National Merchants Association (NRMA) filed a petition (not published) requesting a 14-day extension of time to reply to a Petition to Reopen filed by Carrier Credit & Collection (CCC). CCC requested reopening for the Commission to reconsider its decision to adopt the policy statement announced at a voting conference held on May 8, 1986, in light of the recent Supreme Court decision in *Square D. Co.* v. *Niagara Frontier Tariff Bureau*, 106 S. Ct. 1922 (1986). Because of the importance of the issues involved and the need for NRMA to consult with its members, an extension was warranted.

DATES: Replies to Carrier Credit & Collection's Petition to Reopen were due by July 16, 1986.

FOR FURTHER INFORMATION CONTACT:

Leonard L. Arnaiz, (202) 275-7831

or

Louis E. Gitomer, (202) 275-7691.

By the Commission, J. J. Simmons, III, Acting Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 86-16903 Filed 7-25-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30868]

Union Pacific Railroad Co.—Trackage Rights—Burlington Northern Railroad Co.; Notice of exemption

Burlington Northern Railroad Company has agreed to grant overhead trackage rights to Union Pacific Railroad Company at Lincoln, NE. The trackage rights will be effective on July 15, 1986.

As a condition to use of this exemption any employee affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rigths—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: July 15, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-16904 Filed 7-25-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Judgment Pursuant to Clean Water Act; Independent Plating Co., Inc., et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 8, 1986, a proposed consent judgment in *United States v. Independent Plating Company, Inc. and Worcester Manufacturing, Inc.*, Civil Action No. 86-2022-N, was lodged with the United States District Court for the District of Massachusetts. The proposed consent judgment requires Independent Plating Company, Inc. ("Independent Plating") to pay a civil penalty of $75,000 for past violations of the national categorical pretreatment standards for the electroplating point source category and associated reporting requirements. The consent judgment also requires Worcester Manufacturing, Inc. ("Worcester"), which purchased Independent Plating's facility in Worcester, Massachusetts, to comply with a monitoring program to assure that the pretreatment equipment Worcester has installed achieves and maintains compliance with the pretreatment regulations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resorces Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Independent Plating Company, Inc., et al.*, D.J. Ref. 90-5-1-1-2599.

The proposed consent judgment may be examined at the office of the United States Attorney, District of Massachusetts, 1107 John W. McCormack, Post Office and Courthouse, Boston, Massachusetts 02109, at the Region I office of the Environmental Protection Agency, John F. Kennedy Federal Building, Rm. 2203, Boston, Massachusetts 02203, and at the Department of Justice Environmental Enforcement Section, Land and Resources Division, Room 1515, Ninth Street and Pennsylvania Avenue NW, Washington, DC 20530. A copy of the proposed consent judgment 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 refer to *United States v. Independent Plating Company, Inc., et al.*, D.J. Ref. 90-5-1-1-2599 and include a check in the amount of $2.00 ($.10 per page reproduction charge) payable to the United States Treasury.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-16850 Filed 7-25-86 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-86-75-C]

H&B Coal Co., Inc.; Petition For Modification of Application of Mandatory Safety Standard

H&B Coal Company, Inc., P.O. Box 6, Regina, Kentucky 41559, has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-06807) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mining height ranges from 41 to 48 inches, with consistent ascending and descending grades creating dips in the coal bed.

3. Petitioner states that the use of a canopy on the mine's equipment would result in a diminution of safety to the miners affected because the canopy would limit the operator's visibility.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 27, 1986. Copies of the petition are available for inspection at that address.

Dated: July 18, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-16908 Filed 7-25-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-77-C]

Kymcoal, Inc. Petition For Modification of Application of Mandatory Safety Standard

Kymcoal, Inc., Box 409, Moxahala, Ohio 43761 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment) to its Kymcoal No. 2 Mine (I.D. No. 33-04027) located in Gallia County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 27, 1986. Copies of the petition are available for inspection at that address.

Dated: July 18, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-16909 Filed 7-25-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-91-C]

R&K Coal Co.; Petition For Modification of Application of Mandatory Safety Standard

R&K Coal Company, P.O. Box 45, Gordon, Pennsylvania 17936 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its Buck Mountain Slope (I.D. No. 36-01889) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic couplers be installed on the mine's electric face equipment.

2. Petitioner states that due to the thinness of the coal seam and the waviness of the bottom, automatic couplers would restrict the movement of the mine cars, making it difficult to make turns.

3. As an alternate method, petitioner proposes to use a chain and hook on top of the buggie to couple and uncouple the mine cars.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 27, 1986. Copies of the petition are available for inspection at that address.

Dated: July 18, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-16910 Filed 7-25-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-106-C]

12 Vein Coal Co.; Petition For Modification of Application of Mandatory Safety Standard

The 12 Vein Coal Company, R.D. #1, Box 366, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its 12 Vein Slope (I.D. No. 36-07773) located in Northumberland County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed it would be activated on knuckles and curves, when no emergency existed, and cause a tumbling effect on the conveyance which would increase rather than decrease the hazard to the miners.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 27, 1986. Copies of the petition are available for inspection at that address.

Dated: July 18, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-16911 Filed 7-25-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-86-C]

Viking Coal Company, Inc.; Petition For Modification of Application of Mandatory Safety Standard

Viking Coal Company, Inc., P.O. Box 586, Kingwood, West Viriginia 26537 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment) to its South Fork Mine (I.D. No. 46-06859) located in Preston County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a metal bracket and a metal locking device (harness snap) in lieu of padlocks. The metal locking device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In additon, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 27, 1986. Copies of the petition are available for inspection at that address.

Dated: July 18, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-16912 Filed 7-25-86; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice .

SUMMARY: The National Endownment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted by August 13, 1986.

ADDRESS: Send comments to Ms. Judy McIntosh, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503; (202-395-6880). In addition, copies of such comment may be sent to Ms. Marianna Dunn, National Endowment for the Arts, Administrative Service Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5464).

FOR FURTHER INFORMATION CONTACT: Ms. Marianna Dunn, National Endowment for the Arts, Administrative Service Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5464) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the reinstatement of two previously approved collections for which approval has expired, and approved for a new collection. Each entry is issued by the Endowment and contains the following information: (1) The title of the form; (2) the OMB number, if applicable; (3) how often the required information must be reported; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to prepare the form. These entries are not subject to 44 U.S.C. 3504(h).

Title: Expansion Arts Application Guidelines FY 1988

OMB Number: 3135-0048.
Purpose: Application for benefits.
Frequency of Collection: One-time.
Respondents: Non-profit institutions.
Use: Guideline instructions and applications elicit relevant information from non-profit organization that apply for funding under specific Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.
Estimated Number of Respondents: 473
Estimated Hours for Respondents to Provide Information: 10,170

Title: Expansion Arts—Dance Organizational Development Pilot Application Guideline

OMB Number: N/A.
Purpose: Application for benefits.
Frequency of Collection: One-time.
Respondents: Non-profit institutions.
Use: Guideline instructions and applications elicit relevant information from nonprofit organizations that apply for funding under specific Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.
Estimated Number of Repondents: 20
Estimated Hours for Respondents to Provide Information: 800

Title: Museums Application Guidelines FY 1988

OMB Number: 3135-0053.
Purpose: Application for benefits.
Frequency of Collection: Average of 1.75 per year.
Respondents: Individuals, state or local governments, and non-profit institutions.
Use: Guideline instructions and applications elicit relevant information from nonprofit organizations, and state or local arts agencies that apply for funding under specific Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.
Estimated Number of Repondents: 748
Estimated Hours for Respondents to Provide Information: 22,331

Murray R. Welsh,

Director, Administrative Service Division, National Endowment for the Arts.

[FR Doc. 86-16919 Filed 7-25-86; 8:45 am]

BILLING CODE 7537-01-M

National Endowment on the Arts

Music 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 Music Advisory Panel (Chamber Music/New Music Presenters Section) to the National Council on the Arts will be held on August 13–14, 1986 from 9:00 a.m.–6:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania 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.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

July 22, 1986.

[FR Doc. 86–16851 Filed 7–25–86; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reaction Safeguards Subcommittee on Maintenance Practices and Procedures; Meeting

The ACRS Subcommittee on Maintenance Practices and Procedures will hold a meeting on August 13, 1986, Room 1046, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, August 13, 1986—1:00 P.M. until the conclusion of business

The Subcommittee will review the report on Phase I of Maintenance Program Plan.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statement will be acepted and made available to the Committee. 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 Subcommittee, its consultants, and Staff. Person desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

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 therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634–1414) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 22, 1986.

Morton W. Libarking,

Assistant Executive Director for Project Review.

[FR Doc. 86–16897 Filed 7–25–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–341]

Detroit Edison Co., Wolverine Power Supply Cooperative, Inc., Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of General Design Criterion 56 of Appendix A to 10 CFR Part 50 to the Detroit Edison Company (DECo or licensee), holder of Facility Operating License No. NPR–43 which authorizes operation of the Fermi-2 facility. The facility is a boiling water reactor and is located in Monroe County, Michigan.

Environmental Assessment

Identification of the Proposed Action

The exemption would allow, for a limited period, a single penetration of the containment to have two isolation valves outside containment rather than one valve inside and one valve outside as required by General Design Criterion (GDC) 56 of Appendix A to 10 CFR Part 50. This exemption would extend only until the first scheduled refueling outage. The exemption is in accordance with the licensee's request dated December 31, 1985.

The Need for the Proposed Action

The exemption is needed to permit restart of the Fermi-2 facility from its present outage. The licensee estimates that it will be prepared to restart the facility by about the end of July 1986. However, the time required to design, procure and install the long-term modifications required to achieve compliance with GDC 56, would extend past the estimated restart date.

Environmental Impact of the Proposed Action

The increment of environmental impact is related to the potentially increased consequences of the leakage from the containment to the atmosphere in the event of an accident which damaged the fuel and pressurized the containment. However, the applicable requirements for isolation valves on lines penetrating containment require two valves on these lines; i.e., one valve inside and one valve outside containment. The licensee has committed to modify its existing design to comply with this requirement at the first scheduled refueling outage. The environmental impact, if any, would occur only during this interim period; i.e., within 1½ to 2 years from the present. For this interim period, the licensee has proposed a modification which consists of two automatic valves outside containment which are actuated by diverse signals. These valves were procured and installed to quality assurance criteria for safety-related components, are installed in accordance with seismic Category I criteria and will be closed by springs in the event of loss of power. Based on these considerations, the NRC staff has determined that the proposed interim

modifications should provide the same level of leakage control as that required by GDC 56. Considering that the previous design consisted of only one check valve, the NRC staff concludes that the potential leakage past either the two valves in the interim modification or the two valves in the long-term resolution will be lower than that which could occur past the single check valve. In either of these two configurations, the installation of two valves in series on the line penetrating containment will serve to minimize leakage from containment.

With regard to potential non-radiological impact, the proposed exemption involves systems located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents. Therefore, the Commission concludes there are no significant adverse non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Because the staff has concluded that there is no measurable environmental impact associated with the exemption, any alternative to the exemption will have either no impact or a greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of plant operation. Further, without the requested exemption, considerable delay will be incurred to design, procure and install the long-term modification (i.e., one valve inside and one valve outside containment) and would delay the restart of the facility which is presently shutdown. This delay would impose a significant economic impact on the facility without the benefit of any significant increase in safety.

Alternative Use of Resources

The action in the granting of this exemption does not involve the use of resources not previously considered in connection with the "Final Environmental Statement related to the Operation of Enrico Fermi Atomic Power Plant, Unit No. 2," (NUREG–0769) dated August 1981.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request which supports the requested exemption. The NRC staff did not consult other agencies or persons.

Finding of no significant impact

The Commission has determined not to prepare an environmental impact statement for the requested exemption.

Based upon the foregoing environmental assessment, we concluded that the requested action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for the exemption, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, BWR Project Directorate No. 3, Division of BWR Licensing.

[FR Doc. 86–16998 Filed 7–25–86; 8:45 am]

BILLING CODE 7590–01–M

[License No. SNM–1967; Docket No. 70–3040

Georgia Power Co. et al., Burke County, GA; Finding of No Significant Impact Issuance of Special Nuclear Material

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of Special Nuclear Material License No SNM–1967 to the Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the applicants) for the Vogtle Electric Generating Plant, Unit 1, located in Burke County, Georgia.

Environmental Assessment

Identification of Proposed Action

The proposed action would authorize the applicants to receive, possess, inspect, and store special nuclear materials in the form of unirradiated fuel assemblies. In addition, the license would authorize the applicants to receive, possess, inspect, and use fission chambers containing enriched U–235. Because the fission chambers are sealed and contain only small amounts (gram quantities) of nuclear material, storage and use of these materials will pose no threat to the environment. Therefore, the discussion below will be limited to assessing the potential for environmental impacts resulting from the handling and the storage of new fuel at Vogtle, Unit 1.

The Need for the Proposed Action

The proposed license will allow the applicants to receive and store fresh fuel prior to issuance of the Part 50 operating license in order to inspect the fuel and to finalize fuel preparation needed to load the fuel into the reactor vessel. Actual core loading, however, will not be authorized by the proposed license.

Environmental Impacts of the Proposed Action

Once at Vogtle, Unit 1, the new fuel may be temporarily stored in their shipping containers prior to placement in their designated storage locations: the new fuel storage racks and the spent fuel storage racks located in the Fuel Handling Building. No more than 40 loaded shipping containers will be temporarily stored at one time in the receiving area of the Auxiliary Building. The staff has concluded that the safety factor is adequate for temporary storage.

Upon removal of the fuel assemblies from the shipping containers, they are inspected and surveyed for external contamination. The fuel is then transferred to their designated location. Criticality safety in the storage locations maintained by limiting interaction between adjacent fuel assemblies. The staff has evaluated the new fuel area and the spent fuel pool and found both to be critically safe for all conditions of water moderation and/or reflection. In addition, the design of these storage locations, combined with plant procedures, will ensure acceptable protection of the general public and plant personnel either under normal or abnormal conditions.

Since the fresh fuel assemblies are sealed sources, the principal exposure pathway to an individual is via external radiation. For a low-enriched uranium fuel bundle (<4 percent U–235 enrichment), the exposure rate at 1 foot from the surface is normally less than 1 mr/hr; therefore, it is estimated that the exposure level to an individual from unirradiated fuel would be less than 25 percent of the maximum permissible exposure specified in 10 CFR Part 20. Because of the low radiation exposure levels associated with the requested materials and activities and GP's radiation protection procedures, the staff concludes that fuel handling and storage activities can be carried out without any significant radiological impact to the environment.

Only a small amount, if any, of radioactive waste (e.g., smear papers and/or contaminated packing material) is expected to be generated during fuel handling and storage operations. Any waste that is produced will be properly stored onsite until in can be shipped to a licensed disposal facility.

The applicant has not requested permission to transport assemblies, however, in the event the assemblies must be returned to the fuel fabricator,

all packaging and transport of fuel will be in accordance with 10 CFR Part 71. The package will meet NRC approval requirements for normal conditions of transport and hypothetical accident conditions. No significant external radiation hazards are associated with the unirradiated assemblies because the radiation level from the clad fuel pellets is low and because the shipping packages must meet the external radiation standards in 10 CFR Part 71. Therefore, any shipment of unirradiated fuel by the applicant or any other authorized party is expected to have an insignificant environmental impact.

In the unlikely event that an assembly (either within or outside its shipping container) is dropped during transfer, fuel cladding is not expected to rupture. Even if the cladding were breached and the pellets were released, an insignificant environmental impact would result. The fuel pellets are composed of a ceramic UO_2 that has been pelletized and sintered to a very high density. In this form, release of UO_2 aerosol is highly unlikely except under conditions of deliberate grinding. Additionally, UO_2 is soluble only in acid solution so dissolution and release to the environment are extremely unlikely.

Conclusion

The environmental impacts associated with the handling and storage of new fuel at Vogtle, Unit 1, are expected to be insignificant. Essentially no effluents, liquid or airborne, will be released and acceptable controls will be implemented to prevent a radiological accident. Therefore, the staff concludes that there will be no significant impacts associated with the proposed action.

Alternatives to the Proposed Action

The principal alternative would be to deny the requested license. Assuming the operating license will eventually be issued, denial of the storage only license would merely postpone new fuel receipt at Vogtle, Unit 1. Although denial of the Special Nuclear Material License for Vogtle, Unit 1, is an alternative available to the Commission, it would be considered only if significant issues of public health and safety could not be resolved to the satisfaction of regulatory authorities involved.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Commission's Final Environmental Statement (NUREG–1087) dated March 1985 related to this facility.

Agencies and Persons Consulted

The Commission's staff reviewed the applicant's request of March 7, 1986, and its supplements dated May 14, June 20, and June 30, 1986, and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment related to the issuance of Special Nuclear Materials License No. SNM–1967. On the basis of this assessment, the Commission has concluded that environmental impacts created by the proposed licensing action would not be significant and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The Environmental Assessment and the above documents related to this proposed action are available for public inspection and copying at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of the Environmental Assessment may be obtained by calling (301) 427–4510 or by writing to the Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Silver Spring, Maryland, this 16th day of July 1986.

For The Nuclear Regulatory Commission.

W.T. Crow,

Acting Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 86–16896 Filed 7–25–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–336]

Northeast Nuclear Energy Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–65 issued to Northeast Nuclear Energy Company et al. (the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 2, located in New London County, Connecticut.

The proposed license amendment would provide Technical Specifications applicable to the storage of consolidated spent fuel at Millstone Unit No. 2. The fuel would be consolidated by removing individual fuel pins from the framework of the fuel assembly used in plant operation and installing them into a storage assembly which has closer spacing between pins. The actual consolidation of spent fuel has not been addressed by the licensee and thus, it is not under consideration at this time.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By August 27, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference

scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, is authorized to use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 (October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, Subpart G continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Ashok C. Thadani: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding office or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 21, 1986 which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06103.

Dated at Bethesda, Maryland, this 23rd day of July.

For The Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Director, PWR Project Directorate #8 Division of PWR Licensing-B.

[FR Doc. 86–16894 Filed 7–25–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–142]

The University of California, Los Angeles (UCLA Research Reactor); Order Authorizing Dismantling of Facility and Disposition of Component Parts

By application dated October 29, 1985, as supplemented, the University of California at Los Angeles (UCLA) requested authorization to dismantle the UCLA Argonaut Reactor Facility, located on its campus in Los Angeles, California and to dispose of the component parts, in accordance with the plan submitted as part of the application. Based upon a prior notice to dismantle and dispose of the component parts, a "Notice of Proposed Issuance of Order Authorizing Disposition of Component Parts of Terminating Facility License" was published in the **Federal Register** on September 24, 1984 at 49 FR 37484. Following hearings and stipulations by the parties involved, an Order was issued on November 8, 1985, by the Atomic Safety and Licensing Board that terminated UCLA License R–71 and authorized UCLA to possess-but-not-operate the facility.

The Nuclear Regulatory Commission (the Commission) has reviewed the October 29, 1985 application in accordance with the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts in accordance with UCLA's dismantling plan will be in accordance with the regulations in 10 CFR Chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis of these findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an Environmental Assessment, dated July

14, 1986, for the proposed action. Based on that Assessment, the Commission has determined that the proposed action will not result in any significant environmental impact and that an Environmental Impact Statement need not be prepared.

Accordingly, UCLA is hereby ordered to dismantle the Argonaut reactor facility and dispose of the component parts in accordance with Phase I of its dismantling plan and the Commission's rules and regulations.

After completion of Phase I, UCLA will submit a report on the radiation survey it will perform and the Plan for Phase II of the dismantling and decomissioning plan for review by the NRC staff.

For further details with respect to this action, see (1) the UCLA application for authorization to dismantle the facility and dispose of component parts dated October 29, 1985, as supplemented, (2) the Commission's related Safety Evaluation, and (3) the Environmental Assessment. The items are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, DC. Copies of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing-B.

Dated at Bethesda, Maryland, this 14th day of July 1986.

For the Nuclear Regulatory Commission

Frank J. Miraglia,

Director, Division of PWR Licensing-B.

FR Doc. 86-16895 Filed 7-25-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Information Collection for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of information collection from the public submitted to OMB for clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), we are announcing our proposal to replace Optional Forms 49, 50, and 51 with new forms that collect information from the public. This substitution is necessary because of conversion from manual processing to optical scanning. After we produce these forms in a format suitable for optical scanning technology, we will use them to conduct the written portion of OPM-conducted investigations, as required under Executive Order 10450, Executive Order 10577 (5 CFR Part 5), 5 U.S.C. 3301, and various other public laws. Even though we will be using the new forms in lieu of three Governmentwide inquiry forms we currently use, the current forms will continue to be available for use by other agencies. The four new forms will be—

OFI Form 41: Investigative Request for Employment Data and Supervisor Information

OFI Form 42: Investigative Request for Personal Information

OFI Form 43: Investigative Request for Educational Registrar and Dean of Students Record Data

OFI Form 44: Investigative Request for Law Enforcement Data

For copies of the proposal, call James M. Farron, Agency Clearance Officer, on (202) 632-7714.

DATES: Comments on these proposals should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

James M. Farron, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Rm. 6410, Washington, DC 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Rm. 3235, New Executive Office Building, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: James M. Farron, (202) 632-7714.

Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86-16808 Filed 7-25-86; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-24154; 70-6622]

Wisconsin Energy Corp. (Formerly WEPCO, Inc.); Application For Approval of Proposed Acquisition of Utility Securities and For Exemption of Holding Company

July 21, 1986.

Wisconsin energy Corporation ("WEC"), 231 West Michigan Street, Milwaukee, Wisconsin 53201, has filed an amended and restated application pursuant to sections 3(a)(1), 9(a)(2) and 10 of the Public Utility Holding Company Act of 1934 ("Act") requesting an order (1) approving its proposed acquisition of all of the outstanding common stock of the Wisconsin Electric Power Company ("Wisconsin Electric"), and of Wisconsin Electric's wholly-owned subsidiary, the Wisconsin Natural Gas Company ("WNG "); and (2) exempting it, upon consummation of the restructuring proposed in the application from all provisions of the Act except section 9(a)(2).

WEC is wholly-owned, inactive subsidiary of Wisconsin Electric that was incorporated in Wisconsin on June 26, 1981 under the name WEPCO, Inc., and changed its name to Wisconsin Energy Corporation on July 24, 1981. WEC owns all of the outstanding common stock of WEPCO Acquisitions, Inc., ("Acquisitions"), a Wisconsin corporation created for the purchase of effecting the merger referred to below. Wisconsin Electric is an electric utility company that is also a holding company by virtue of its ownership of all of the outstanding common stock of WNG, a gas utility company as defined in section 2(a)(4) of the Act. Wisconsin Electric is an exempt holding company under section 3(a)(2) of the Act pursuant to an order issued on June 3, 1955 (HCAR No. 12971). A notice of the present application was first issued on August 19, 1981 (HCAR No. 22165).

Wisconsin Electric is an electric utility company engaged in the generation, transmission, distribution and sale of electric energy in a territory of approximately 12,600 square miles with a population of over 2,000,000 in southeastern, east central and northern Wisconsin and in the Upper Peninsula of Michigan. It also distributes and sells steam to certain customers in Milwaukee, Wisconsin. On December 31, 1985, Wisconsin Electric's gross electric utility plant, excluding construction work in progress and nuclear fuel, was $2,756,151,000 and for the twelve months then ended its electric operating revenue were $1,086,192,000. WNG is a gas utility company engaged in the purchase, distribution and sale of natural gas to retail customers in an area located west and south of Milwaukee and in the area of Appleton, Wisconsin. On December 31, 1985, WNG's gross gas utility plant was $261,598,000 and for the year then ended its gas operating revenue were $342,596,000.

WEC proposes to acquire all the outstanding shares of common stock of Wisconsin Electric pursuant to an Agreement and Plan of Restructuring ("Agreement"). The Agreement provides that Acquisitions will be merged into Wisconsin Electric, with Wisconsin Electric surviving. By the terms of the merger, (i) all shares of common stock of

Wisconsin Electric outstanding immediately prior to the merger will be converted on a share-for-share basis upon the merger into outstanding shares of common stock of the Company, (ii) all shares of Acquisitions outstanding immediately prior to the merger will be converted upon the merger into a number of shares of common stock of Wisconsin Electric equal to the number of shares of common stock of WEC issued as contemplated in clause (i) above, and (iii) each share of common stock of WEC outstanding immediately prior to the merge will, upon the merger, cease to be outstanding. As a result of the merger, therefore, all current holders of common stock of Wisconsin Electric will become stockholders of WEC, which will own all of the outstanding common stock of Wisconsin Electric. Upon effectiveness of the merger, all outstanding shares of common stock of WNG and of five non-utility subsidiaries will be transferred from Wisconsin Electric to the Company as a result of payment of a non-cash dividend from Wisconsin Electric to WEC.

Following the restructuring, Wisconsin Electric and WNG will continue their utility operations. All bonds, debentures and perferred stock of Wisconsin Electric and WNG outstanding, immediately prior to the effective date of the restructuring will continue outstanding as securities of the respective companies. Following the restructuring, WEC will become a reporting company under the Securities Exchange Act of 1934, and Wisconsin Electric and WNG will remain reporting companies under the Act. WEC's common stock, in succession to Wisconsin Electric's common stock, will be listed on the New York Stock Exchange.

WEC is not now a holding company under the Act; and it does not intend to register as such following the proposed restructuring. WEC asserts that it will be entitled to an exemption under section 3(a)(1) on the basis that it and its public utility subsidiaries "are predominanting intrastate in character and carry on their business substantially in a single state in which such holding company and every such subsidiary thereof are organized."

The estimated fees, commissions and expenses to e incurred in connection with the proposed restructing total $840,000. According to the application, the Public Service Commission ofWisconsin hasa jurisdiction over the proposed restructuring; and that no other state commission, and no federal commission other than this Commission under the Act, has jurisdiction thereover.

The application and any amendments thereto are avaialble for public inspection through the Commisison's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 18, 1986 to the Secretary, Securities and Exchange Commission,Washington, DC 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact and law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-16901 Filed 7-25-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23451; File Nos. SR-MCC-86-5 and SR-MSTC-86-4]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corporation and Midwest Securities Trust Company Relating to Enhancements to Book-Entry Securities Deliveries

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 20, 1986, the Midwest Clearing Corporation ("MCC") and Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organizations. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit A is a Bulletin and Procedures describing enhancements to book-entry security deliveries.

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filings with the Commission, the self-regulatory organizations included statements concerning the purposes of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organizations have prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

MCC and MSTC will add enhancements to their book-entry securities processing in August, 1986. Participants will be able to more specifically identify delivered securities through the use of an enhanced format. The MCC and MSTC System will process transactions more frequently: the System's five daily computer passes will be increased to twelve passes. Moreover, cut-off times for various deliveries will be modified and standardized among the depositories.

The proposed rule changes are consistent with the Securities Exchange Act of 1934 in that they provide for the prompt and accurate clearance and settlement of securities transactions. The proposed rule changes will facilitate automated securities delivery by utilizing improved technology, thus assisting the establishment of a national system for securities clearance and settlement.

(B) Self-Regulatory Organizations' Statement on Burden on Competition

The MCC and MSTC do not believe that any burdens will be placed on competition as a result of the proposed rule changes.

(C) Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The foregoing rule changes have become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of

such proposed rule change, the Commission may summarily abrogate such 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 Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organizations. All submissions should refer to the file number in the caption above and should be submitted by August 18, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 21, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-16699 Filed 7-25-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23452; File No. SR-OCC-86-14]

Self-Regulatory Organizations; Options Clearing Corporation; Notice of Proposed Rule Change

On July 14, 1986, the Options Clearing Corporation ("OCC") filed a proposed rule change with the Commission under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The proposal modifies OCC Rules to enable a Clearing Member of OCC that is also a Clearing Member of the Intermarket Clearing Corporation ("ICC") (a "Joint Clearing Member") to combine or "cross-net" its settlement obligations in respect of foreign currency options with its settlement obligations in respect of foreign currency futures contracts that are cleared by ICC subject to the jurisdiction of the Commodity Futures Trading Commission (the "CFTC").[1] The Commission is publishing this Notice to solicit comment.

I. Description of the Proposal

The proposed rule change adds new definitions to Article XV of OCC's By-Laws dealing with foreign currency options and amends OCC Rules 1604, 1605 and 1606 to provide for and accommodate cross-netting of foreign currency options and futures settlement obligations. It also sets forth a proposed agreement between OCC and ICC which sets out the rights and obligations of each clearing organization with respect to the contracts that it clears.

In addition to the terms "ICC" and "Joint Clearing Member" as defined above, Article XV defines the terms "ICC Future" and "Designated Clearing Organization." An ICC Future is a foreign currency futures contract cleared by ICC subject to the jurisdiction of the CFTC; Designated Clearing Organization means either OCC or ICC, whichever has been selected by the Joint Clearing Member for settlement of foreign currency delivery obligations.

The proposal also amends Rule 1604(a) to provide that the exercise settlement date for foreign currency options shall be the third foreign business day following the business day after the day on which an exercise notice with respect to such option was tendered to OCC. New clause (4) of OCC Rule 1605(a) provides that, with respect to options exercises settling on a date that is also a delivery date for ICC Futures on the same foreign currency,[2] a Joint Clearing Member can elect to have its foreign currency options settlement obligations with respect to a particular foreign currency combined ("cross-netted") with its ICC Futures settlement obligations with respect to the same foreign currency, to arrive at net deliver/receive or collect/pay obligations in that foreign currency against U.S. dollars. Thus, a Joint Clearing Member's obligation to deliver or receive each foreign currency in settlement of foreign currency futures contracts would be netted with its obligation to deliver or receive foreign currency in settlement of foreign currency options to obtain a single net amount of each foreign currency to be delivered or received and a single net settlement amount in U.S. currency to be collected or paid by the Joint Clearing Member.

Currently, on the business day immediately following the day on which a foreign currency option exercise notice is received by OCC, OCC will net the settlement obligations of each Foreign Currency Clearing Member to the extent that such Clearing Member would be both a deliverer and a receiver of foreign currency option contracts of the same type, covering the same unit of trading of the same foreign currency, and having the same exercise price.[3] The settlement obligations of each Foreign Currency Clearing Member are further netted to the extent that the Clearing Member would be both a deliverer and receiver of foreign currency options contracts covering the same foreign currency regardless of type of option, unit of trading and exercise price.[4] Under the proposal, a Joint Clearing Member could elect to have its settlement obligations further netted against its ICC Futures settlement obligations in the same foreign currency.

New paragraph (c) of Rule 1605 provides the mechanics of cross-net settlements and the rights and obligations of Joint Clearing Members that elect cross-net settlements. A Joint Clearing Member can elect to have its settlement obligations cross-netted by submitting a written notice of election to OCC designating either OCC or ICC to act as its Designated Clearing Organization for settlement purposes.[5] This section would require the Joint Clearing Member to deposit margin with its Designated Clearing Organization with respect to settlements subject to the cross-netting provisions and would clarify that all settlements must comply with the rules of the Designated Clearing Organization.[6]

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[1] ICC is a commodity clearing organization wholly-owned by OCC. ICC has filed a corresponding rule change with the CFTC.

[2] Delivery dates for futures contracts ordinarily coincide with the exercise settlement dates for foreign currency options that are exercised either on the expiration date for such options or on the Thursday preceding the expiration date.

[3] The netting is performed in the following sequence: (i) within each account, (ii) customers' account against Market-Maker's account, (iii) customers' account against firm account, (iv) Market-Maker's account against firm account.

[4] Again, the netting is performed in the same sequence, but at this point, puts are netted against calls.

[5] OCC and ICC will specify the form of written election required. Such election can be revoked by the Joint Clearing Member upon supplying 10 days' written notice to both OCC and ICC.

[6] Thus, if a Joint Clearing Member defaults in its obligations to its Designated Clearing Organization, the organization will have the remedies provided in its rules.

OCC Rule 1605(c) also would provide that if ICC, as Designated Clearing Organization, fails to make settlement with a Joint Clearing Member, OCC will remain obligated to make settlement with that Clearing Member with respect to option exercises and assignments but not with respect to ICC Futures. If a Joint Clearing Member is suspended or defaults in its obligations to OCC at or prior to settlement time for foreign currency option contracts, any cross-netting against ICC Futures will be revoked and settlement will be in accordance with OCC By-Laws and Rules. Moreover, Rule 1605(c) provides that a joint Clearing Member will be liable to OCC for any loss resulting from a default in its obligations to make settlement, and such default may result in application of the Clearing Member's Clearing Fund contribution to discharge the obligation.

The proposal also amends Rule 1606(a) to provide that settlement obligations of a Clearing Member that has netted out pursuant to Rule 1605(a) (2), (3), or (4) will be deemed discharged at settlement time on the third business day following the last day of trading prior to delivery date. Remaining obligations to deliver foreign currencies or pay the settlement amount would be deemed discharged at the time delivery or payment is completed.

The proposal also includes a draft "Mutual Agency Agreement" between OCC and ICC. Among other things, the agreement provides that ICC and OCC will act as agent for the other in effecting cross-net settlement of OCC options or ICC Futures exercises under the proposed rule change. For settlement purposes, each clearing organization, when acting as a Designated Clearing Organization for a Joint Clearing Member, agrees to deliver to or receive from the other the full amount of each foreign currency that would have been delivered to or received from the Joint Clearing Member by the other clearing organization if no cross-netting had occurred. Thus, the clearing organizations end up in the same position as if no netting had occurred.

The agreement further provides that if a Joint Clearing Member defaults in its obligations to either clearing organization before that clearing organization has released the margin it holds for the Joint Clearing Member's unnetted settlement obligations, any cross-netting will be revoked. If default occurs after the cross-netting has been performed and margin for unnetted positions has been released, the agreement provides that any loss suffered by the Designated Clearing Organization with respect to foreign currency settlements effected as agent for the other will be for the account of the other clearing organization and will be paid by the Designated Clearing Organization upon demand. However, where a Joint Clearing Member has been suspended by the Designated Clearing Organization, the agreement would require the Designated Clearing Organization to apply any margin it holds from the Joint Clearing Member with respect to cross-netted transactions and would reduce the other clearing organization's liability by that amount. In that case, the agreement would permit the other clearing organization to retain its claim against the Joint Clearing Member and to satisfy that claim by charging the Member's Clearing Fund as if no cross-netting has occurred.

The agreement also provides that OCC and ICC each agree to indemnify the other against losses incurred as a consquence of any claim or action against it in its capacity as Designated Clearing Organization arising out of the clearing activities of the other. Finally, OCC and ICC agree that the agreement shall remain in force for one year and shall be automatically renewable thereafter. The agreement can be terminated by: (i) Either party giving written notice 90 days prior to the expiration of one year period; (ii) by either party notifying the other 30 days after an uncured default where the aggrieved party has given notice of the default to the defaulting party; or (iii) by written notice to the other where the other has been adjudicated insolvent or bankrupt, has had a receiver appointed or has executed an assignment for the benefit of creditors.

II. OCC's Rationale for the Proposal

OCC believes that the proposed rule change is consistent with Section 17A of the Act because cross-netting options and futures settlement obligations will reduce foreign currency settlements, thereby facilitating the prompt and accurate clearance and settlement of securities transactions. Moreover, OCC believes that the proposal is consistent with its obligation to safeguard securities and funds because the rights and obligations of each clearing organization, with respect to the contracts that it clears, remain unaffected by the cross-netting procedures.

III. Request for Comments

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it 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 by order approve such proposed change or institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW, Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number in the caption above and should be submitted by August 18, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: July 22, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-16900 Filed 7-25-86; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; Notice of Review of Petitions, Public Hearings, and List of Articles To Be Sent to the U.S. International Trade Commission (USITC) for Review

Correction

In FR Doc. 86-16253 beginning on page 26088 in the issue of Friday, July 18, 1986, make the following correction:

In Annex I, appearing on pages 26090-26092, some of the information appeared in the wrong columns of the table. Annex I is corrected to read as follows:

ANNEX I.—PETITIONS ACCEPTED FOR REVIEW

[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration]

Case No.	TSUS or TSUSA [1] item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences	
		Other edible nuts, shelled or not shelled, blanched or otherwise prepared or preserved:	
		Not shelled:	
86-1	145.18	Filberts	Government of Turkey.
		Shelled, blanched, or otherwise prepared or preserved:	
86-2	145.46	Filberts	Do.
86-3	146.30	Avocados (alligator pears), fresh, or prepared or preserved	Government of Mexico.
		Olives, fresh, or prepared or preserved:	
86-4	148.40	Fresh	Do.
		Pineapples, fresh, or prepared or preserved:	
		Fresh:	
86-5	148.96	In packages other than crates	Government of Colombia.
		Filler tobacco (whether or not mixed or packed with wrapper tobacco):	
		When not mixed or not packed with wrapper tobacco, or when mixed or packed with 35% or less of wrapper tobacco:	
		[Cigarette leaf:]	
		Other, including cigar leaf:	
86-6	170.40	Not stemmed	Cigar Association of America, Washington, DC.
86-7	170.45	Stemmed	Do.
		Cordage:	
		Of vegetable fibers:	
		Of hard (leaf) fibers:	
		Of stranded construction:	
		Measuring 3/16 or over but under 3/4 inch in diameter:	
86-8	315.35	Of abaca	Government of the Philippines.
		Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure, not provided for in subpart A or C of part 1 of schedule 4 of the Tariff Schedules of the United States:	
		[Articles provided for in items 402.00 thru 402.32]	
		Other:	
		Halogenated hydrocarbons:	
86-9	402.56	Benzyl chloride (—Chlorotoluene)	Compania Quimica Ameyal, Mexico.
		Alcohols, phenols, ethers (including epoxides and acetals), aldehydes, ketones, alcohol peroxides, ether peroxides, ketone peroxides, and their derivatives:	
		[Articles provided for in items 403.16 thru 403.41]	
		Other:	
86-10	403.45 pt	Benzyl alcohol	Do.
		Carboxylic acids, anhydrides, halides, acyl peroxides, peroxyacids, and their derivatives:	
86-11	404.16	Terephthalic acid	Celanese Fibers, Charlotte, NC.
		[Amines and their derivatives; amines having one or more oxygen functions, and their derivatives; amides and their derivatives].	
		Other nitrogen-function compounds (except those in which the only nitrogen function is a nitro ($-NO_2$) or a nitroso ($-NO$) group, or an ammonium salt of an organic acid) and their derivatives:	
86-12	405.44	Toluenediisocyanates (unmixed)	Industrias Cydsa Bayer, S.A. de C.V., Mexico.
		Heterocyclic compounds and their derivatives (including lactones and lactams but excluding epoxides with three membered rings, anhydrides and imides of polybasic acids, and cyclic esters of polyhydric alcohols with polybasic acids):	
		[Articles provided for in items 406.12 thru 406.32]	
		Other:	
		[Articles provided for in items 406.36 and 406.37]	
		Other:	
86-13	406.39 pt	N-(tert-butyl)benzothiazole sulfenamide (Orgacel T)	Quimica Organica de Mexico, S.A. de C.V., Mexico.
		Colors, dyes, stains, and related products: Colors, dyes, and stains (except toners), whether soluble or not in water, obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1 of schedule 4 of the Tariff Schedules of the United States:	
		Direct dyes:	
86-14	409.78	Direct black 51, 69, 112, 114, 118, 122; Direct blue 74, 77, 90, 137, 156, 158, 158:1, 207, 211, 225, 244, 267; Direct brown 97, 113, 157, 169, 170, 200, 212, 214; Direct green 33, 59, 67, 68; Direct orange 17, 60, 105, 106, 107, 118; Direct red 9, 89, 92, 95, 111, 127, 173, 207, 221; Direct violet 47, 93; and Direct yellow 27, 39, 68, 93, 95, 96, 98, 109, 110, 133, 134	
		Other:	
86-15	409.82	Products provided for in the Chemical Appendix to the Tariff Schedules	Government of Argentina.
		Color lakes and toners, obtained, derived, or manufactured in whole or in part from natural alizarin, natural indigo, or any product provided for in subpart A or B of part 1 of schedule 4 of the Tariff Schedules of the United States:	
86-16	410.28	Pigment black 1; Pigment blue 16, 18; Pigment brown 22, 23, 25, 32; Pigment green 8; Pigment orange 31, 34, 36, 51; Pigment red 9, 14, 34, 48:3, 52, 68, 112, 139, 144, 146, 151, 166, 169, 170, 171, 175, 176, 177, 178, 180, 185, 188, 192, 199, 208, 209, 216, 220, 221; Pigment violet 32; and Pigment yellow 16, 24, 49, 62:1, 81, 93, 95, 97, 101, 108, 109, 110, 113, 117, 127, 138, 153	Do.
		Acids:	
		[Articles provided for in items 425.70 thru 425.96]	
		Other:	
		[Carboxylic acids]	
86-17	425.9960	Other organic acids (including sulfonic acids and thiocarboxylic acids)	Government of Colombia.
		Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients:	
		Of fine-grained earthenware (except articles provided for in item 533.15) or of fine-grained stoneware:	

ANNEX I.—PETITIONS ACCEPTED FOR REVIEW—Continued

[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration]

Case No.	TSUS or TSUSA [1] item No.	Article	Petitioner
		Household ware not available in specified sets:	
86-18	533.30	Mugs and other steins	Russ Berrie & Co., Oakland, NJ.
		Of chinaware or of subporcelain:	
		Household ware:	
		Of nonbone chinaware or of subporcelain:	
		Available in specified sets:	
86-19	533.64	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C of part 2 of schedule 5 of the Tariff Schedules of the United States is over $56.	Government of the Philipines
		Enamels, colors, glazes, and fluxes, all the foregoing of glass, frit, or calcine:	
		[Ground or pulverized]	
86-20	540.27	Other	Government of Mexico; Ferro Mexicana, S.A.; Mexico.
		Other base metals, unwrought, and waste and scrap of such metals:	
		Other than alloys; waste and scrap:	
86-21	632.46	Strontium	Government of Mexico; Fomento Y Desarrolo de Penquenos Mineros, Mexico.
		Gear boxes and other speed changers with fixed, multiple, or variable ratios; pulleys and shaft couplings; pillow blocks; flange, take-up, cartridge, and hanger units; torque converters; chain sprockets; clutches and universal joints; all the foregoing (except parts of agricultural or horticultural machinery and implements provided for in item 666.00 and parts of motor vehicles and bicycles) and parts thereof:	
		Pillow blocks and parts thereof:	
		Ball or roller bearing type:	
86-22	681.0410	Pillow block units	Government of Mexico
		Time switches with watch or clock movements, or with synchronous or subsynchronous motors:	
86-23	715.62	Valued over $1.10 but not over $2.25 each	Admiral Division of Magic Chef, Inc., Galesburg, IL.
86-24	715.64	Valued over $2.25 but not over $5 each	Do.
		B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences	
		Products obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1 of schedule 4 of the Tariff Schedules of the United States:	
		Products chiefly used as plasticizers:	
86-25	409.3410	Phthalic acid esters	U.S. Steel Corporation, Pittsburgh, PA.
		Ceramic tiles:	
		Floor and wall tiles:	
		Mosaic tiles:	
		[Articles provided for in item 532.20]	
86-26	532.22	Other	Tile Council of America, Washington, DC.
		Pipe and tube fittings of iron or steel:	
		[Cast-iron fittings, not malleable; cast-iron fittings, malleable]	
		Other fittings:	
		[Ductile fittings]	
		Other:	
		Flanges:	
		Under 14 inches (inside diameter):	
86-27	610.8413	Other than alloy iron or steel	American Pipe Fitting Assoc., Washington, DC.
		Alloy iron or steel:	
86-28	610.8415	Stainless steel	Do.
86-29	610.8418	Other	Do.
		14 inches and over (inside diameter):	
86-30	610.8421	Other than alloy iron or steel	Do.
		Alloy iron or steel:	
86-31	610.8424	Stainless steel	Do.
86-32	610.8428	Other	Do.
86-33	610.86	Couplings	Picoma Industries, Houston, TX.
		Iron or steel pipes or tubes prepared and coated or lined in any manner suitable for use as conduits for electrical conductors, and iron or steel fittings therefor:	
86-34	688.32	Fittings	Picoma Industries, Houston, TX.
		Parts of bicycles:	
		Three speed hubs whether or not incorporating a coaster brake; caliper brakes; multiple free-wheel sprockets:	
86-35	732.3875	Caliper brakes	Dia-compe Inc., West Palm Beach, FL.
		C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences [2]	
		Papers, not impregnated, not coated, not surface-colored, not embossed, not ruled, not lined, not printed, and not decorated:	
86-36	252.75 (Brazil, Mexico).	Writing paper weighing over 18 pounds per ream	Stationery International Trade Committee, Washington, DC.
		Articles, of pulp, of papier-mache, of paper, of paperboard, or of any combination thereof, not specially provided for:	
		[Articles provided for in items 256.70 thru 256.80]	
		Other:	
		[Of papers, coated, or of any of the papers provided for in items 253.25, 253.30, 253.35, 253.40, or 253.45].	
		Other:	
86-37	256.9044 (Brazil, Mexico).	Hole punched looseleaf filler paper	Stationery International Trade Committee, Washington, DC.
86-38	256.9052 (Brazil, Mexico).	Memorandum pads and similar pads	Do.
86-39	256.9080 pt. (Brazil)	Paint strainers	Louis M. Gerson Co., Middleboro, MA.
		Products suitable for medicinal use, and drugs:	
		Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1 of schedule 4 of the Tariff Schedules of the United States:	
		Drugs:	
86-40	410.72 (Turkey)	Acetylsalicylic acid (Aspirin)	Monsanto Corporation, St. Louis, MO

ANNEX I.—PETITIONS ACCEPTED FOR REVIEW—Continued

[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration]

Case No.	TSU S or TSUSA [1] item No.	Article	Petitioner
		Esters of monohydric alcohols and organic or inorganic acids (except hydrogen sulfide and hydrogen halide acids):	
86-41	428.52 (Taiwan)	Butyl acetate	Celanese Chemical Co., Washington, DC; BASF Corporation, Washington, DC.
		Hinges; and fittings and mountains not specially provided for, suitable for furniture, doors, windows, blinds, starcases, luggage, vehicle coach work, caskets, cabinets, and similar uses; all the foregoing, of base metal, whether or not coated or plated with precious metal:	
		Not coated or plated with precious metal:	
		Of iron or steel, of aluminum, or of zinc:	
		[Articles provided for in items 647.01 and 647.02]	
86-42	647.03 (Taiwan)	Other	Stanley Hardware, New Britain, CT.
		Hangars and other buildings, bridges, bridge sections, lock-gates, towers, lattice masts, roofs, roofing frame-works, door and window frames, shutters, balustrades, columns, pillars, and posts, and other structures and parts of structures, all the foregoing of base metal:	
		Of iron or steel:	
		[Articles provided for in items 652.90 thru 652.97]	
86-43	653.00 (Singapore, Taiwan).	Other	American Institute of Steel Construction, Washington, DC.
		Articles not specially provided for of a type used for household, table, or kitchen use; toilet and sanitary wares; all the foregoing and parts thereof, of metal:	
		Articles, wares, and parts, of base metal, not coated or plated with precious metal:	
		Of iron or steel:	
		Enameled or glazed with vitreous glasses:	
86-44	654.08 (Mexico)	Cooking and kitchen ware of steel	General Housewares Corp., Washington, DC.
		Parts of articles provided for in items 751.05, 751.10 and 751.11:	
		[Handles and sticks, of wood, valued not over $2.50 per dozen]	
		Other:	
		Of metal:	
		Umbrella frames and skeletons:	
		[For hand-held umbrellas chiefly used for protection against rain]	
86-45	751.2015 (Taiwan)	Other	Almet/Lawnlite, Portland, TN; California Umbrella, Pomona, CA.

D. Petition for waiver of competitive need limit for a product on the list of eligible articles

		Fatty substances of animal (including marine animal) or vegetable origin:	
		Not sulfonated or sulfated:	
		Fatty-acid esters, ethers, and ether-esters of polyhydric alcohols:	
86-46	465.05	Derived from coconut, palm-kernel, or palm oil	Government of the Philippines.

[1] Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
[2] The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee's (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 86-7-47; Docket 43487]

Application of the Lord's Airline, Inc. for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding The Lord's Airline, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in foreign schedules air transporation.

DATE: Persons wishing to file objections should do so no later than August 13, 1986.

ADDRESS: Objections and answers to objections should be filed in Docket 43487 and addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Steven B Farbman Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 426-7631.

Dated: July 23, 1986.

Matthew W. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-16902 Filed 7-25-86; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1986 Rev., Supp. No. 2]

Surety Companies Acceptable on Federal Bonds: Pinnacle Insurance Co.

A certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 to 9308, Title 31 of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1986 Revision, to reflect this addition:

Pinnacle Insurance Company. Business Address: P.O. Box 1919, Carrollton, Georgia 30117. Underwriting Limitation [b]: *$171,000.* Surety Licenses [c]: GA. Incorporated in: Georgia. Federal Process Agents [d].

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the

Treasury, Washington, DC 20226, (202) 634–2298.

Dated: July 21, 1986.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 86–16905 Filed 7–25–86; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1985 Rev., Supp. No. 1]

Surety Companies Acceptable on Federal Bonds; Prudential Reinsurance Co., et al.; Correction

The underwriting limitations for the above Companies were last listed in the Treasury Department Circular 570, July 1, 1986 revision as stated below. Those underwriting limitations, effective July 1, 1986, are hereby corrected as follows:

Company	Current limitation	Corrected limitation	FR page No.
Prudential Reinsurance Company	$9,988,000	$20,547,000	23948
Swiss Reinsurance Company, U.S. Branch	6,351,000	10,021,000	23956
North American Reinsurance Corp	2,133,000	5,133,000	23945
Highlands Insurance Company	18,320,000	21,477,000	23938

Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1986 Revision to reflect these corrections.

Questions concerning this Notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20226, telephone (202) 634–2381.

Dated: July 21, 1986.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 86–16906 Filed 7–25–86; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a reinstatement and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Jill Cottine, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: July 21, 1986.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Reinstatement

1. Department of Medicine and Surgery
2. National Needs Assessment Study of Vietnam Era Veterans
3. VA Form 10–20769a&b(NR)
4. Non-recurring
5. Individuals or households
6. 2,167 responses
7. 336.9 hours
8. Not applicable

Extension

1. Department of Medicine and Surgery
2. Prosthetic Service Card Invoice
3. VA Form 10–2520
4. Non-recurring
5. Businesses or other for-profit
6. 40,000 responses
7. 3,200 hours
8. Not applicable

[FR Doc. 86–16813 Filed 7–25–86; 8:45 am]

BILLING CODE 8320-01-M

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Jill Cottine, Agency Clearance Office (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: July 23, 1986.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Extension

1. Department of Veterans Benefits
2. Statement of Termination of Marital Relationship
3. VA Form 21–8796
4. On occasion
5. Individuals or households
6. 2,900 responses
7. 1,450 hours
8. Not applicable

[FR Doc. 86–16869 Filed 7–25–86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 144
Monday, July 28, 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

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., July 25, 1986.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 86–16939 Filed 7–24–86; 10:40 am]
BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., August 1, 1986.

PLACE: 2033 K St., 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. 86–16940 Filed 7–24–86; 10:40 am]
BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., August 8, 1986.

PLACE: 2033 K St., 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. 86–16941 Filed 7–24–86; 10:40 am]
BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., August 15, 1986.

PLACE: 2033 K St., 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. 86–16942 Filed 7–24–86; 10:40 am]
BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., August 22, 1986.

PLACE: 2033 K St., 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. 86–16943 Filed 7–24–86; 10:40 am]
BILLING CODE 6351-01-M

6

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., August 29, 1986.

PLACE: 2033 K St., 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. 86–16944 Filed 7–24–86; 10:40 am]
BILLING CODE 6351-01-M

7

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, July 30, 1986.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Methylene Chloride: Proposed Rule

The Commission will consider a proposed rule that, if issued, would declare methylene chloride a hazardous substance under section 3(a) of the Federal Hazardous Substances Act.

2. LP Gas Check Program

The Commission will consider staff's recommendation for a press release providing support to the National LP Gas Association's "Gas Check" safety program.

3. Combustion Toxicity Advisory Committee

The Commission will consider the staff's recommendations to establish an advisory committee on fire toxicity.

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. 2007 301—492–6800.

Sheldon D. Butts,
Deputy Secretary.
July 23, 1986.
[FR Doc. 86–16925 Filed 7–24–86; 11:39 am]
BILLING CODE 6355-01-M

8

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, August 6, 1986.

PLACE: Board Hearing Room 8th Floor, 1425 K. Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of July, 1986.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles R. Barnes, Executive Director, Tel: (202) 523–5920.

DATE OF NOTICE: July 22, 1986.

E.B. Meredith,

Acting Executive Director, National Mediation Board.

[FR Doc. 86–16983 Filed 7–24–86; 2:16 pm]

BILLING CODE 7550–01–M

9

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 26338 (July 22, 1986).

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, July 17, 1986.

CHANGE IN THE MEETING: Rescheduling.

The following open item scheduled for Thursday, July 24, 1986, at 2:30 p.m., has been rescheduled for Thursday, August 7, 1986, at 10:00 a.m.

Consideration of whether the authorize publication of a release requesting comments on the rulemaking petition submitted by the Securities Industry Association. The petition, as supplemented, proposes that the Commission adopt a rule that would allow a written confirmation of a securities purchase to be sent to investors in registered public offerings prior to the time a prospectus that meets the statutory requirements of the Securities Act of 1933 is delivered to them. Currently, a confirmation must be preceded or accompanied by a statutory prospectus.

For further information, please contact Brent H. Taylor at (202) 272–2434.

Commissoner Grundfest, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ronald A Schy at (202) 272–2468

Jonathan G., Katz,

Secretary

July 23, 1986.

[FR Doc. 86–16959 Filed 7–24–86; 1:00 p.m.]

BILLING CODE 8010–01–M

10

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 9:30 a.m. (EDT), Wednesday, July 30, 1986.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA

Approval of minutes of meeting held on July 18, 1986.

Discussion Items

1. Preliminary rate review.

Action Items

Old Business Items

1. Supplement to personal services contact No. TV–65375A with Bechtel North American Power Corporation, Gaithersburg, Maryland, for performance of general engineering, design, and architectual services, requested by Office of Nuclear Power.

2. Supplemental to personal services contract No. TV–66821A with General Electric Company, Atlanta, Georgia, for engineering and related support to the Browns Ferry Nuclear Plant's Site Services Group, requested by Office of Nuclear Power.

New Business Items

A—Budget and Financing

*A1. Proposed call for early redemption of certain TVA Bonds held by the Federal Financing Bank.

A2. Adoption of supplemental resolution authorizing 1986 Series D power bonds.

A3. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1986 Series D power bonds.

*A4. Proposed use of interest rate hedge agreements in connection with TVA power system financing.

C—Power Items

C1. Contract No. TV–70246A between General Electric Corporation and TVA covering arrangements for use of GE equipment now installed in Shop No. 4 at the TVA Power Service Shops.

F—Unclassified

F1. Supplement to Contract No. TV–60001A between TVA and the Agency for International Development (AID) providing for AID funding for TVA assistance in medium-sized cities in undeveloped countries committed to conserving energy and natural resources.

*Items approved by individual Board members.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: July 23, 1986.

W.F. Wils,

General Manager.

[FR Doc. 86–16926 Filed 7–24–86; 9:27 am]

BILLING CODE 8120–01–M

federal register

Monday
July 28, 1986

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Area; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWA-9]

Establishment of Airport Radar Service Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates an Airport Radar Service Area (ARSA) at Raleigh-Durham Airport, Raleigh, NC. The location designated is a public airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of the ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 UTC, August 28, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airspace Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 11 ARSA's as published in the **Federal Register** on November 1, 1985 (50 FR 45718), 11 ARSA's on December 9, 1985 (50 FR 50254), 12 ARSA's on February 7, 1986 (51 FR 4872), 11 ARSA's on March 10, 1986 (51 FR 8284), 6 ARSA's on April 7, 1986 (51 FR 11886), 7 ARSA's on May 5, 1986 (51 FR 16610), 2 ARSA's on May 29, 1986 (51 FR 19490), and 1 ARSA on July 1, 1986 (51 FR 24104), in the implementation of this NAR recommendation.

On September 30, 1985, the FAA proposed to designate an ARSA at Raleigh-Durham Airport, Raleigh, NC, under Airspace Docket No 85-AWA-9 (50 FR 39822). This rule designates an ARSA at this airport. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held an informal airspace meeting for this proposed airport. In response to public comments received the FAA has modified this proposal.

Related Rulemaking

In addition to the airport addressed here and those previously designated or where designation has been delayed, the FAA published proposed ARSA designation for 1 additional airport on September 30, 1985 (50 FR 39822).

Discussion of Comments

The FAA has received comments on the basic ARSA program as well as comments directed toward the proposed individual designation. Additionally, several of the comments on individual designation are common or speak to the basic program itself. Discussion of the comments is divided into two sections. The first addresses common and ARSA program comments, the second addresses comments on the proposal at Raleigh.

ARS Program Comments

Comments received from the Aircraft Owners and Pilots Association (AOPA) and several others claimed that the notification for some of the informal airspace meetings held for some of the candidate airports was inadequate. The schedule of the meetings was published in the Notice of Proposed Rulemaking (NPRM) on September 30, 1985 (50 FR 39822). Additionally, the FAA sent announcements to individuals, fixed-based operators, aviation user organizations, and to the news media organizations in each airport's area. The ARSA program has received considerable coverage in newsletters and official publications of aviation organizations and the schedule of the meeting mailed to members. Furthermore, a 275-day comment period was provided for Airspace Docket No. 85-AWA-9 in which the public could make comment to the public docket on the proposal. For the above reasons the FAA believes the opportunity was sufficient to permit full public comment on the proposals.

AOPA and others commented that, notwithstanding the statement by the FAA in the Regulatory Evaluation contained in the notice, increased air traffic controller personnel and equipment would be needed to handle the increased traffic expected due to the mandatory provisions of the ARSA. FAA's experience with the current ARSA's has been that while there is an increase in the amount of traffic being handled by controllers, this increase is significantly offset by the reduction in the amount of control instructions that must be issued under ARSA procedures as compared to TRSA procedures. However, the FAA recognizes that the potential exists for a need to establish additional contoller positions at some facilities due to increased workload should the expected efficiency improvements in handling traffic not fully offset the increased number of aircraft handled. Further, FAA does not expect to incur additional equipment costs in implementing the ARSA program. In some instances, previously adopted plans to replace or modify older existing equipment may be rescheduled to accommodate the ARSA program. However, no new equipment is expected to be required as a result of the ARSA program.

Several commenters, including AOPA, disagreed with the FAA's conclusion that the additional air traffic could be accommodated with existing manpower at locations where TRSA participation was low. The FAA's conclusion for the total program was in part based upon the fact that participation in the existing TRSA's was quite high and, therefore, an increase from the present levels to 100% would not be a significant change. The commenters, while not agreeing with this conclusion, claimed that the FAA's rationale did not apply where participation was low and thus

additional manpower would be needed at these locations if ARSA was designated. The FAA recognizes that participation in the TRSA program is relatively low at some of the candidate locations. However, this is in large part due to the controllers' walkout of 1981 and the subsequent reduction in fully qualified controllers which led to the discontinuance of TRSA services. A sufficient number of controllers is assigned at the facilities to which the commenters refer and those facilities are ready to provide the service to the increased number of pilots. This factor was considered by the FAA in its initial evaluation of the ARSA program.

AOPA claimed the staffing at one facility more than doubled in the year prior to implementation of their ARSA. The facility's authorized staffing of 28 controllers did not change. In the facility in question, on January 1, 1985, there were 27 controllers on board but in January 1986, there were the authorized 28 on board. The FAA finds the AOPA claim to be without merit.

The Soaring Society of America (SSA) objected to the ARSA program because it does not provide the same level of safety and service to all classes of aviation. As with other regulations, this rule affects different operators in different ways depending on their respective need to operate in controlled airspace or near the airports involved. The FAA does not agree that this variation in impact is reason not to adopt a rule which benefits the majority of users.

The SSA claims the FAA is changing the criteria that an operating control tower is the only requirement for an airport to be eligible for an ARSA. The FAA has not departed from the NAR criteria which would replace TRSA with ARSA at airports with an operating control tower served by a level III, IV, or V Radar Approach Control Facility.

The SSA claimed that the ARSA rule should state that the ultimate responsibility for separation from other aircraft operating in visual flight rule (VFR) conditions rests with the pilot. While the FAA agrees that such is the case, the agency does not agree that the ARSA rule must so state. Unless a new or amending provision to the Federal Aviation Regulations (FAR) specifically deletes, amends, or supersedes existing sections, the existing regulations still apply. The ARSA rule (50 FR 9252, 9257, March 6, 1985) did not alter the sections of the FAR that establish that level of responsibility.

AOPA faulted the FAA's implementation of the ARSA program. The FAA stated in the proposal that the benefits of standardization and simplicity were nonquantifiable, and that the safety benefits anticipated by the FAA were not attributable to any given candidate but were based upon implementation of the program on a national basis. According to AOPA this evidenced the need to further evaluate the program at the current locations so that benefits could be individually assessed and each candidate evaluated accordingly. The FAA does not agree. The benefits of standardization and simplicity would always be nonquantifiable regardless of the amount of evaluation, yet they received considerable emphasis by the NAR Task Group. Overall national midair collision accident rates are relatively low, and accident rates within individual categories of airspace are lower still. Additionally, accidents at specific locations are random occurrences. Therefore, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Additionally, the FAA does not believe that these considerations should be cause for delaying a program that was recommended by a majority of the members of the National Airspace Review, and which has already produced positive results at most of the designated locations.

Numerous commenters also objected to the proposals based upon their belief that the volume of air traffic in several of the proposed locations was too great for the ARSA program. The FAA believes that such a point argues strongly for the establishment of an ARSA rather than the converse.

Some commenters, including AOPA, predicted that user costs incurred due to delays will be greater than estimated by the FAA, and that these costs will be experienced more at some sites that at others. In the NPRM, FAA acknowledged that initial delay problems would vary from site to site, that estimates of delays were quite preliminary, that at some facilities the transition process is expected to go very smoothly, and that at other sites delay problems will dominate the initial adjustment period. These cost estimates are expected to be transitory in nature in that actual delays will be reduced as pilots and controllers become experienced with ARSA procedures. This has been the case at the three locations where ARSA has been in effect for an appreciable period, and is the trend at those locations more recently designated.

AOPA discounted the FAA delay estimates claiming that they were based upon a standard ARSA. The FAA does not agree. FAA's preliminary delay estimates were based upon the ARSA proposed for the individual locations, whether standard or modified.

Several commenters questioned the validity of FAA's estimates of the time savings expected to be realized as a result of the greater flexibility allowed air traffic controllers in handling traffic within an ARSA. FAA wants to reemphasize that its estimates of expected savings in time and money which will result from the greater flexibility allowed air traffic controllers in handling traffic within an ARSA are quite preliminary. These estimated savings may or may not offset the delay anticipated at some sites after initial establishment of ARSA, but are expected to provide overall time savings to all traffic, IFR as well as VFR, which will exceed delays as controllers gain experience with ARSA operating procedures.

Other commenters questioned the operating cost and passenger time values used to calculate delay costs and time savings. The values used are weighted averages of overall activity within an aircraft category for various aircraft types, and represent a typical mix of air-passengers. FAA recognizes that for some specific operations actual operating cost and passenger time values will exceed the average values used, while in other cases, the actual values will be less. However, weighted averages represent the most appropriate and equitable measure to use when assessing *overall* impacts. Further, because the delay resulting from implementing ARSA procedures is expected to be transitory and efficiency improvements in the movement of traffic are ultimately expected to result, those operators whose variable cost and passenger time values exceed the averages used in the regulatory evaluation may in fact realize above average benefits.

Several comments claimed that some aircraft would have to purchase two-way radios in order to enter the ARSA and land at or depart from airports within the ARSA. The FAA does not agree. Each primary airport receiving ARSA designation has an airport traffic area requiring two-way radio communications at present. Therefore, no additional cost will be incurred for purchase of radios for aircraft landing at

or departing from primary airports receiving ARSA designation.

Further, some commenters, including AOPA, expresses concern that older 360 channel transceivers would not be adequate to operate within an ARSA. Frequencies compatible with 360 channel transceivers are available at all ARSA locations. Therefore, operators of 360 channel equipment will not need to install new radios to operate within an ARSA.

SSA claimed that some FAA field personnel had indicated that a transponder would be needed to enter an ARSA, and thus, the cost to implement the program was grossly underestimated. An operable two-way radio is the only avionics required for flight in an ARSA. A transponder is not required and the costing estimates are correct.

AOPA and other commenters stated that the proposed ARSA's would derogate rather than improve safety, as a result of increased frequency congestion, pilots concentrating on their instruments and placing too much reliance upon ATC rather than "see and avoid," and the compression of air traffic into narrow corridors as pilots elect to circumnavigate an ARSA rather than receive ARSA services. In addition to increasing the risk of aircraft collision, the commenters claimed that compression would increase the impact of aircraft noise on underlying communities and cause aircraft to be flown closer to obstructions.

As indicated above, while an increased number of aircraft will be using radio frequencies, the amount of "frequency time" needed for each aircraft is reduced in an ARSA compared to the current TRSA. This has been the experience of the FAA at the current ARSA facilities.

AOPA claims that since the communications and readback procedures in ARSA's do not differ from those utilized in TRSA's there would be no reduction in "frequency time" needed for each pilot to acknowledge instructions or information, and thus, the partial offset indicated by the FAA was not justified. The offset is based upon fewer as well as shorter transmissions for each pilot, thus the FAA does not agree with this claim.

The FAA evaluated the flow of air traffic around the Austin, TX, and Columbia, OH, ARSA's during the confirmation period to determine if compression was occurring. This evaluation was performed by observing the radar at Austin, TX, and by both radar observations and the use of extracted computer data at Columbus, OH. Following the designation of an ARSA at Baltimore/Washington International Airport (BWI), the FAA evaluated the flow or air traffic there for a period of 90 days by observing the radar and extracting computer data to determine if compression was occurring. Additionally, the FAA has continually monitored for the possibility of compression at all recently designated locations. Compression has not been detected at any of these locations. However, compression of air traffic is a site-specific effect that could occur at a particular location regardless of its absence elsewhere. Thus, although the FAA does not believe compression of traffic will occur at any of the proposed airports, the agency will continue to monitor each designated ARSA and make adjustments if necessary.

AOPA, SSA, and other commenters claimed that the FAA provided no demonstrable evidence that the ARSA program would improve aviation safety. The FAA continues to believe the implementation of the ARSA program will enhance aviation safety. The program requires two-way radio communication between ATC and all pilots within the designated areas. Air traffic controllers will thus be in a much improved position to issue complete traffic information to the pilots involved, and thus, safety will be improved.

AOPA, and several other commenters, requested that VFR corridors be established at several of the subject locations along routes that are currently contained within an airport traffic area (ATA). The NAR Task Group noted in their evaluation of the TRSA program that under FAR § 91.87 pilots operating under VFR to or from a satellite airport within an ATA are excluded from the two-way radio communications requirements. The Task Group noted that this was acceptable until the volume of air traffic at the primary airport dictated the installation of a radar approach control. The Task Group recommended, and the FAA adopted, the ARSA program as a safety improvement addressing this problem. Thus, the FAA does not believe provisions for VFR corridors that penetrate an ATA in most cases are warranted or in keeping with that recommendation.

SSA claimed that the grouping of ARSA's such as that adopted in the Sacramento Valley area would create "squeezing" of traffic in the corridors between the blocks of ARSA airspace. One area in question, between Sacramento and Beale Air Force Base (AFB), is approximately 20 miles wide. The FAA does not agree that "squeezing" will occur in this area. Additionally, other user organizations have requested VFR corridors between adjacent or grouped ARSA's and these ARSA's have been modified to accommodate this request.

AOPA and others commented that several of the proposals will require pilots to violate FAR § 91.79 (14 CFR 91.79) regarding minimum safe altitudes. The section states in part, "Except when necessary for takeoff or landing, no person may operate an aircraft below. . . an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft [when over any congested area of a city, town, or settlement, or over any open air assembly of persons]." The commenters claim that the 1,200-foot base altitude of the 5- to 10-mile portion of the ARSA will force pilots to violate FAR § 91.79 where obstacles extend more than 200 feet above the ground. There are two alternatives available to pilots in such a situation which permit compliance with the regulation. Namely, pilots may participate in ARSA services and thus not be limited to the 1,200-foot base, and secondly, a pilot may deviate 2,000 feet horizontally from the obstacle.

Furthermore, AOPA claims that the above response does not adequately respond to the issue. The claim that deviations of 2,000 feet horizontally would increase workload and reduce the efficiency of see-and-avoid, and thus, potentially reduce safety. The FAA does not encourage deviation but encourages participation which will not require deviation and will result in controllers providing radar assistance for see-and-avoid.

SSA, and other commenters, claimed that designation of these ARSA's may negatively impact cross-country glider flights operating out of airports 20 miles, or more, from these ARSA's. While some deviations may be required, the FAA does not agree that the minor deviations that may be required will result in negatively impacting cross-country glider operations.

Several commenters noted that the proposal did not contain an environmental assessment. Under existing environmental regulations the proposed establishment of a Terminal Control Area (TCA) or a TRSA does not require an environmental assessment. The agency environmental regulations have not yet been amended to reflect ARSA procedures. However, because the potential environmental impact and regulatory effects of ARSA designation fall between those of the TCA and TRSA designation, the FAA finds that no environmental assessment is required for an ARSA designation.

AOPA, the Experimental Aircraft Association (EAA), and other commenters indicated that the FAA had failed to demonstrate a need for the ARSA program itself, as well as a need for several of the individual proposed locations. Additionally, comments were received that faulted some of the features of the ARSA. Most of these comments went beyond the scope of the subject proposal and were addressed when the FAA adopted the recommendation of National Airspace Review (NAR) Task Group 1-2.2 (50 FR 9252, March 6, 1985). However, the FAA believes the need for the ARSA program was adequately demonstrated by the task group that reviewed the TRSA program and recommended the ARSA as the former's replacement. The task group faulted the TRSA program in several of its aspects and through consensus agreement determined the preferred features of the ARSA prior to making their recommendation to the FAA. Justification for the ARSA program has been the subject of previous FAA rulemaking, and the program was adopted after consideration of public comment. Response to comments on ARSA's at particular locations is made below.

AOPA, EAA, SSA, and others commented that several of the proposed ARSA's failed to meet the criteria for designation. The criteria for this group of candidates was recommended by the NAR Task Group and adopted by the FAA. Namely, ". . . excluding TCA locations, all airports with an operational airport traffic control tower and currently contained within a TRSA serviced by a Level III, IV, or V radar approach control facility shall have [an ARSA] designated; unless a study indicates that such designation is inappropriate for a particular location." (49 FR 47184, November 30, 1984).

AOPA, EAA, and others commented that the existence of a TRSA in the above mentioned category should not be considered as justification for an ARSA. After a review of all comments received to the above referenced proposal, the FAA adopted that NAR recommendation [50 FR 9252, March 6, 1985). Therefore, absent a finding that designation would be inappropriate, the existence of a TRSA within that criteria is deemed sufficient for designation.

AOPA, EAA, and others indicated that several of the proposed locations do not meet the criteria that the FAA is considering for future ARSA candidates. The FAA has circulated proposed criteria for future application. However, whatever the nature of any criteria eventually adopted, this group of locations which qualify as ARSA candidates under the adopted NAR criteria would not be affected.

Several commenters suggested the top of the ARSA be lowered from 4,000 feet above field elevation. Absent strong justification for lowering this altitude, the FAA has not adopted these recommendations. The agency's rationale for nonadoption is set forth immediately above.

Several commenters, including AOPA and EAA, indicated that at several of the proposed ARSA's the TRSA was working quite well and that there was no need to change something that was working. The FAA acknowledges that TRSA's are functional and beneficial, to a point. However, the NAR Task Group did not fault individual TRSA locations but the TRSA program itself and recommended its replacement. The FAA concurred with that assessment and has determined that the ARSA program is an improvement over the TRSA program from the standpoints of both safety and service. Thus, the quality of service being provided at TRSA locations should not constitute a roadblock to improvement.

Several commenters claimed the reduced separation standards of the ARSA program would derogate rather than enhance safety. The elimination of the Stage III separation requirements was recommended by users, all of whom are vitually interested in aviation safety, and adopted by the FAA. This aspect of the ARSA program received considerable FAA attention during the confirmation period at Austin, TX, and Columbus, OH. The FAA agrees with the task group that the Stage III separation standards are not needed for safety in a mandatory participation area.

Several commenters requested that the ARSA be described in statute rather than nautical miles. Numerous user organizations and the NAR itself have recommended that the FAA adopt nautical-mile descriptions rather than statute. It is the intention of the FAA to establish all new descriptions according to that recommendation.

Several commenters objected to proposals where the ARSA was in proximity to other airports. According to these commenters pilots would not know whether they should be in contact with the ARSA approach control facility or in contact with the control tower at the secondary airport, or on unicom. The FAA does not view this situation as different from that existing at many of these locations today. Through pilot education programs and experience with ARSA procedures this situation will improve. Also, as at present, when a pilot contacts the wrong FAA facility the controllers will give appropriate instructions.

AOPA, SSA, and other commenters objected to several of the proposed ARSA's based upon the claim that the FAA had failed to evaluate the cumulative effect of the proposed ARSA's and other regulatory airspace. The evaluation for each ARSA included all factors known to the FAA, including the proximity of other regulatory airspace.

Underlying a great many of the comments received was the idea that some provision should be made so that pilots could continue their current practices without contacting the responsible ATC facility. While the FAA has made modifications from the standard ARSA in cases where circumstances warrant, the basic thrust of the ARSA program is to require two-way communication with the responsible approach control facility, and not to make modifications in the program to provide for nonparticipation.

AOPA commented that FAA underestimated the one-time cost of distributing Letters to Airmen and the Advisory Circular, and neglected costs related to the informal public meetings. Both of these issues were discussed in the detailed regulatory evaluation of the NPRM, which has been available in the regulatory docket since publication of the NPRM. The availability of this detailed evaluation was indicated in the introductory paragraph of the regulatory evaluation summary included in the **Federal Register** NPRM (50 FR 39822, 39824, September 30, 1985). AOPA's comments assumed that every active pilot would be notified at least once. However, FAA intends to mail individual Letters to Airmen only to those pilots living in the vicinity of ARSA sites, and consequently its cost estimates is less than that of AOPA. The total one-time cost of distributing Letters to Airmen and the Advisory Circular was also prorated to reflect only those sites included in the notice, and both total and prorated cost estimates were provided in the notice. Further, as FAA indicated in the detailed regulatory evaluation, the expenses associated with public meetings will be incurred regardless of whether or not an ARSA is ultimately established at a proposed site, and consequently these expenses are more appropriately considered sunken costs attributable to the rulemaking process rather than implementation costs of the ARSA program. Similarly, information on ARSA's following the establishment of a

new site will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and, therefore, will not involve additional costs strictly as a result of the ARSA program.

Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

SSA faulted the FAA for using the aviation safety seminars for pilot education on ARSA's. They claim these seminars do not reach many pilots and the seminars are reserved during this year for the FAA "Back to Basics" program. The FAA does not agree. The aviation safety seminars are for all pilots and for education on all aspects of aviation which include the ARSA program.

SSA, and other commenters questioned whether the FAA considered the impact of the proposed ARSA's on individuals in making its Regulatory Flexibility Determination, and whether the threshold for determining if a significant economic impact on a substantial number of small entities had been exceeded because some small entities might be impacted. The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. Individual citizens, as such, are not considered small entities under the terms of the RFA; however, an individual whose business is a sole proprietorship would be considered a small entity under the RFA. Some of the small entities which could be potentially affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within 5 miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding almost every satellite airport located within the 5-mile ring to avoid adversely impacting their operations, and in some cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as, soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, a substantial number of small entities, defined in FAA Order 2100.14, "Regulatory Flexibility Criteria and Guidance," as more than one-third (but not less than eleven) of the small entities subject to a proposed rule, clearly will not be impacted by this rulemaking. Therefore, adoption of this final rule will not result in a significant economic impact on a substantial number of small entities.

SSA commented that the FAA should take into consideration the unique operating characteristics of gliders in defining the ARSA airspace at some locations. The FAA has modified the configurations of the ARSA at locations where glider operations would be adversely affected by a standard configuration.

Numerous commenters objected to the ARSA designations claiming they would simply provide the FAA with the basis for additional regulatory restrictions. The FAA does not believe this to be a valid objection. While the agency has no current plans for further regulatory action which imposes additional restrictions, such action if it should ever become a reality would be the subject of additional rulemaking and would of necessity be judged on its own merits, as should these proposals.

The Air Line Pilots Association (ALPA) concurred with the proposal as an improvement in operational efficiency and a significant contribution to a reduction of midair collision potential.

The Air Transport Association (ATA) endorsed the proposed designations as an improvement in safety with specific comments indicated below.

The General Aviation Manufacturers Association endorsed the ARSA's as an improvement in safety and concurred with the FAA's philosophy regarding some deviation from the standard model.

Comments were received which were supportive of each of the ARSA's addressed here as an improvement in aviation safety, and stating that participation by all pilots was only equitable and that normal safety concerns dictated mandatory two-way communications. The FAA agrees.

Comments on Raleigh-Durham Airport, NC

One commenter claimed that the current volume of traffic at Raleigh-Durham Airport does not justify an ARSA. The FAA does not agree. The criteria used is that of replacing TRSA with ARSA at specified airports. Raleigh-Durham Airport falls into this category.

Several commenters claimed that Raleigh-Durham Approach does not have sufficient staffing to handle a large traffic increase that the ARSA might generate. The FAA does not agree. The traffic should increase no more than 10 percent as a direct result of the ARSA. Removal of excessive separation standards for VFR aircraft will allow controllers to handle more aircraft than before in the same airspace. Current staffing is more than adequate to handle the expected increase.

Another commenter claimed that the ARSA will force many pilots to buy or upgrade two-way radios in order to continue their present operations. The FAA does not agree for the reasons stated above under general comments. Raleigh-Durham Airport currently has an airport traffic area which requires two-way radio communications to operate to and from the primary airport.

Several commenters claimed the floor of the outer core shelf should be raised to 2,000 feet MSL because of the tall towers 9 miles south of the airport. The FAA disagrees. These towers are very close together and can be easily circumnavigated. Further discussion on this topic is covered above.

SSA claimed the ARSA at Raleigh-Durham will not affect any towing or training routes in the local area but may affect their cross-country routes. As stated above, the FAA will continue to monitor these operations and take appropriate steps to lessen any impacts.

ATA voiced support for the ARSA in Raleigh-Durham stating they believe safety will be enhanced.

Other comments were received which were general in nature and were discussed under general comments.

Other Comments

A number of other comments were received addressing matters beyond the scope of these proposals such as charting, the number of frequencies depicted on a chart, the general design features of an ARSA, etc. The FAA will give consideration to all of the points raised in these comments but will not address them as a part of this rulemaking.

Regulatory Evaluation

Those comments which addressed information presented in the Regulatory Evaluation of the notice for this docket included in this final rule have been discussed above. A detailed Regulatory Evaluation of this final rule has been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of *both* the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will dominate the initial adjustment period. FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the ARSA site established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without any additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of this ARSA site will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA site established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM, and those comments which addressed it have been discussed above. For the reasons presented in the NPRM and clarified in the Discussion of Comments, FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates an Airport Radar Service Area (ARSA) at Raleigh-Durham Airport, Raleigh, NC. The location designated is a public airport at which a nonregulatory Terminal Radar Service Area is currently in effect. Establishment of the ARSA will require that pilots maintain two-way radio communication with ATC while in the ARSA. Implementation of ARSA procedures at the affected location will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

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

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

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

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

§ 71.501 [Amended]

2. § 71.501 is amended as follows:

Raleigh-Durham Airport, NC [New]

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the Raleigh-Durham Airport (lat. 35°52'19"N., long. 78°47'07"W.), and that airspace extending upward from 1,700 feet MSL to and including 4,400 feet MSL within a 10-mile radius of Raleigh-Durham Airport.

Issued in Washington, DC, on July 23, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-16870 Filed 7-25-86; 8:45 am]

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federal register

Monday
July 28, 1986

Part III

Environmental Protection Agency

40 CFR Part 122

National Pollutant Discharge Elimination System; Application Forms for New NPDES Permits and Facilities Which Do Not Discharge Process Wastewater; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[EN FRL-3000-6]

National Pollutant Discharge Elimination System; Application Forms for New NPDES Permits and Facilities Which Do Not Discharge Process Wastewater

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: On October 1, 1984, EPA proposed a rule to implement two new forms and instructions to be used when applying for permits issued under the National Pollutant Discharge Elimination System (NPDES). Today the Agency is promulgating a final rule to implement the new forms. The forms published today are: (1) Form 2e for use by dischargers of solely non-process wastewater whose wastestreams are not regulated by effluent limitations guidelines or new source performance standards; and (2) Form 2d for new sources and new dischargers of process wastewater, or of solely non-process wastewater if such wastewater is regulated by an effluent limitations guideline or a new source performance standard. Form 2e is intended to reduce reporting burdens by simplifying application requirements for dischargers of non-process wastewater. Form 2d (which replaces old Form C and old short Forms C & D for new sources and new dischargers) updates previous application forms in order to emphasize the control of toxic pollutants as mandated by the amended Clean Water Act (CWA).

DATES: In accordance with 40 CFR Part 23 (50 FR 7268) for judicial review purposes, the time and date of the Administrator's action in issuing this rule shall be 1:00 P.M. Eastern Time on August 11, 1986. These regulations shall become effective on September 10, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn Goode or Ms. Gail Goldberg, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; (202) 475-9534.

SUPPLEMENTARY INFORMATION:

1. Background

The Agency is developing a coordinated set of forms to be used when applying for NPDES permits. These forms will be used by EPA and by those States with approved NPDES programs which choose to adopt the forms. States may use different forms if they wish, but the information requested of permit applicants must include at least that required by the NPDES regulations. EPA will provide NPDES forms to States wishing to use them.

The application forms will, when complete, consist of the following:

Form 1 General Information (used by several permit programs). Discharges to Surface Waters (NPDES permits)
Form 2a Publicly Owned Treatment Works (POTW's)—to be proposed
Form 2b Concentrated Animal Feeding Operations and Aquatic Animal Production Facilities
Form 2c Existing Manufacturing, Commerical, Mining and Silvicultural Operations
Form 2d New Manufacturing, Commercial, Mining, and Silvicultural Operations
Form 2e Facilities Which Do Not Discharge Process Wastewater

On October 1, 1984, the Agency proposed Form 2c-s (see § 122.21(h)) which represented a new initiative by EPA. EPA's experience indicated that a substantial number of direct dischargers discharged only sanitary wastewater, restaurant wastes, and/or non-contact cooling water. For these facilities, toxic pollutants (with the exception of cooling water additives) were expected to be minimal or absent. Accordingly, many of the items on Form 2c would not be applicable to such dischargers. For this reason, EPA proposed a simplified, two-page form for non-process wastewater dischargers which would simplify their application procedures, and reduce the reporting burden caused by use of the longer form.

On October 1, 1984, the Agency also proposed Form 2d (see § 122.21(k)). As proposed, this form was designed for use by all industrial new source facilities and new dischargers. Generally, a new source is any facility the construction of which commenced after new source performance standards (NPDES) were promulgated or proposed in accordance with section 306 of the CWA. A new discharger, on the other hand, is generally which did not commence discharging before August 13, 1979, which is not a new source, and which has never received a finally effective NPDES permit (see 40 CFR 122.2 and 122.29). The forms presently used by these new facilities do not address toxic pollutants as required by the Clean Water Act amendments of 1977. EPA therefore designed a form which would provide this information to permit writers and at the same time provide a more streamlined format intended to be simpler for permit applicants. The form was modelled on Form 2c for existing industrial dischargers (see 44 FR 50780, August 29, 1979; 45 FR 33516, May 19, 1980; 49 FR 37998, September 26, 1984).

II. Issues

In response to our proposal, EPA received comments on many issues associated with both forms. All significant comments and the Agency's responses to these comments are discussed below. Responses to all other comments are available for inspection in Room 208, (NE Mall) 401 M. Street, SW. Washington, DC 20460.

Where the Agency has changed the proposed forms or instructions in response to public comments or to correct technical or typographical errors, we have also amended the corresponding provision of the implementing regulations where deemed appropriate.

A. Form 2e

1. Community of Users

EPA received many comments concerning which facilities should use this form. Several commenters addressed the issue of which form should be used by new facilities which discharge solely non-process wastewater. Most of these commenters (including one State permitting authority) stated that our requirement that such dischargers use Form 2d was unreasonably burdensome. After consideration of these comments, EPA has decided that Form 2d is indeed inappropriate for new dischargers of solely non-process wastewater, since the form (modelled after form 2c) addresses the pollutants most likely to be present in an industrial effluent. The short form, on the other hand, was designed specifically to address problems posed by non-process wastewater, and there seems to be no reason to exclude new dischargers of such wastewater from using the short form. EPA has therefore concluded that new dischargers of solely non-process wastewater may use the short form (except for dischargers of stormwater runoff).

New sources (any facility covered by an NSPS) should use Form 2d because of the likelihood that an NSPS-regulated wastestream may contain significant amounts of toxic pollutants. This issue is addressed more fully below (see the discussion of various discharges from the steam electric industrial category).

To avoid confusion, EPA has changed the name of the short form from "2c-s" to "2e", since the form will no longer be

merely a shorter version of Form 2c for existing facilities. Consistent with Form 2d, EPA has also changed the form, instructions, and regulations to provide for the submission by new dischargers of estimated as well as actual pollutant values and for submission of a date the discharge is expected to begin. Certain other conforming changes have also been made to the form, instructions, and regulations simply to indicate applicability to these dischargers. These changes should substantially reduce the reporting burden for these facilities which would otherwise use the longer form.

EPA has also amended the regulations and instructions to require new dischargers of solely non-process wastewater to submit follow-up data (Item IV of Form 2e) no later than two years after commencement of operations to provide information on actual operating conditions. The follow-up data will allow for subsequent modification of the permit if needed, and this practice is consistent with the follow-up procedures for Form 2d discussed in Part II–B below.

Many commenters questioned EPA's decision that Form 2e could not be used for discharges of uncontaminated stormwater run-off. These commenters believed that the form was the best way to address this type of discharge. However, EPA is treating all discharges of stormwater run-off as a separate category in other rulemakings in light of the nature of such discharges. Thus this form is not to be used for stormwater discharges. The Agency promulgated modified application requirements for discharges of stormwater run-off in the **Federal Register** on September 26, 1984 (49 FR 37998). However, in response to widespread concern about the feasibility of the requirements published on that date, the Agency proposed on March 7, 1985 (50 FR 9362) to extend the application deadline for all discharges of stormwater run-off. The same notice also proposed other changes to the application requirements for Group I discharges of stormwater run-off. However, no changes were proposed to the requirement that dischargers of Group II stormwater run-off submit Form 1 Plus a narrative description of the drainage area, receiving water, and treatment system. On August 12, 1985 (30 FR 32549) the Agency reopened the comment period on Group I application requirements in order to solicit comments on a group application process for these discharges. On August 29, 1985, a final rule was published which extended application deadlines to December 31, 1987 for Group I discharges and to June 30, 1989 for Group II discharges (50 FR 35200). Any discharger of stormwater run-off should refer to the above notices for the specific requirements for stormwater discharges.

Several commenters requested clarification about the form to be used by dischargers of various kinds of wastestreams from the steam electric category (cooling tower and boiler blowdown, once-through cooling water, and steam condensate). These commenters generally suggested that such wastestreams contain few or no contaminants and that Form 2e therefore constitutes the most appropriate way to deal with these discharges.

In response, EPA reiterates that the short form is for use only by facilities which discharge *no* process wastewater. Facilities in the steam electric industrial category usually combine process and non-process wastewater or discharge process wastewater from at least one outfall. This is also generally true where any guideline or NSPS has been issued for an industrial category. Accordingly, Form 2c would be the appropriate form for such existing facilities.

In addition, EPA has established effluent limitations guidelines and NSPS for the steam electric industrial category which include limits on cooling tower or boiler blowdown, once-through cooling water, and steam condensate (40 CFR Part 423). Such limits were established because these wastestreams may contain priority pollutants, rust inhibitors, or algicides from chemicals added for maintenance (see the *Development Document for the Effluent Limitations Guidelines and the Pretreatment Standards for the Steam Electric Point Source Category*, November 1983, pp. 105, 189, 329). Of course, the Agency is aware that some individual facilities in these categories may happen to contain few or no toxic pollutants in these wastestreams. Nevertheless, any wastestream which EPA considers significant enough to be regulated by an effluent guideline or NSPS is substantially more likely than other types of discharges to contain significant amounts of toxic pollutants or to come into contact with process or waste materials and thus to have the possibility of becoming contaminated. For these reasons, the Agency believes that facilities with such discharges should continue to use Form 2c or Form 2d (even if such discharges are not within the definition of "process" wastestreams found at 40 CFR 122.2) because that form requires testing for organic toxic pollutants if the applicant knows or has reason to believe that these pollutants are present in his non-process wastestream. Since toxics data are likely to be relevant for such discharges, EPA believes this information should be supplied in the application. EPA has decided that for such facilities submission of the short form (which requires only limited information on cooling water additives for non-process wastestreams) would generally not be appropriate, since the permitting authority would often find it necessary to obtain additional data in light of the nature of these discharges.

As we stated in our proposal, the Agency must balance the community of users of Form 2e against the complexity of the form. As the types of facilities eligible to use the form increase, so must the length of the form. If facilities with process or guideline-regulated wastestreams were allowed to use the form, it would have to be expanded to include questions on other pollutants, such as heavy metals, pesticides, and organics. Requirements to provide data on these pollutants could complicate the form to such an extent that its purpose would be defeated.

Many dischargers will find Forms 2c and 2d easier to use than appearances suggest. Testing or estimating for the toxic pollutants listed in these forms is required for non-process wastestreams only if it is known or there is reason to believe that these pollutants are being discharged. In addition, secondary industries need only test wastestreams (whether process or non-process) for toxic pollutants if it is known or there is reason to believe these pollutants are being discharged. Further, testing requirements have been suspended for process wastestreams in several industrial categories, such as coal mining, steam electric power plants, gum and wood chemicals, leather tanning, paint and ink formulation, petroleum refineries, and pulp and paperboard mills. The suspensions relieve these facilities of certain GC/MS testing requirements. For the texts of the suspensions, see 40 CFR Part 122, Appendix D.

Accordingly, in considering who should be eligible to use the short form, EPA has determined that facilities discharging solely "non-process" wastewater must continue to use Form 2c or 2d if their wastestreams are regulated by an effluent limitations guideline or NSPS. Form 2e has been changed to indicate that facilities discharging solely non-process wastewater which is limited in an applicable NSPS or effluent limitations guideline may not use the short form. Facilities with such regulated

wastestreams are almost always "process" dischargers within the meaning of § 122.2 and would use Form 2c or Form 2d in any event.

One commenter raised the issue of the appropriate form to be used by federal facilities. Federal facilities are treated the same as other dischargers. The form they use depends on the nature of the discharge and whether such discharge is direct or surface waters or indirect to a publicly owned treatment works (POTW). A federal facility discharging into a POTW should employ the forms presently used by the control authority for indirect dischargers. A federal facility which is a direct discharger would use Form 2c, 2d, or 2e. It would use Form 2e only if all of its discharges consist of non-process wastewater which is not regulated by an effluent limitations guideline or a new source performance standard. As EPA's proposal indicated, the short form is for use by facilities which discharge *only* non-process wastewater. Any industrial discharger with both process and non-process outfalls must use Form 2c or Form 2d for all outfalls. These forms are more appropriate for such dischargers because of the possibility that their non-process outfalls may become contaminated by process materials. Forms 2c and 2d require that such non-process outfalls be tested for toxic pollutants if the applicant knows or has reason to believe they are present in the wastestream.

Other commenters requested clarification about the eligibility of various other facilities to use Form 2e, i.e., oil and gas production facilities (onshore and offshore), petroleum storage and transfer facilities, transportation and maketing facilities, pipeline terminals, and facilities which discharge only oil/water separator effluent.

Oil and gas production facilities (onshore and offshore) and petroleum refineries are process dischargers within the meaning of 40 CFR 122.2 which are regulated by effluent limitations guidelines. These facilities must therefore use Form 2c or Form 2d.

Petroleum storage and transfer facilities, marketing or transportation facilities, and pipeline terminals are non-process dischargers which are not currently covered by an effluent limitations guideline or NSPS and may therefore use Form 2e. However, if any of these operations is located on the site of a petroleum refinery, the facility as a whole would discharge both process and non-process wastewater and would be covered by the same NPDES permit. In that case the facility should use Form 2c or 2d. Facilities which discharge oil/water separator effluent are process dischargers within the meaning of 40 CFR 122.2 and should use Form 2c or 2d.

One commenter suggested that dischargers of contact cooling water for "non-hazardous" materials (e.g., food product container manufacturers) be allowed to use Form 2e. Contact cooling water is also clearly a process discharge within the meaning of 40 CFR 122,2, with a possibility of becoming contaminated with manufacturing wastes. For this reason, dischargers of these wastestreams should continue to use Form 2c or 2d, even though the pollutants involved may not be considered "hazardous" in the sense of being immediately dangerous to human health or the environment. However, as a secondary industry, food container manufacturing is subject to testing for organic toxic pollutants only if it is known or there is reason to believe that such pollutants are present in the wastestream (whether process or non-process).

The Agency also received coments on the appropriateness of Form 2e for educational and medical laboratories. These commenters, including two State regulatory authorities, suggested that the discharges from such facilities always contain toxic pollutants and that the use of a form requiring minimal testing is inadequate to provide information on such discharges. One commenter asked EPA to provide a definition of toxic pollutants and to state how specifically such laboratory wastes must be identified and measured. Another commenter suggested the use of biomonitoring to assess the toxicity of such wastes.

In order to evaluate this problem, the Agency has contacted permitting authorities about educational and medical laboratories, as well as commercial chemical laboratories. We have been unable to determine the direct discharges from these facilities generally contain minimal or no toxic pollutants (pollutants listed as such under section 307(a)(1) of the CWA (40 CFR 401.15)). In addition, a recent EPA study of hazardous wastes discharged by various industries to publicly owned treatment works (POTWs) concluded that hospitals and medical laboratories may discharge significant amounts of spent solvents (such as acetone, benzene, and toluene), strong acid or alkaline wastes, and phenol- or cresol-based disinfectants (See *Report to Congress on the Discharge of Hazardous Wastes to Publicly Owned Treatment Works*, February 1986, chapter 3, section 3.4.2.7). Many of these substances are on the list of pollutants which are required to be reported by users of Forms 2c and 2d. Although the data base examined by the study included only indirect dischargers, EPA believes it reasonable to conclude that directly discharging facilities contain similar substances in their effluent. Therefore, the Agency is not changing existing requirements for these dischargers.

As secondary industries, educational or medical laboratories must test for toxic pollutants under Forms 2c or under the Form 2d follow-up requirements if they know or have reason to believe that these may be present in their discharges. The instructions to Forms 2c and 2d state the exact requirements for the types of pollutants to be tested and how they should be measured and reported. The permitting authority may also require biomonitoring on a case-by-case basis if test results indicate that this would be appropriate.

2. Effluent Data

EPA received numerous comment on this subject. Several commenters suggested that we should ask for more information about the ingredients of cooling water additives. These commenters believed that merely listing the names of the additives used was not helpful in developing permit limits. They suggested requesting information on the additive base (heavy metal, phosphorus, etc.) and active ingredients. Two commenters suggested we expand this requirement to include information on maintenance programs and adequate toxicity.

EPA agrees that more data on cooling water additives would be useful to permitting authorities, but the Agency wishes to minimize the reporting burdens required of Form 2e users. EPA has therefore modified Item III–B, the instructions, and the regulations to request information on the composition of cooling water additives if such information is available. We are requesting data that applicants may be able to obtain from product labels or manufacturer's data sheets. This additional information will provide permit writers with better information for determining whether more testing should be required pursuant to section 308 of the CWA, without increasing reporting burdens. With respect to maintenance programs and aquatic toxicity data, the Agency does not believe it necessary to expand the form to request this information on a routine basis, since the data are frequently not necessary to set permit limits (such data are also not required on Form 2c or Form 2d). However, the permit writer may request more data on these subjects

if he believes it pertinent for the additives involved. (The need for such data may vary widely.) Section 308 of the Clean Water Act serves as the authority for requesting such additional information.

Another commenter questioned EPA's general requirement to test for fecal coliform, since fecal coliform is always present in sanitary wastewater but not in non-contact cooling water. The Agency agrees that fecal coliform, while always present in sanitary wastewater, is not frequently found in other discharges. (Form 2c requires testing for fecal coliform only if that parameter is believed to be present.) The Agency, therefore, has amended the form, instructions, and regulations to require testing for fecal coliform only if it is believed to be present or if sanitary waste is discharged. Similarly, one commenter stated that the Agency should require testing for oil and grease only in the case of non-contact cooling water, since these substances are not likely to be present in sanitary wastewater. However, the Agency has found that oil and grease are frequently found in sanitary wastewater and in wastewater discharged from restaurants and cafeterias (see, e.g., *Sawyer and McCarthy, Chemistry for the Environmental Engineer, New York,* McGraw-Hill, 1978). EPA therefore will continue to require that all users of Form 2e test for oil and grease unless a waiver is granted (see § 122.21(h)(4)(ii)).

Some commenters suggested that EPA retain certain testing requirements now required of non-process wastewater dischargers on Form 2c, rather than eliminate such testing requirements for these dischargers as was proposed. One commenter suggested that the Agency retain the testing requirements for total organic carbon (TOC) and chemical oxygen demand (COD) which are currently required by Item V–A of Form 2c. These provide a better indication of the non-contact status of cooling water at a small incremental cost, as well as better control of any maintenance chemicals. The Agency agrees with this suggestion and is retaining the requirement to test for TOC and COD if non-contact cooling water is discharged (the form, instructions, and regulations have been amended accordingly). EPA believes that these tests provide additional information on pollutants (such as maintenance chemicals) not adequately measured by the biochemical oxygen demand (BOD) test.

Another commenter suggested adding the requirement to test and report for dissolved oxygen (DO) and either adding Total Kjeldahl Nitrogen (TKN) or retaining ammonia from Form 2c. The Agency does not believe testing for dissolved oxygen or TKN would add information likely to be relevant to most discharges. For this reason, DO and TKN are not listed on Form 2c. The TOC and COD test provide sufficient information on the potential for oxygen depletion. However, data on ammonia would help permit writers to determine if sanitary or other wastes contain industrial components and would also help to determine whether water quality standards are met. Therefore, we are retaining the testing requirements for ammonia (as N). As the notice of proposed rulemaking stated, the pollutants or parameters for which EPA proposed to retain testing corresponded roughly to the Item V–A pollutants or parameters on Form 2c. The Agency further stated that these pollutants or parameters are necessary for developing permit conditions and are routinely monitored as part of existing permit requirements. The same is true for all of the pollutants or parameters for which EPA has determined to retain testing by users of Form 2e, including TOC, COD, and ammonia. We have amended the form, instructions, and regulations accordingly.

Still another commenter suggested that for non-contact cooling water, the only appropriate testing requirements are for flow, temperature, and residual chlorine. EPA cannot agree with this suggestion, since such testing generally would not be sufficient to indicate the presence of toxic substances such as chemical additives, nor would it be sufficient to determine permit limits for those pollutants generally found in non-process wastewater.

Another commenter suggested that the Agency should add specific sampling guidelines to implement the testing requirements of Item IV. The Agency has modified the instructions and regulations to clarify the sampling requirements. Additional analytical procedures to be used in the NPDES program are specified at 40 CFR Part 136. If the applicant still has questions on sampling techniques or analysis, he should contact his EPA or State permitting authority. EPA has also amended the form, instructions, and regulations to clarify that pollutant levels (except for flow, temperature and pH) should be reported or estimated as concentration and as total mass, consistent with Form 2c and Form 2d.

Another commenter requested clarification about average daily value for various parameters (Item IV). The commenter asked if EPA required data for the previous calendar year or the previous 365 days. A figure representing data for the previous 365 days best conforms to the intent of the proposal, because applications may be made at any time during the year and this figure would best represent current operations. (Of course, this does not imply a requirement to take 365 samples.) We have changed the instructions and regulations accordingly to clarify this requirement.

Two commenters suggested that we should allow applicants to submit requests for a testing waiver with the completed application (as is done in the case of Form 2c) instead of 45 days in advance of the application. The Agency has determined that no administrative problems would be presented by this procedure and therefore agrees to delete the proposed requirement to submit waiver requests before the application. We have amended the form, instructions, and regulations accordingly. However, it should be understood that should a waiver request be denied, the applicant must expeditiously test for and report the required data. EPA has also amended the instructions and regulations to clarify that the standard for granting this waiver is exactly the same as that currently required under Form 2c.

Another commenter stated that we should require the applicant to submit any studies which have been conducted in nearby receiving streams. The Agency does not believe such a requirement is routinely necessary in the case of non-process wastewater dischargers because of the significantly reduced likelihood that toxic pollutants will be present in their wastestreams. If the permitting authority is concerned about water quality problems in a particular locality, he may make inquiries about any such studies under section 308 of the Clean Water Act, or the applicant may wish to submit such data under Item VII (Optional Information).

Similarly, another commenter advised EPA to specify more about local factors, such as water quality considerations, which might lead permit writers to require further testing or more information.

In response, the Agency points out that such local factors might include designated stream use, existing stream use, presence of toxic pollutants, and applicability of water quality standards. Decisions about appropriate further testing requirements in light of local water quality considerations must be made on a case-by-case basis, and local permitting authorities are in the best position to be aware of water quality problems in their area or of any other

problem associated with the facility in question. This procedure is also used under Form 2c. For guidance on such decisions, however, the permit writer may consult the EPA guidance document entitled *Water Quality Standards Handbook* (December 1983) or EPA's Technical Support Document for Water Quality-based Toxics Control (September 1985).

The same commenter requested clarification on whether discharges must be suspended until any additional information requested by the permit writer was supplied.

In order to continue an existing permit pending reissuance pursuant to 40 CFR §§ 122.6 and 122.21(e) (or similar State continuance provisions), the permittee must submit a "complete" application. § 122.21(e) states that a "complete" application consists of an application form and any supplemental information which is completed to the permitting authority's satisfaction. Therefore, the permitting authority will decide on a case-by-case basis whether the information submitted by the permittee is sufficiently complete to allow the conditions of the previous permit to continue in effect.

Another commenter asked us to add spaces for "other" or "groundwater seepage" under Item III–A (type of waste). Since discharges solely to groundwater are not generally regulated under the NPDES program, and are not mentioned on Form 2c, we have not added a question about this subject. However, EPA has added a space for "other" wastes (with a request that such wastes be identified) to Item III–A of the form. In addition, States approved to administer the NPDES program may have more stringent requirements than EPA, pursuant to section 510 of the CWA. These States may therefore request additional information, such as data on groundwater or non-point sources.

3. NPDES State Application Requirements

One commenter suggested that the Agency encourage States with approved NPDES programs to adopt Forms 2d and 2e for the sake of consistency. Another commenter urged that we require States to adopt special application procedures for non-process dischargers.

As stated above, under section 510 of the CWA, State NPDES programs may be more stringent than the federal program. EPA prescribes only the minimum application requirements pursuant to sections 304(i) and 402 of the CWA. With respect to Form 2d, as long as all information required on the form is also required on the State application form, the minimum requirements are met.

With respect to Form 2e and non-process dischargers, if a State desires to omit or modify certain application requirements of the NPDES program in order to impose more stringent requirements, it is free to do so (see 40 CFR 123.25(a)(4)). States may therefore impose the same application requirements on dischargers of both process and non-process wastewater, without simplifying procedures for the latter. However, EPA is aware of the practical advantages of a similar format in application forms. For this reason, we strongly urge NPDES States to adopt the forms promulgated today. Many States have adopted NPDES application forms in the past, and the Agency expects that this will also be true of Forms 2e and 2d.

4. Miscellaneous Issues

One commenter suggested the addition of another space to the form for information on influent data and "net" credits. Although EPA does not believe it necessary to add another space to the form for this information, we have changed the instructions and regulations regarding the provision of influent data for the purpose of establishing "net" credits. Such credits will be established pursuant to 40 CFR 122.45(g), and are available to any NPDES permittee who makes the requisite demonstrations discussed therein.

Two commenters questioned our providing space on the form for five outfalls when a separate form must be filled out for each outfall in a facility. EPA agrees, and to avoid confusion has eliminated the space for additional outfalls. In addition, it was not the Agency's intent that the entire form be filled out for each outfall. Only Items I, III, and IV need be completed for additional outfalls, since the other items would usually be duplicative.

B. Form 2d

1. Follow-up Requirement

In the proposal, the Agency solicited comments on the requirement that users of Form 2d submit actual data using Item V of Form 2c (as well as information on "currently used or manufactured" pollutants) no later than two years after commencement of discharge. This submission would inform the permitting authority of any discrepancies between estimated and actual effluent data. The permitting authority could then modify the permit if necessary.

EPA received no negative comments about the concept of follow-up reporting. Many commenters supported our two-year follow-up requirement. However, two commenters suggested that the follow-up should be done after one year; one of these commenters further suggested a series of one-year follow-ups until "steady state" was achieved.

After consideration of these comments, EPA has decided to retain the two-year follow-up as proposed. The Agency has concluded that a one-year follow-up requirement may not be adequate and therefore would be unduly burdensome for permittees. As one of the commenters mentioned above tacitly conceded, a "steady state" may often not be achieved after only one year. The information obtained from a one-year follow-up may thus need to be supplemented by another follow-up at a later time, and might not allow the applicant to detect and resolve any possible problems with production or waste treatment before submission of his data. Data obtained between the first and second year are generally more likely to be accurate and representative of the treatment system. Multiple testing requirements therefore would produce a substantial burden for permittees without generally offering any particular benefits to the permitting authority. It should be noted that all NPDES permittees must notify the permitting authority of non-compliance with their permit conditions under 40 CFR 122.41(j)(7). They must also notify the authority of failure to submit relevant facts or of the submission of incorrect data under 40 CFR 122.41(l)(8). In addition, they must notify the authority of any planned physical alterations or additions to their facility which could significantly change the nature or increase the quantity of pollutants discharged which are not limited in the permit (see 40 CFR 122.41(l)(1)(ii)). These requirements should cover many cases where a substantial change in the nature or quantity of the effluent occurs before the two year follow-up date.

One commenter asked how the permit would be revised when the follow-up data shows that the facility is not providing adequate control. The commenter also asked for a definition of adequate control and asked what additional information EPA might require once a new source is in operation.

A facility would normally be considered to provide inadequate control if the follow-up analytical data indicating the type and amount of pollutants discharged turned out to be significantly different from the estimates provided in Form 2d, and if the permitting authority further determined that the data would have justified the

application of different permit conditions at the time of issuance (see 40 CFR 122.62(a)(2)). The Agency expects that the follow-up testing requirements would often provide sufficient information to modify the permit; if not, the permitting authority might request further quantitative data on a case-by-case basis. If permit modification were necessary, the procedures for modification found in 40 CFR 122.62 (applicable to all NPDES permits) would be followed.

Another commenter requested clarification about the testing required in the follow-up submission. The commenter asked if EPA required testing for those pollutants originally estimated in Form 2d, or for all pollutants.

The follow-up requirement consists of the submission of Items V and VI of Form 2c no later than two years after commencement of discharge. (Item VI requires the reporting of "used or manufactured" pollutants). These requirements, including the specific pollutants to be reported, are found in the instructions to Form 2C and in 40 CFR 122.21(g).

One commenter suggested that we require the applicant to provide biomonitoring data, either with his original application or as part of his follow-up requirement.

The Agency recognizes the usefulness of toxicity data in evaluating wastewater discharges and in setting permit limitations. EPA has issued a policy describing a strategy using both biological and chemical methods to achieve water quality standards (see 49 FR 9016, March 9, 1984). Nevertheless, EPA does not routinely require that every NPDES permit applicant conduct such testing. Nor do we believe that such a general requirement is appropriate at the present time. Such testing is appropriate only when necessary because of discharge conditions. The commenter pointed out that toxicity testing is currently a part of treatability studies by progressive consulting firms and industries. Even if this were true, the Agency does not believe that toxicity is necessary as a standard requirement for all applicants, since the need for such data may vary widely due to local factors and the nature of the discharge in question. For this reason, EPA prefers to leave the decision on whether to require toxicity testing to the State or Regional permitting authority, based on state water quality standards or other considerations.

Another commenter rquested that we add a waiver from the follow-up requirement that applicants must report toxic pollutants that are used or manufactured (Item VI of Form 2c). Since Item VI of form 2c must be submitted as part of the follow-up requirements, the above-mentioned waiver, which is already available to users of Form 2c (see 40 CFR 122.21(g)(9)) will be available as well to users of Form 2d, at the time they complete Item VI as part of their follow-up requirement. Adding another identical waiver to the present NPDES regulations is therefore unnecessary. However, we have clarified the instructions to indicate that such a waiver is available, as well as a waiver from reporting Item V–A pollutants under 40 CFR 122.21(g)(7)(i)(B).

One commenter pointed out a discrepancy between the proposed regulation and the instructions concerning follow-up data; the proposed regulation required submission of such data "no later than 2 years" after commencement of discharge, while the proposed instructions required submission "not less than 2 years" after commencement of discharge. EPA has corrected the language of the instructions to correspond with the regulation.

2. Estimated Pollutant Values

One commenter suggested that we stress reliance on effluent data from similar plants when requiring estimates of the pollutants expected to be discharged, since a single analysis might not provide enough information to set permit limits for priority pollutants. The same commenter suggested that we specify detection limits for any testing methods used. Another commenter stated that we should require explanations of the data base from which estimates were made. Still another commenter expressed concern about the possible confidentiality of engineering studies used as a data base which the permitting authority might require an applicant to submit.

As stated in the proposal, EPA cannot expect applicants to perform actual sampling if no discharge exists, nor is information on detection limits relevant when no testing is performed. Item V requires applicants to give the source of any estimated pollutant values according to a code which is provided in the instructions. The code refers to the most likely sources of such estimates. The instructions specifically mention data from other plants as a potential source for estimated values, along with engineering studies and best professional estimates. The applicant must specify any other sources on the form. EPA believes that this requirement is quite sufficient to provide the permitting authority with the data base for the estimated discharge. With respect to confidentiality, the applicant is not required to submit confidential engineering studies used as a source for estimates (Item V). If the permitting authority then requests to see such studies on a case-by-case basis, the applicant may claim the information as confidential under the procedures of 40 CFR Part 2.

One commenter suggested that EPA require reporting of pollutant levels as concentration and as total mass. This reporting requirement was specified in the proposed instructions (see 49 FR 38821). However, we have amended the forms and regulations as well in order to clarify that this is in fact a requirement (except for flow, temperature, and pH). To avoid confusion, we have also clarified the instructions and regulations to indicate that the standard for granting the waiver from estimating Item V–A pollutants is exactly the same as that currently required under Forms 2c and 2e.

Another commenter stated that the Agency should ask for typical daily values of estimated pollutants rather than minimum daily values, since the minimum value in most cases would be zero or non-detectable. Form 2d requires reporting of data only for those pollutants that are expected to be discharged. Therefore, a minimum value should be some value greater than zero. However, the Agency has decided that a minimum value would not be useful to permit writers in most cases, since permits do not establish a minimum limit for the amount of pollutants discharged (Form 2c does not require the submission of minimum daily values). EPA has therefore changed the form, instructions, and regulations to require estimates of average daily values, as well as the maximum daily values already requested. Nevertheless, the permitting authority may request information about minimum value on a case-by-case basis when appropriate (i.e., when extreme shifts in production are likely).

One commenter asked us to either add certain pollutants to those required to be estimated if discharged (hexavalent chromium, total dissolved solids, and cyanide amenable to chlorination) or to add a space on the form for additional parameters requested by the States. EPA does not believe it necessary to require estimates from all applicants of the parameters mentioned by a commenter because they would not be useful in setting limits for most permits and the requirement is not included in Form 2c. Nor do we believe it necessary to add

another space on the form for parameters required by the States. The usual practice is for States to request any additional informaton on an attached separate sheet.

Another commenter requested clarification on which pollutant values were required to be estimated: All known pollutants, or only toxic and hazardous substance. The form and instructions clearly state that the pollutants to be estimated are listed in Table 2d–2 (see proposed 49 FR 38821, 38825). Furthermore, the instructions only require estimates for those pollutants in Table 2d–2 which are expected to be discharged.

A few commenters requested that EPA add a requirement for information on estimated parameters for other than "end-of-pipe" discharges; i.e., internal waste streams such as wastewater treatment units and contributing operations. The commenters stated that this information would help gauge the appropriateness of chosen treatment processes and help the permitting authority to make a decision on any appropriate water quality-based limitations.

The NPDES regulations provide that permit limits may be set for internal waste streams only when effluent limitations or standards imposed at the point of discharge are impracticable or infeasible because of such circumstances as an inaccessible final discharge point, extreme dilution of wastes at the point of discharge, or interferences among pollutants at the point of discharge (see 40 CFR 122.45(i)). Since the Agency normally establishes limitations only for "end-of-pipe" outfalls, we do not believe it useful to routinely request information on internal waste-streams from all applicants (such information is not requested on Form 2c). When the permitting authority deems it relevant in a specific situation (such as when any of the conditions above apply or the wastestream is covered by an effluent guideline which regulates internal wastestreams in particular industrial categories), he may ask for such data on a case-by-case basis.

One commenter asked why the exemptions from testing under proposed § 122.21(k)(5)(iii) (B) (organic toxic pollutants) were limited to certain coal mines and businesses with less than $100,000 in anticipated annual sales. They also asked whether non-profit organizations (such as universities) were eligible for the exemptions.

These proposed exemptions were made for the sake of consistency with the testing exemptions already available for existing dischargers which were promulgated on May 19, 1980 (45 FR 33542). The rationale for these exemptions (including the $100,000 annual sales cut-off figure) are discussed in detail in the preamble of that rule. Non-profit organizations are eligible for the exemptions.

One commenter requested clarification about the relationship between Tables 2d–3 and 2d–4, pointing out that there existed a considerable overlap between the two tables and stating that the instructions on reporting requirements (49 FR 38822) were confusing because it was not clear whether the requirements were mutually exclusive.

The overlap of pollutants exists because the two tables pertain to different programs, the NPDES program under section 402 of the CWA and the spill control and prevention program under section 311 of the CWA. These programs are designed to deal with different environmental problems. For this reason, the Clean Water Act does not provide that compliance with the spill control requirements of section 311 exempts facilities from the requirements of the NPDES program, or vice versa, and the reporting requirements for the two tables are cumulative, not mutually exclusive. The NPDES application forms are a useful method of obtaining information about the spill control program under section 311 of the CWA, but the two programs remain distinct.

However, EPA agrees that the language on this issue found in the proposed instructions is unclear and has modified the instructions to Item V–C accordingly. The instructions now state that all pollutants on Table 2d–3 must be listed if the applicant believes them likely to be present in his proposed discharge (although quantitative testing will not be required). EPA has then stated that the pollutants on Table 2d–4 (which includes most of the substances listed on Table 2d–3) subject the applicant to the *additional* reporting requirements of the spill control program of section 311 of the CWA, unless a waiver from spill control requirements is obtained under 40 CFR 117. The Agency is including the information on Part 117 exemptions because some facilities are subject to both programs.

The same commenter asked that EPA include more information on the data and source of information used to compile the two tables. The compilation of Table 2d–3 is discussed in the proposal of NPDES application requirements published on August 29, 1979 (44 FR 50780). The compilation of Table 2d–4 is discussed in the proposal of the Part 117 requirements published on February 1, 1979 (44 FR 10271).

Another commenter suggested that the Agency include the entire text of Part 117 in the instructions to Form 2d. EPA believes a reference to the Part is sufficient; adding the text would lengthen the instructions unnecessarily, since Part 117 is not relevant to many permit applicants.

Another commenter suggested that the language of Item V and the instructions regarding indicator pollutants should be changed to require reporting of group B pollutants if limited "indirectly through limitations on an indicator pollutant" instead of "indirectly through an indicator". EPA agrees that the suggested language is technically more accurate and has changed the form and instructions accordingly.

3. Production Volume Data

EPA received general support for the proposal to require production volume data only in the case of applicants subject to production-based effluent guidelines, and for the proposal to request estimated production volume for the first three operating years of the facility. However, one commenter stated that the Agency should request production data from all applicants, since EPA had stated that such information is frequently useful in determining permit limits for facilities which have not yet begun to discharge.

Although information about production data may sometimes be useful, it generally is not needed to set permit limits except where the applicant is covered by a production-based effluent guideline or new source performance standard. This limited usefulness does not outweigh the business confidentiality problems which could arise under a blanket requirement for production data. The Agency believes that the estimates and follow-up required by Form 2d, plus the permitting authority's ability to ask for additional information, will provide a sufficient basis for setting the appropriate permit limits. This approach is consistent with the requirements of Form 2c. In support of its position, EPA notes that several State and Regional permitting authorities submitted comments in response to the proposal, and they did not suggest that EPA expand the proposed requirement in order to request production volume data from all applicants.

Another commenter suggested that EPA require applicants to submit estimated production volume for each of the first five operating years, instead of for each of the first three operating

years, to correspond to the duration of the pemit. However, EPA continues to believe that requiring data for the first three operating years is sufficient to set permit limits for most applicants, since fluctuations in production are likely to have stabilized by that time.

One commenter suggested that EPA add a provision to the form allowing the reporting of alternate production estimates if production is likely to vary. Since 40 CFR 122.45(b) allows the Director to grant such limits, the Agency has added a sentence to this effect to the instructions to Item IV and the regulations. Information on alternate production limits could be inserted in Item VII (Optional Information).

Another commenter stated that EPA should request maximum monthly production levels in Item IV since that is the basis for derivation of most production-based effluent guidelines. This assumption is incorrect. Most production-based effluent guidelines are developed using long-term average production values. Fluctuations in production are also considered, along with the relationships of flow to production. Moreover, monthly production can be easily calculated by the permitting authority by using the daily production data already reported, without requiring more specificity on the form.

4. Community of Users

EPA received many comments on the appropriateness of Form 2d for new dischargers discharging non-process wastewater. One commenter even suggested elimination of Form 2d, since it attempted to "consolidate industrial waste and sewage to no advantage to anyone." To resolve this problem, several other commenters suggested that the use of Form 2e be allowed for new dischargers of non-process wastewater, which the Agency has agreed to do (see Part II–A–1 above). One commenter suggested that Form 2c be used for new sources in which industrial wastewater is the primary component. The Agency does not agree with this suggestion, since Form 2c is designed for the reporting of actual rather than estimated pollutant values.

Another commenter requested clarification about the case of a permitted facility which was still under construction and was seeking renewal of a permit under which no effluent had ever been discharged, since such facilities would seem to be outside the definitions of new source and new discharger.

Under the NPDES regulations, such a facility would not technically be classified as a new discharger (since an effective NPDES permit had once been issued). However, the facility could be classified as a new source (if construction commenced after NSPS are proposed for its industrial category and if the NSPS were promulgated in accordance with section 306 of the CWA). It appears that the commenter was confused by the instructions to Form 2d which indicate that, generally, applicants answering "yes" to Item II–D of Form 1 should use Form 2d. Item II–D of Form 1 asks whether or not the facility is "proposed". However, the hypothetical facility mentioned by the commenter, although still under construction, was technically past the proposal stage. We believe that Item II–D of Form 1 should reasonably be read to mean that a proposed facility is one which has not yet begun to discharge. The answer to this item in Form 1 would therefore be "yes", and the appropriate form would be 2D. EPA believes that in the unusual situation suggested by the commenter, Form 2d is appropriate even if the facility is not technically a new source or a new discharger, since no discharge has occurred and only estimates can be provided.

5. Environmental Impact Statement

One commenter requested that the Agency include with Form 2d a standardized new source questionnaire to be used in States where EPA is the permitting authority. (Issuance of a permit to a new source by EPA is subject to the National Environmental Policy Act (NEPA) review provisions at 40 CFR Part 6, Subpart F). This questionnaire would help the Agency to determine whether an Environmental Impact Statement (EIS) needs to be prepared for the facility in question, and would refer to the criteria listed in 40 CFR 6.605(b).

The Agency does not agree that such a standardized questionnaire is appropriate. 40 CFR 6.604 requires that a preliminary environmental review must be conducted to determine whether an EIS is needed because of a significant environmental impact caused by construction of a new source. Although the information for the review must be provided by the permit applicant, § 6.604(b) provides that the responsible official must consult with the applicant beforehand to determine the scope of such information. The official is specifically instructed to "consider the size of the new source and the extent to which the applicant is capable of providing the required information. The responsible official shall not require the applicant to gather data or perform analyses which unnecessarily duplicate . . . existing data or analyses available to EPA." These restrictions exist because of the nature of the EIS criteria specified in § 6.605(b). For example, one of the criteria is whether the new source will induce or accelerate significant changes in industrial, commercial, agricultural, or residential land use concentrations which have the potential for environmental side effects. Another criterion is potential impact on endangered species or historic sites. These issues are obviously best handled on a case-by-case basis through individual discussions between the appropriate EPA Regional Office and the permittee. The decision about whether a particular new source should be subject to an EIS depends entirely on factors which are local and geographical in nature. Many applicants undoubtedly would not have the knowledge about local land use necessary to determine whether their facility met the § 6.605(b) criteria. EPA Regional EIS personnel are in the best position to be aware of the potential environmental impacts caused by construction of a new facility, and they would be able to eliminate any inapplicable criteria before initiating discussions with the operator.

Another commenter mentioned that the Agency should add a section on Form 2d asking whether an EIS has been or will be prepared and if so, the name of the person preparing it. EPA has not added such a section, since the personnel processing the application will first make a new source determination and conduct the preliminary environmental review discussed above before deciding whether an EIS is necessary.

6. Miscellaneous Issues

One commenter requested that EPA ask for a more complete narrative description of the line drawing required in Item III–B: for example, a narrative description of the fiber dying, washing, and drying process of Figure 2d–1.

The Agency believes that most permit writers are familiar with basic manufacturing and treatment processes. Therefore, EPA has concluded that a more detailed narrative description of processes is unnecessary (it is not requested on Form 2c). If the permitting authority is unfamiliar with a particular applicant's operations, he should contact the applicant individually.

Another commenter requested that EPA add septic tanks and surface and subsurface sand filter systems to the Biological Treatment Processes code in Table 2d–1. Sand filter systems are already included in the Physical Treatment Processes code of that table. EPA does not believe the addition of

septic tanks is necessary, since Item VII–A and the instructions thereto provide that a narrative description of treatment processes may be provided instead of the codes on Table 2d–1. The narrative could include any process not covered by the codes.

One commenter suggested that Item III–C of the form (intermittent or seasonal discharges) should be left unstructured to handle all possibilities. The Agency prefers to leave this item structured as proposed in order to obtain uniform and adequate data from all applicants. Any situations not covered by the provisions of Item III–C may be explained under Item VII (Other Information).

One commenter pointed out that Item II (Discharge Date) contained a question on date of discharge and a separate block which appeared to be for an additional date. EPA has amended the form to eliminate the extra block since it served no purpose.

Another commenter stated that Item VI–B (request for the name and location of similar plants) should be deleted or modified because most industrial facilities have one-of-a-kind design installations and the permittee would not be aware of minor differences between his facilities and others.

EPA believes that this commenter was justifiably misled by the language of Item VI–B, which refers to plants which "resemble the design" of the applicant's facility. EPA Intended instead to refer to similarities between production processes, wastewater constituents, or wastewater treatment. (These similarities were mentioned in the proposed instructions to Item VI–B.) The Agency has amended the form to make the request clear.

C. Issues Common to Both Forms

1. Economic and Environmental Benefits

EPA received broad public support for the proposed new forms, especially Form 2e. However, one commenter questioned EPA's assumption of cost savings associated with the forms, since the Agency had acknowledged that most users will not be small businesses who would benefit from such savings.

The Agency made no claims of substantial cost savings from the use of Form 2d. In the case of Form 2e, EPA has stated its belief that the use of this form would result in cost reductions for a substantial number of existing industrial dischargers who would otherwise have to submit Form 2c. Although such savings have a bigger impact on economic viability in the case of small businesses, EPA cannot agree that savings for larger organizations are unimportant. The Agency has estimated for the Office of Management and Budget that the completion of Form 2e requires an average of fourteen hours, as opposed to thirty-three for the completion of Form 2c. This reduction in reporting burden derived from the use of the shorter form seems to EPA to be quite beneficial for small and large businesses alike. The reduction is even more important when one takes into account the large number of non-process dischargers in the country. In addition, making the form available to new dischargers of solely non-process wastewater will produce even more substantial savings. The total burden hours eliminated for such dischargers is very significant. Comments from industry (including many large corporations) indicate that they are quite eager to avail themselves of Form 2e whenever possible.

The same commenter suggested that if the number of dischargers eligible to use the forms increases, then "the risks associated with the possible discharge of toxic or hazardous pollutants from these facilities will increase over time . . . the requirements of the proposed forms may ultimately prove to . . . thwart the goals and policies of the Clean Water Act, which EPA must enforce." This hypothesis, however, is necessarily based on the assumption that the forms do not provide sufficient information to write permits which will effectively control toxic and hazardous pollutants. EPA rejects this assumption. We believe that the forms are fully adequate to further the environmental goals of the CWA. Form 2d contains questions especially designed to address the toxic pollutants under section 307(a)(1) of the Act (40 CFR 401.15), and the follow-up requirements call for actual testing to determine the presence of such pollutants after operation begins. Even if the number of such dischargers increases, no reason exists to believe that Form 2d will be inadequate for Agency and State informational needs. The same is true of Form 2e. The testing requirements for that form are designed specifically to detect the pollutants most likely to be present in non-process wastewater, and the permitting authority is free to require additional data if necessary to write an adequate permit. In addition, the Agency has decided to prescribe the use of the longer Forms 2c or 2d for educational and medical laboratories, which may contain toxic pollutants in their effluent. (See discussion under Part I–A above.)

2. General Permits

Several commenters requested clarification about possible overlaps between users of the forms and facilities wishing to discharge under a general permit. The general NPDES application provisions do not apply to facilities covered by a general permit (see 40 CFR 122.21(a)). However, most general permits require facilities wishing to discharge thereunder to file a brief "notice of intent" which is a type of application. Persons wishing to discharge under a general permit should therefore, comply with the "application" requirements of that general permit.

One commenter suggested that since the general permit for oil and gas operations in the Gulf of Mexico has expired and a new one has been developed, but not yet issued, new operations should not be required to submit Form 2d in order to discharge in the interim. The commenter states that this new form would substantially increase the cost and time of preparing the application and processing the permit over existing requirements (filing Short Form C). They suggested that it would be more appropriate to allow these dischargers to use form 2e.

Where there is no applicable general permit in effect, any person wishing to discharge must apply for and obtain an individual permit. Accordingly, under the facts presented, it appears that the NPDES regulations would require such new oil and gas operations to submit Form 2d (at least 180 days before the date of commencement of discharge) if they wish to discharge under individual permits. EPA notes that preparing this application is not as burdensome as the commenter suggests. No testing is required; only estimates are necessary, which are generally only required for those toxics an applicant knows or has reason to believe will be present. However, in this case a new general permit has been proposed for the Gulf of Mexico and the final general permit will probably appear in the Federal Register shortly after this notice. The question of whether to submit an individual application form for these facilities is therefore likely to be moot. Under these circumstances, a more practical course of action may be for the commenter to wait until issuance of the general permit before beginning to discharge.

EPA will be considering (as a possible subject for future rulemaking or guidance) the general question of appropriate application information in cases where a general permit has expired and the new general permit is still in developmental stages.

3. Additional Sampling Data

One commenter suggested that EPA mention additional sampling as an

example of information which might be provided under Item VII of Form 2d and Item VII of Form 2e (Optional Information). The Agency agrees and has added a phrase to this effect to the instructions in both forms. However, we emphasize that submittal of any sampling done beyond the minimum testing requirement of the forms is not mandatory.

4. Certification Requirements

One commenter suggested that the instructions for the certification sections should contain a statement about penalties for failure to file an application, as well as the penalties for the submission of false information already mentioned. This penalty is mentioned in the instructions because it applies directly to the acts of reporting information on the form and signing the application. Penalties for other types of violations are set forth in the CWA and the NPDES regulations. EPA believes that this approach is sufficient for those types of violations and that these penalties need not be repeated on the form. The same commenter suggested that we include guidelines to ensure compliance by government agencies with the certification requirements. However, there are no special rules on compliance for government agencies; they are subject to the same requirements and sanctions as nongovernment entities. Section 313 of the CWA specifically states that federal facilities must comply with all applicable reporting and permitting requirements to the same extent as any other facility. The level of responsibility of the signer for purposes of federal agencies is specifically addressed in the instructions. Further discussion of this issue can be found at 48 FR 39611, 29613 (September 1, 1983).

III. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because of the relatively small number of new sources and new dischargers and the cost of submitting the data (estimated at a total of $367,763 per year, including the follow-up data). Also, the short form provides for a reduction in burden for many industrial facilities.

IV. Regulatory Flexibility Act

EPA has determined, pursuant to the Regulatory Flexibility Act, (5 U.S.C. 601 *et seq.*) that this regulation will not have a significant economic impact on a substantial number of small entities. Using the Small Business Administration's definition of small business, EPA estimates that the majority of direct industrial dischargers are not small businesses. Small businesses are usually zero dischargers or indirect dischargers to municipal treatment works. Moreover, the short form for facilities which do not discharge process wastewater will reduce the economic burden of filing an NPDES application form for these facilities.

V. Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.). They have been assigned OMB Control Number 2040–0086.

List of Subjects in 40 CFR Part 122

Adminstrative practice and procedure, Reporting and recordkeeping requirements, Water pollution control, Confidential business information.

Dated: June 28, 1986.

Lee M. Thomas,

Administrator.

PART 122—[AMENDED]

40 CFR Part 122 is amended as follows:

1. The authority citation for Part 122 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 122.21 is amended by revising paragraph (g) introductory text, redesignating paragraphs (h) through (o) as (i) through (p), adding new paragraphs (h) and (k) (previously reserved as paragraph (j)) and revising the OMB paragraph at the end of the section to read as follows:

§ 122.21 Application for a permit (applicable to State programs, see §123.25)

* * * * *

(g) *Application requirements for existing manufacturing, commercial, mining, and silvicultural dischargers.* Existing manufacturing, commercial mining, and silvicultural dischargers applying for NPDES permits, except for those facilities subject to the requirements of § 122.21(h), shall provide the following information to the Director, using application forms provided by the Director.

* * * * *

(h) *Application requirements for manufacturing, commercial, mining and silvicultural facilities which discharge only non-process wastewater.* Except for stormwater discharges, all manufacturing, commercial, mining and silvicultural dischargers applying for NPDES permits which discharge only non-process wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the Director, using application forms provided by the Director:

(1) *Outfall location.* Outfall number, latitude and longitude to the nearest 15 seconds, and the name of the receiving water.

(2) *Discharge date* (for new dischargers). Date of expected commencement of discharge.

(3) *Type of waste.* An identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria wastes, or noncontact cooling water. An identification of cooling water additives (if any) that are used or expected to be used upon commencement of operations, along with their composition if existing composition is available.

(4) *Effluent characteristics.* (i) Quantitative data for the pollutants or parameters listed below, unless testing is waived by the Director. The quantitative data may be data collected over the past 365 days, if they remain representative of current operations, and must include maximum daily value, average daily value, and number of measurements taken. The applicant must collect and analyze samples in accordance with 40 CFR Part 136. Grab samples must be used for pH, temperature, oil and grease, total residual chlorine, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. New dischargers must include estimates for the pollutants or parameters listed below instead of actual sampling data, along with the source of each estimate. All levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature.

(A) Biochemical Oxygen Demand (BOD_5).

(B) Total Suspended Solids (TSS).

(C) Fecal Coliform (if believed present or if sanitary waste is or will be discharged).

(D) Total Residual Chlorine (if chlorine is used).

(E) Oil and Grease.

(F) Chemical Oxygen Demand (COD) (if non-contact cooling water is or will be discharged).

(G) Total Organic Carbon (TOC) (if non-contact cooling water is or will be discharged).

(H) Ammonia (as N).

(I) Discharge Flow.
(J) pH.
(K) Temperature (Winter and Summer).

(ii) The Director may waive the testing and reporting requirements for any of the pollutants or flow listed in paragraph (h)(4)(i) of this section if the applicant submits a request for such a waiver before or with his application which demonstrates that information adequate to support issuance of a permit can be obtained through less stringent requirements.

(iii) If the applicant is a new discharger, he must complete and submit Item IV of Form 2e (see § 122.21(h)(4)) by providing quantitative data in accordance with that section no later than two years after commencement of discharge. However, the applicant need not complete those portions of Item IV requiring tests which he has already performed and reported under the discharge monitoring requirements of his NPDES permit.

(iv) The requirements of parts i and iii of this section that an applicant must provide quantitative data or estimates of certain pollutants do not apply to pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant must report such pollutants as present. Net credit may be provided for the presence of pollutants in intake water if the requirements of § 122.45(g) are met.

(5) *Flow.* A description of the frequency of flow and duration of any seasonal or intermittent discharge (except for stormwater runoff, leaks, or spills).

(6) *Treatment System.* A brief description of any system used or to be used.

(7) *Optional Information.* Any additional information the applicant wishes to be considered, such as influent data for the purpose of obtaining "net" credits pursuant to § 122.45(g).

(8) *Certification.* Signature of certifying official under § 122.22.

* * * * *

(k) *Application requirements for new sources and new discharges.* New manufacturing, commercial, mining, and silvicultural dischargers applying for NPDES permits (except for new discharges of stormwater runoff or facilities subject to the requirements of § 122.21(h)) shall provide the following information to the Director, using application forms provided by the Director:

(1) *Expected outfall location.* The latitude and longitude to the nearest 15 seconds and the name of the receiving water.

(2) *Discharge dates.* The expected date of commencement of discharge.

(3) *Flows, Sources of Pollution, and Treatment Technologies.*—(i) *Expected treatment of wastewater.* Description of the treatment that the wastewater will receive, along with all operations contributing wastewater to the effluent, average flow contributed by each operation, and the ultimate disposal of any solid or liquid wastes not discharged.

(ii) *Line drawing.* A line drawing of the water flow through the facility with a water balance as described in § 122.21(g)(2).

(iii) *Intermittent Flows.* If any of the expected discharges will be intermittent or seasonal, a description of the frequency, duration and maximum daily flow rate of each discharge occurrence (except for stormwater runoff, spillage, or leaks).

(4) *Production.* If a new source performance standard promulgated under section 306 of CWA or an effluent limitation guideline applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's expected actual production reported in the units used in the applicable effluent guideline or new source performance standard as required by § 122.45(b)(2) for each of the first three years. Alternative estimates may also be submitted if production is likely to vary.

(5) *Effluent Characteristics.* The requirements in paragraphs (h)(4)(i), (ii), and (iii) of this section that an applicant must provide estimates of certain pollutants expected to be present do not apply to pollutants present in a discharge solely as a result of their presence in intake water; however, an applicant must report such pollutants as present. Net credits may be provided for the presence of pollutants in intake water if the requirements of § 122.45(g) are met. All levels (except for discharge flow, temperature, and pH) must be estimated as concentration and as total mass.

(i) Each applicant must report estimated daily maximum, daily average, and source of information for each outfall for the following pollutants or parameters. The Director may waive the reporting requirements for any of these pollutants and parameters if the applicant submits a request for such a waiver before or with his application which demonstrates that information adequate to support issuance of the permit can be obtained through less stringent reporting requirements.

(A) Biochemical Oxygen Demand (BOD).
(B) Chemical Oxygen Demand (COD).
(C) Total Organic Carbon (TOC).
(D) Total Suspended Solids (TSS).
(E) Flow.
(F) Ammonia (as N).
(G) Temperature (winter and summer
(H) pH.

(ii) Each applicant must report estimated daily maximum, daily average, and source of information for each outfall for the following pollutants, if the applicant knows or has reason to believe they will be present or if they are limited by an effluent limitation guideline or new source performance standard either directly or indirectly through limitations on an indicator pollutant: all pollutants in Table IV of Appendix D of Part 122 (certain conventional and nonconventional pollutants).

(iii) Each applicant must report estimated daily maximum, daily average and source of information for the following pollutants if he knows or has reason to believe that they will be present in the discharges from any outfall:

(A) The pollutants listed in Table III of Appendix D (the toxic metals, in the discharge from any outfall: Total cyanide, and total phenols);

(B) The organic toxic pollutants in Table II of Appendix D (except bis (chloromethyl) ether, dichlorofluoromethane and trichlorofluoromethane). This requirement is waived for applicants with expected gross sales of less than $100,000 per year for the next three years, and for coal mines with expected average production of less than 100,000 tons of coal per year.

(iv) The applicant is required to report that 2,3,7,8 Tetrachlorodibenzo-P-Dioxin (TCDD) may be discharged if he uses or manufactures one of the following compounds, or if he knows or has reason to believe that TCDD will or may be present in an effluent:

(A) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) (CAS #93–76–5);

(B) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93–72–1);

(C) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136–25–4);

(D) 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel) (CAS #299–84–3);

(E) 2,4,5-trichlorophenol (TCP) (CAS #95–95–4); or

(F) Hexachlorophene (HCP) (CAS #70–30–4);

(v) Each applicant must report any pollutants listed in Table V of Appendix

D (certain hazardous substances) if he believes they will be present in any outfall (no quantitative estimates are required unless they are already available).

(vi) No later than two years after the commencement of discharge from the proposed facility, the applicant is required to complete and submit Items V and VI of NPDES application Form 2c (see § 122.21(g)). However, the applicant need not complete those portions of Item V requiring tests which he has already performed and reported under the discharge monitoring requirements of his NPDES permit.

(6) *Engineering Report.* Each applicant must report the existence of any technical evaluation concerning his wastewater treatment, along with the name and location of similar plants of which he has knowledge.

(7) *Other Information.* Any optional information the permittee wishes to have considered.

(8) *Certification.* Signature of certifying official under § 122.22.

* * * * *

(Information collection requirements contained in paragraphs (f), (g), (h), (i), and (k) were approved by the Office of Management and Budget under control number 2040-0086)

2. Section § 122.62(a)(2) is amended by adding a new sentence at the end to read as follows:

§ 122.62 Modification or revocation and reissuance of permits (applicable to State programs, see § 123.25).

(a) * * *

(2) * * * For new source or new discharger NPDES permits §§ 122.21, 122.29), this cause shall include any significant information derived from effluent testing required under § 122.21(k)(5)(vi) or § 122.21(h)(4)(iii) after issuance of the permit.

[Editorial Note.—The following Appendix will not appear in the Code of Federal Regulations.]

APPENDIX A

Applicant (type)	Required form	Regulations
All applicants	Form 1	122.21(f)
Concentrated animal feeding operations and aquatic animal production facilities.	Form 2b	122.21(i)
Existing manufacturing, commercial, mining, and silvicultural facilities with process wastewater.	Form 2c	122.21(g)
Existing or new facility with only non-process wastewater not covered by an effluent limitations guideline or new source performance standard.	Form 2e	122.21(h)
Group I stormwater dischargers [1].	Form 2c	122.21(g)
Group II stormwater dischargers [2].	Form 1 + narrative description.	122.21(f)
New sources and new dischargers of processed wastewater.	Form 2d	122.21(k)

[1] The Agency is considering amending the requirements applicable to Group I stormwater discharges (see 50 FR 9366) and a final rule concerning these requirements will be promulgated this year. On August 29, 1985, the Agency promulgated a rule establishing a deadline of December 31, 1987, for submission of applications for Group I stormwater discharges.

[2] On August 29, 1985, the Agency promulgated a rule establishing a deadline of June 30, 1989, for submission of applications for Group II stormwater discharges.

BILLING CODE 6560-50-M

Form 2E Instructions

Who Must File Form 2E

EPA Form 3510-2E must be completed in conjunction with EPA Form 3510-1 (Form 1). This short form may be used only by operators of facilities which discharge only nonprocess wastewater (process wastewater is water that comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, waste product, or wastewater) which is not regulated by effluent limitations guidelines or new source performance standards. The form is intended primarily for use by dischargers (new or existing) of sanitary wastes and noncontact cooling water. It may not be used for discharges of stormwater runoff or by educational, medical, or commercial chemical laboratories or by publicly owned treatment works (POTW's).

Where to File Applications

The application forms should be sent to the EPA Regional Office which covers the State in which the facility is located. Form 2E (the short form) must be used only when applying for permits in States where the NPDES permits program is administered by EPA. For facilities located in States which are approved to administer the NPDES permits program, the State environmental agency should be contacted for proper permit application forms and instructions. Information on whether a particular program is administered by EPA or by a State agency can be obtained from your EPA Regional Office. Form 1, Table 1 of the "General Instructions" lists the addresses of EPA Regional Offices and the States within the jurisdiction of each Office.

Public Availability of Submitted Information

You may not claim as confidential any information required by this form or Form 1, whether the information is reported on the forms or in an attachment. Section 402(j) of the CWA requires that all permit applications shall be available to the public. This information will therefore be made available to the public upon request.

You may claim as confidential any information you submit to EPA which goes beyond that required by this form or Form 1. However, confidentiality claims for effluent data must be denied. If you do not assert a claim of confidentiality at the time of submitting the information, EPA may make the information public without further notice. Claims of confidentiality will be handled in accordance with EPA's business confidentiality regulations in 40 CFR Part 2.

Completeness

Your application will not be considered complete unless you answer every question on this form and Form 1 (except as instructed below). If an item does not apply to you, enter "NA" (for "not applicable") to show that you considered the question.

Followup Requirements for New Dischargers and New Sources

Please note that no later than 2 years after commencement of discharge from the proposed facility, you must complete and submit Item IV of this form (NPDES Form 2E). At that time you must test and report actual rather than estimated data for the pollutants or parameters in Item IV, unless waived by the permitting authority.

Definitions

Significant terms used in these instructions and in the form are defined in the Glossary found in the General Instructions accompanying Form 1.

Item I

Under Part A, list an outfall number. Under Part B, list the latitude and longitude to the nearest 15 seconds for this outfall. Under Part C, list the name of the outfall's receiving water. When there is more than one outfall, you must submit a separate Form 2E (Items I, III, and IV only) for each outfall.

Item II (New Dischargers Only)

This item requires your best estimate of the date on which your facility will begin to discharge.

Item III

In Part A, indicate the general type(s) of wastes to be discharged by placing an "x" in the appropriate box(es). If "other nonprocess wastewater" is marked, it should be identified. If cooling water additives are to be used, they must be listed by name under Part B.

In addition, the composition of the cooling water additives should be listed if this information is available. The composition of cooling water additives may be found on product labels or from manufacturer's data sheets.

Item IV — Reporting

All pollutant levels must be reported as concentration and as total mass (except for discharge flow, pH, and temperature). Total mass is the total weight of pollutants discharged over a day. Use the following abbreviations for units:

	Concentration	Mass	
ppm	parts per million	lbs	pounds
mg/1	milligrams per liter	ton	tons (English tons)
ppb	parts per billion	mg	milligrams
Ug/1	micrograms per liter	g	grams
kg	kilograms	T	Tonnes (metric tons)

A. Existing Sources

You are required to provide at least one analysis for each pollutant or parameter listed by filling in the requested infor-

mation under the applicable column. Data reported must be representative of the facility's current operation (average daily value over the previous 365 days should be reported). Most facilities routinely monitor these pollutants or parameters as part of existing permit requirements.

The pollutants or parameters listed are: average flow, biochemical oxygen demand (BOD), total suspended solids (TSS), fecal coliform (if believed present or if sanitary waste is discharged), pH, total residual chlorine (if chlorine is used), temperature (winter and summer), oil and grease, chemical oxygen demand (COD), total organic carbon (TOC) (COD and TOC are only required if noncontact cooling water is discharged), and ammonia (as N). The analysis of these pollutants or parameters must be done in accordance with procedures promulgated in 40 CFR Part 136. Grab samples must be used for pH, temperature, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. Any further questions on sampling or analysis should be directed to your EPA or State permitting authority. The authority may request that you do additional testing, if appropriate, on a case-by-case basis under Section 308 of the Clean Water Act (CWA).

If you expect a pollutant to be present solely as a result of its presence in your intake water, state this information on Item VII of the form.

B. New Dischargers

You are required to provide an estimated maximum daily and average daily value for each pollutant or parameter (exceptions noted on the form). Please note that followup testing and reporting are required no later than 2 years after the facility starts to discharge. Sampling and analysis are not required at this time. If, however, data from such analyses are available, then such data should be reported. The source of the estimates is also required. Base your determination of whether a pollutant will be present in your discharge on your knowledge of the proposed facility's use of maintenance chemicals, and any analyses of your effluent or of any similar effluent. You may also provide the estimates based on available inhouse or contractor's engineering reports or any other studies performed on the proposed facility. If you expect a pollutant or parameter to be present solely as a result of its presence in your intake water, state this information on Item VII of the form.

In providing the estimates, use the codes in the following table to indicate the source of such information.

Engineering study	Code
Actual data from pilot plants	1
Estimates from other engineering studies	2
Data from other similar plants	3
Best professional estimates	4
Others	specify on the form

C. Testing Waivers

To request a waiver from reporting any of these pollutants or parameters, the applicant (whether a new or existing discharger) must submit to the permitting authority a written request specifying which pollutants or parameters should be waived and the reasons for requesting a waiver. This request should be submitted to the permitting authority before or with the permit application. The permitting authority may waive the requirements for information about any pollutant or parameter if he determines that less stringent reporting requirements are adequate to support issuance of the permit. No extensive documentation of the request will normally be needed, but the applicant should contact the permitting authority if he or she wishes to receive instructions on what his or her particular request should contain.

Item V

Describe the average frequency of flow and duration of any intermittent or seasonal discharge (except for stormwater runoff, leaks, or spills). The frequency of flow means the number of days or months per year there is intermittent discharge. Duration means the number of days or hours per discharge. For new dischargers, base your answers on your best estimate.

Item VI

Describe briefly any treatment system(s) used (or to be used for new dischargers), indicating whether the treatment system is physical, chemical, biological, sludge and disposal, or other. Also give the particular type(s) of process(es) used (or to be used). For example, if a physical treatment system is used (or will be used), specify the processes applied, such as grit removal, ammonia stripping, dialysis, etc.

Item VII

This item is intended for you to provide any additional information (such as sampling results) that you feel should be considered by the reviewer in establishing permit limitations. Any response here is optional. If you wish to demonstrate your eligibility for a "net" effluent limitation, i.e., an effluent limitation adjusted to provide credit for the pollutant(s) present in your intake water, please add a short statement of why you believe you are eligible (see §122.45(g)). You will then be contacted by the permitting authority for further instructions.

Item VIII

The Clean Water Act provides severe penalties for submitting false information on this application form. Section 309(c)(2) of the Clean Water Act provides that "Any person who knowingly makes any false statement,

representation, or certification in any application, . . . shall upon conviction, be punished by a fine of no more than $10,000 or by imprisonment for not more than six months or both."

40 CFR Part 122.22 requires the certification to be signed as follows:

a. For a corporation: by a responsible corporate officer. A responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of of a principal business function, or any other person who performs similar policy or decisionmaking functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

Please type or print in the unshaded areas only | EPA ID Number *(copy from Item 1 of Form 1)* | *Form Approved OMB No. 2040-0086 Approval expires 7-31-88*

Form 2E NPDES

EPA Facilities Which Do Not Discharge Process Wastewater

I. Receiving Waters

For this outfall, list the latitude and longitude, and name of the receiving water(s).

Outfall Number *(list)*	Latitude			Longitude			Receiving Water *(name)*
	Deg	Min	Sec	Deg	Min	Sec	

II. Discharge Date *(If a new discharger, the date you expect to begin discharging)*

III. Type of Waste

A. Check the box(es) indicating the general type(s) of wastes discharged.

☐ Sanitary Wastes ☐ Restaurant or Cafeteria Wastes ☐ Noncontact Cooling Water ☐ Other Nonprocess Wastewater *(Identify)*

B. If any cooling water additives are used, list them here. Briefly describe their composition if this information is available.

IV. Effluent Characteristics

A. Existing Sources — Provide measurements for the parameters listed in the left-hand column below, unless waived by the permitting authority *(see instructions)*.

B. New Dischargers — Provide estimates for the parameters listed in the left-hand column below, unless waived by the permitting authority. Instead of the number of measurements taken, provide the source of estimated values *(see instructions)*.

Pollutant or Parameter	*(1)* Maximum Daily Value *(include units)*		*(2)* Average Daily Value *(last year) (include units)*		*(3)* Number of Measurements Taken *(last year)*	*(or)* *(4)* Source of Estimate *(if new discharger)*
	Mass	Concentration	Mass	Concentration		
Biochemical Oxygen Demand (BOD)						
Total Suspended Solids (TSS)						
Fecal Coliform *(if believed present or if sanitary waste is discharged)*						
Total Residual Chlorine *(if chlorine is used)*						
Oil and Grease						
*Chemical oxygen demand (COD)						
*Total organic carbon (TOC)						
Ammonia *(as N)*						
Discharge Flow	Value					
pH *(give range)*	Value					
Temperature *(Winter)*		°C		°C		
Temperature *(Summer)*		°C		°C		

*If noncontact cooling water is discharged

V. Except for leaks or spills, will the discharge described in this form be intermittent or seasonal? ☐ Yes ☐ No

If yes, briefly describe the frequency of flow and duration

VI. **Treatment System** *(Describe briefly any treatment system(s) used or to be used)*

VII. **Other Information** *(Optional)*

Use the space below to expand upon any of the above questions or to bring to the attention of the reviewer any other information you feel should be considered in establishing permit limitations. Attach additional sheets, if necessary.

VIII. **Certification**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

A. Name & Official Title	B. Phone No. *(area code & no.)*
C. Signature	D. Date Signed

Form 2D Instructions

Form 2D must be completed in conjunction with EPA Form 3510-1 (Form 1).

This form must be completed by all applicants who checked "yes" to Item II-D in Application Form 1. However, facilities which discharge only nonprocess wastewater that is not regulated by an effluent limitations guideline or new source performance standard may use EPA Form 3510-2E (Form 2E). Educational, medical, and commercial chemical laboratories should use this form or EPA Form 3510-2C (Form 2C). To further determine if you are a new source or a new discharger, see §122.2 and §122.29. This form should not be used for discharges of stormwater runoff.

Public Availability of Submitted Information

You may not claim as confidential any information required by this form or Form 1, whether the information is reported on the forms or in an attachment. Section 402(j) of the CWA requires that all permit applications shall be available to the public. This information will therefore be made available to the public upon request.

You may claim as confidential any information you submit to EPA which goes beyond that required by this form and Form 1. Confidentiality claims for effluent data must be denied. If you do not assert a claim of confidentiality at the time of submitting the information, EPA may make the information public without further notice. Claims of confidentiality will be handled in accordance with EPA's business confidentiality regulations in 40 CFR Part 2.

Completeness

Your application will not be considered complete unless you answer every question on this form and on Form 1 (except as instructed below). If an item does not apply to you, enter "NA" (for "not applicable") to show that you considered the question.

Followup Requirements

Although you are now required to submit estimated data on this form (Form 2D), please note that no later than two years after you begin discharging from the proposed facility, you must complete and submit Items V and VI of NPDES application Form 2C (EPA Form 3510-2C). However, you need not complete those portions of Item V requiring tests which you have already performed under the discharge monitoring requirements of your NPDES permit. In addition, the permitting authority may waive requirements of Items V-A and VI if the permittee makes the demonstrations required under 40 CFR §122.22(g)(7)(i)(B) and 122.21(g)(9).

Definitions

All significant terms used in these instructions and in the form are defined in the glossary found in the General Instructions which accompany Form 1.

Item I

You may use the map you provided for Item XI of Form 1 to determine the latitude and longitude (to the nearest 15 seconds) of each of your outfalls and the name of the receiving water. You should name all waters to which discharge is made and which flow into significant receiving waters. For example, if the discharge is made to a ditch which flows into an unnamed tributary which in turn flows into a named river, you should provide the name or description (if no name is available) of the ditch, the tributary, and the river.

Item II

This item requires your best estimate of the date on which your facility or new outfall will begin to discharge.

Item III-A

List all outfalls, their source (operations contributing to the flow), and estimate an average flow from each source. Briefly describe the planned treatment for these wastewaters prior to discharge. Also describe the ultimate disposal of any solid or liquid wastes not discharged. You should describe the treatment in either a narrative form or list the proper code for the treatment unit from a list provided in Table 2D-1.

Item III-B

An example of an acceptable line drawing appears in Figure 2D-1 to these instructions. The line drawing should show the route taken by water in your proposed facility from intake to discharge. Show all sources of wastewater, including process and production areas, sanitary flows, cooling water, and storm water runoff. You may group similar operations into a single unit, labeled to correspond to the more detailed listing in Item III-A. The water balance should show estimates of anticipated average flows. Show all significant losses of water to production, atmosphere, and discharge. You should use your best estimates.

Item III-C

Fill in every applicable column in this item for each source of intermittent or seasonal discharge. Base your answers on your best estimate. A discharge is intermittent if it occurs with interruptions during the operating hours of the facility. Discharges caused by routine maintenance shutdowns, process changes, or other similar activities are not considered to be intermittent. A discharge is seasonal if it occurs only during certain parts of the year. The reported flow rate is the highest daily value and should be measured in gallons per day. Maximum total volume means the total volume of any one discharge within 24 hours and is measured in units such as gallons.

Item IV

"Production" in this question refers to those goods which the proposed facility will produce, not to "wastewater" production. This information is only necessary where production-based new source performance standards (NSPS) or effluent guidelines apply to your facility. Your estimated production figures should be based on a realistic projection of actual daily production level (not design capacity) for each of the first three operating years of the facility. This estimate must be a long-term-average estimate (e.g., average production on an annual basis). If production will vary depending on long-term shifts in operating schedule or capacity, the applicant may report alternate production estimates and the basis for the alternate estimates.

If known, report quantities in the units of measurement used in the applicable NSPS or effluent guideline. For example, if the applicable NSPS is expressed as "grams of pollutant discharged per kilogram of unit production," then report maximum "**Quantity Per Day**" in kilograms. If you do not know whether any NSPS or effluent guideline applies to your facility, report quantities in any unit of measurement known to you. If an effluent guideline or NSPS specifies a method for estimating production, that method must be followed.

There is no need to conduct new studies to obtain these figures; only data already on hand are required. You are not required to indicate how the reported information was calculated.

Items V-A, B, and C

These items require you to estimate and report data on the pollutants expected to be discharged from each of your outfalls. Where there is more than one outfall, you should submit a separate Item V for each outfall. For Part C only a list is required. Sampling and analysis are not required at this time. If, however, data from such analyses are available, then those data should be reported. Each part of this item addresses a different set of pollutants or parameters and must be completed in accordance with the specific instructions for that part. The following are the general and specific instructions for Items V-A through V-C.

Item V — General Instructions

Each part of this item requires you to provide an estimated maximum daily and average daily value for each pollutant or parameter listed (see Table 2D-2), according to the specific instructions below. The source of the data is also required.

For Parts A through C, base your determination of whether a pollutant will be present in your discharge on your knowledge of the proposed facility's raw materials, maintenance chemicals, intermediate and final products, byproducts, and any analyses of your effluent or of any similar effluent. You may also provide the determination and the estimates based on available in-house or contractor's engineering reports or any other studies performed on the proposed facility (see Item VI of the form). If you expect a pollutant to be present solely as a result of its presence in your intake water, please state this information on the form.

Please note that no later than 2 years after you begin discharging from the proposed facility, you must complete and submit Items V and VI of NPDES application Form 2C (followup data).

Reporting Intake Data. You are not required to report pollutants or parameters present in intake water unless you wish to demonstrate your eligibilty for a "net" effluent limitation for these pollutants or parameters, that is, an effluent limitation adjusted to provide allowance for the pollutants or parameters present in your intake water. If you wish to obtain credits for pollutants or parameters present in your intake water, please insert a separate sheet, with a short statement of why you believe you are eligible (see §122.45 (g)), under Item VII (Other Information). You will then be contacted by the permitting authority for further instructions.

All estimated pollutant or parameter levels must be reported as concentration and as total mass, except for discharge flow, temperature, and pH. Total mass is the total weight of pollutants or parameters discharged over a day.

Use the following abbreviations for units:

Concentration		Mass	
ppm	parts per million	lbs	pounds
mg/1	milligrams per liter	ton	tons (English tons)
ppb	parts per billion	mg	milligrams
Ug/1	micrograms per liter	g	grams
kg	kilograms	T	Tonnes (metric tons)

Source

In providing the estimates, use the codes in the following table to indicate the source of such information in column 4 of Parts V — A and — B.

	Code
Engineering study	1
Actual data from pilot plants	1
Estimates from other engineering studies	2
Data from other similar plants	3
Best professional estimates	4
Others	specify on the form

Item V-A

Estimates of data on pollutants or parameters in Group A must be reported by all applicants for all outfalls, including outfalls

containing only noncontact cooling water or nonprocess wastewater.

To request a waiver from reporting any of these pollutants or parameters, the applicant must submit to the permitting authority a written request specifying which pollutants or parameters should be waived and the reasons for requesting such a waiver. This request should be submitted to the permitting authority before or with the permit application. The permitting authority may waive the requirements for information about these pollutants or parameters if he or she determines that less stringent reporting requirements are adequate to support issuance of the permit. No extensive documentation will normally be needed, but the applicant should contact the permitting authority if she or he wishes to receive instructions on what his or her particular request should contain.

Item V-B

Estimates of data on pollutants in Group B must be reported by all applicants for all outfalls, including outfalls containing only noncontact cooling water or nonprocess wastewater.You are merely required to report estimates for those pollutants which you know or have reason to believe will be discharged or which are limited directly by an effluent limitations guideline (or NSPS) or indirectly through promulgated limitations on an indicator pollutant. The priority pollutants in Group B are divided into the following three sections:

1) Metal toxic pollutants, total cyanide, and total phenols
2) 2,3,7,8-Tetrachlorodibenzo-P-Dioxin (TCDD) (CAS # 1764-016)
3) Organic Toxic Pollutants (Gas Chromatography/-Mass Spectrometry Fractions)
   a) Volatile compounds
   b) Acid compounds
   c) Base/neutral compounds
   d) Pesticides

For pollutants listed in Sections 1 and 3, you must report estimates as instructed above.

For Section 2, you are required to report that TCDD may be discharged if you will use or manufacture one of the following compounds, or if you know or have reason to believe that TCDD is or may be present in an effluent:

A. 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) (CAS # 93-765);
B. 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4, 5TP) (CAS # 93-72-l);
C. 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS # 136-25-4);
D. 0,O-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel) (CAS # 299-84-3);
E. 2,4,5-trichlorophenol (TCP)(CAS # 95-95-4); or
F. Hexachlorophene (HCP) (CAS # 70-30-4).

Small Business Exemption

If you are a "small business," you are exempt from the reporting requirement for Item V-B (section 3). You may qualify as a "small business" if you fit one of the follow-ing definitions:

1) Your expected gross sales will total less than $100,000 per year for the next three years, or
2) in the case of coal mines, your average production will be less than 100,000 tons of coal per year.

If you are a "small business," you may submit projected sales or production figures to qualify for this exemption. The sales or production figures you submit must be for the facility which is the source of the discharge. The data should not be limited only to production or sales for the process or processes which contribute to the discharge, unless those are the only processes at your facility. For sales data, where intracorporate transfers of goods and services are involved, the transfer price per unit should approximate market prices for those goods and services as closely as possible. If necessary, you may index your sales figures to the second quarter of 1980 to demonstrate your eligibility for a small business exemption. This may be done by using the gross national product price deflator (second quarter of 1980 = 100), an index available in "National Income and Product Accounts of the United States" (Department of Commerce, Bureau of Economic Analysis).

The small business exemption applies to the GC/MS fractions (Section 3) of Item V-B only. Even if you are eligible for a small business exemption, you are still required to provide information on metals, cyanide, total phenols, and dioxin in Item V-B, as well as all of Items V-A and C.

Item V-C

List any pollutants in Table 2D-3 that you believe will be present in any outfalls and briefly explain why you believe they will be present. No estimate of the pollutant's quantity is required, unless you already have quantitative data.

Note: The discharge of pollutants listed in Table 2D-4 may subject you to the additional requirements of section 311 of the CWA (Oil and Hazardous Substance Liability). These requirements are not administered through the NPDES program. However, if you wish an exemption under 40 CFR 117.12(a)(2) from these requirements, attach additional sheets of paper to this form providing the following information:

A. The substance and the amount of each substance which may be discharged;

B. The origin and source of the discharge of the substance;

C. The treatment which is to be provided for the discharge by:

1. An onsite treatment system separate from any treatment system which will treat your normal discharge,

2. A treatment system designed to treat your normal discharge and which is additionally capable of treating the amount of the substance identified under paragraph 1 above, or

3. Any combination of the above.

An exemption from the section 311 reporting requirements pursuant to 40 CFR Part 117 for pollutants on Table 2D does not exempt you from the section 402 reporting requirements pursuant to 40 CFR Part 122 (Item V-C) for pollutants listed on Table 2D-3.

For further information on exclusions from Section 311, see 40 CFR Section 117.12(a)(2) and (c), or contact your EPA Regional office (Table 1 in the Form 1 instructions).

Item VI-A

If an engineering study was conducted, check the box labeled "report available." If no study was done, check the box labeled "no report."

Item VI-B

Report the name and location of any existing plant(s) which (to the best of your knowledge) resembles your planned operation with respect to items produced, production process, wastewater constituents, or wastewater treatment. No studies need be conducted to respond to this item. Only data which are already available need be submitted.

This information will be used to inform the permit writer of appropriate treatment methods and their associated permit conditions and limits.

Item VII

A space is provided for additional information which you believe would be useful in setting permit limits, such as additional sampling. Any response is optional.

Item VIII

The Clean Water Act provides for severe penalties for submitting false information on this application form.

Section 309(c)(2) of the Clean Water Act provides that "Any person who knowingly makes any false statement, representation, or certification in any application, . . . shall upon conviction, be punished by a fine of no more than $10,000 or by imprisonment for not more than six months, or both."

40 CFR Part 122.22 Requires the Certification To Be Signed as Follows:

A. For a corporation: by a responsible corporate officer.

A responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

B. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

C. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

Please type or print in the unshaded areas only

EPA ID Number *(copy from Item 1 of Form 1)*

Form Approved
OMB No. 2040-0086
Approval expires 7-31-88

Form 2D NPDES

EPA New Sources and New Dischargers Application for Permit to Discharge Process Wastewater

I. Outfall Location

For each outfall, list the latitude and longitude, and the name of the receiving water

Outfall Number *(list)*	Latitude			Longitude			Receiving Water *(name)*
	Deg	Min	Sec	Deg	Min	Sec	

II. Discharge Date *(When do you expect to begin discharging?)*

III. Flows, Sources of Pollution, and Treatment Technologies

A. For each outfall, provide a description of (1) All operations contributing wastewater to the effluent, including process wastewater, sanitary wastewater, cooling water, and stormwater runoff; (2) The average flow contributed by each operation; and (3) The treatment received by the wastewater. Continue on additional sheets if necessary

Outfall Number	1. Operations Contributing Flow *(list)*	2. Average Flow *(include units)*	3. Treatment *(Description or List Codes from Table 2D-1)*

B. Attach a line drawing showing the water flow through the facility. Indicate sources of intake water, operations contributing wastewater to the effluent, and treatment units labeled to correspond to the more detailed descriptions in Item III-A. Construct a water balance on the line drawing by showing average flows between intakes, operations, treatment units, and outfalls. If a water balance cannot be determined (e.g., for certain mining activities), provide a pictorial description of the nature and amount of any sources of water and any collection or treatment measures.

C. Except for storm runoff, leaks, or spills, will any of the discharges described in item III-A be intermittent or seasonal?

☐ Yes *(complete the following table)* ☐ No *(go to item IV)*

Outfall Number	1. Frequency		2. Flow		
	a. Days Per Week *(specify average)*	b. Months Per Year *(specify average)*	a. Maximum Daily Flow Rate *(in mgd)*	b. Maximum Total Volume *(specify with units)*	c. Duration *(in days)*

IV. Production

If there is an applicable production-based effluent guideline or NSPS, for each outfall list the estimated level of production (projection of actual production level, not design), expressed in the terms and units used in the applicable effluent guideline or NSPS, for each of the first 3 years of operation. If production is likely to vary, you may also submit alternative estimates (attach a separate sheet).

Year	a. Quantity Per Day	b. Units of Measure	c. Operation, Product, Material, etc *(specify)*

CONTINUED FROM THE FRONT	EPA ID Number *(copy from Item 1 of Form 1)*	Outfall Number

V. Effluent Characteristics

A, and B: These items require you to report estimated amounts *(both concentration and mass)* of the pollutants to be discharged from each of your outfalls. Each part of this item addresses a different set of pollutants and should be completed in accordance with the specific instructions for that part. Data for each outfall should be on a separate page. Attach additional sheets of paper if necessary

General Instructions *(See table 2D-2 for Pollutants)*

Each part of this item requests you to provide an estimated daily maximum and average for certain pollutants and the source of information. Data for all pollutants in Group A, for all outfalls, must be submitted unless waived by the permitting authority. For all outfalls, data for pollutants in Group B should be reported only for pollutants which you believe will be present or are limited directly by an effluent limitations guideline or NSPS or indirectly through limitations on an indicator pollutant.

1 Pollutant	2 Maximum Daily Value *(include units)*	3 Average Daily Value *(include units)*	4 Source *(see instructions)*

CONTINUED FROM THE FRONT	EPA ID Number *(copy from Item 1 of Form 1)*	

C. Use the space below to list any of the pollutants listed in Table 2D-3 of the instructions which you know or have reason to believe will be discharged from any outfall. For every pollutant you list, briefly describe the reasons you believe it will be present.

1. Pollutant	2. Reason for Discharge

VI. Engineering Report on Wastewater Treatment

A. If there is any technical evaluation concerning your wastewater treatment, including engineering reports or pilot plant studies, check the appropriate box below.

☐ Report Available ☐ No Report

B. Provide the name and location of any existing plant(s) which, to the best of your knowledge, resembles this production facility with respect to production processes, wastewater constituents, or wastewater treatments.

Name	Location

VII Other Information *(Optional)*

Use the space below to expand upon any of the above questions or to bring to the attention of the reviewer any other information you feel should be considered in establishing permit limitations for the proposed facility. Attach additional sheets if necessary.

VIII Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

A. Name and Official Title *(type or print)*	B. Phone No.
C. Signature	D. Date Signed

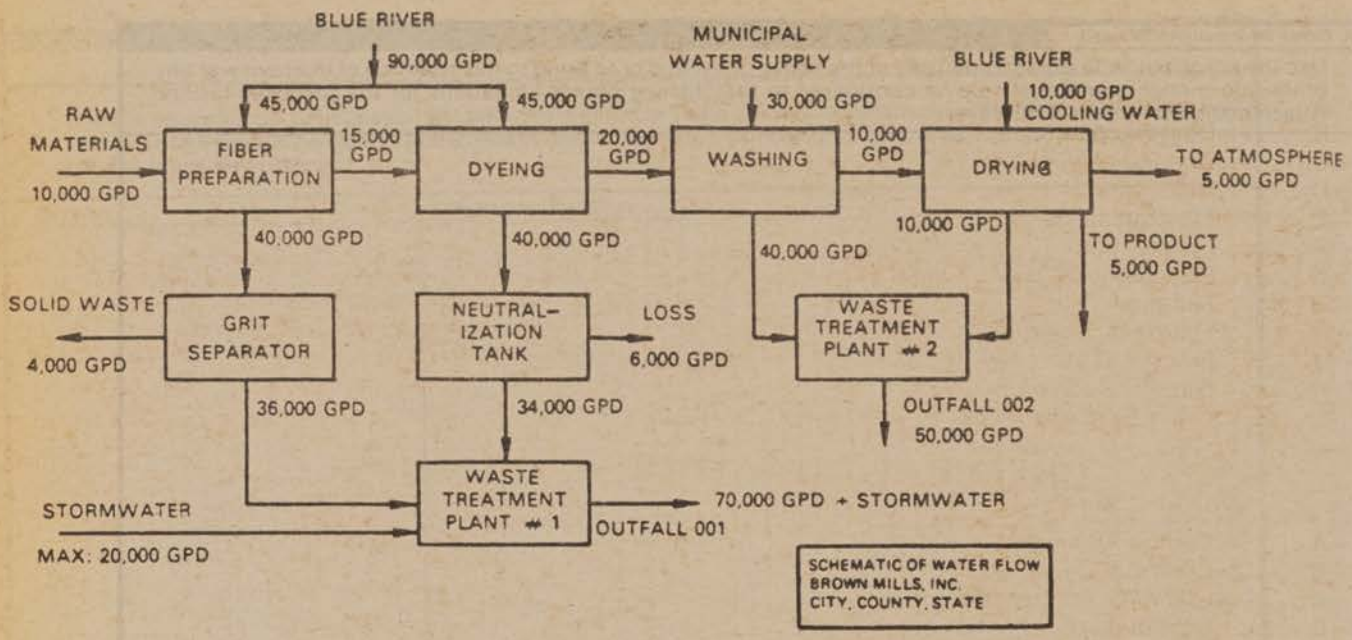
BLUE RIVER
90,000 GPD
MUNICIPAL
WATER SUPPLY
BLUE RIVER
45,000 GPD
45,000 GPD
30,000 GPD
10,000 GPD
COOLING WATER
RAW
MATERIALS
10,000 GPD
FIBER
PREPARATION
15,000
GPD
DYEING
20,000
GPD
WASHING
10,000
GPD
DRYING
TO ATMOSPHERE
5,000 GPD
40,000 GPD
40,000 GPD
10,000 GPD
40,000 GPD
TO PRODUCT
5,000 GPD
SOLID WASTE
4,000 GPD
GRIT
SEPARATOR
NEUTRAL-
IZATION
TANK
LOSS
6,000 GPD
WASTE
TREATMENT
PLANT # 2
36,000 GPD
34,000 GPD
OUTFALL 002
50,000 GPD
WASTE
TREATMENT
PLANT # 1
70,000 GPD + STORMWATER
STORMWATER
MAX. 20,000 GPD
OUTFALL 001
SCHEMATIC OF WATER FLOW
BROWN MILLS, INC.
CITY, COUNTY, STATE

FIGURE 2d-1

PHYSICAL TREATMENT PROCESSES

1—A .....Ammonia Stripping
1—B .....Dialysis
1—C .....Diatomaceous Earth Filtration
1—D .....Distillation
1—E .....Electrodialysis
1—F .....Evaporation
1—G .....Flocculation
1—H .....Flotation
1—I .....Foam Fractionation
1—J .....Freezing
1—K .....Gas-Phase Separation
1—L .....Grinding *(Comminutors)*
1—M .....Grit Removal
1—N .....Microstraining
1—O .....Mixing
1—P .....Moving Bed Filters
1—Q .....Multimedia Filtration
1—R .....Rapid Sand Filtration
1—S .....Reverse Osmosis *(Hyperfiltration)*
1—T .....Screening
1—U .....Sedimentation *(Settling)*
1—V .....Slow Sand Filtration
1—W .....Solvent Extraction
1—X .....Sorption

CHEMICAL TREATMENT PROCESSES

2—A .....Carbon Adsorption
2—B .....Chemical Oxidation
2—C .....Chemical Precipitation
2—D .....Coagulation
2—E .....Dechlorination
2—F .....Disinfection *(Chlorine)*
2—G .....Disinfection *(Ozone)*
2—H .....Disinfection *(Other)*
2—I .....Electrochemical Treatment
2—J .....Ion Exchange
2—K .....Neutralization
2—L .....Reduction

BIOLOGICAL TREATMENT PROCESSES

3—A .....Activated Sludge
3—B .....Aerated Lagoons
3—C .....Anaerobic Treatment
3—D .....Nitrification-Denitrification
3—E .....Preaeration
3—F .....Spray Irrigation/Land Application
3—G .....Stabilization Ponds
3—H .....Trickling Filtration

OTHER PROCESSES

4—A .....Discharge to Surface Water
4—B .....Ocean Discharge Through Outfall
4—C .....Reuse/Recycle of Treated Effluent
4—D .....Underground Injection

SLUDGE TREATMENT AND DISPOSAL PROCESSES

5—A .....Aerobic Digestion
5—B .....Anaerobic Digestion
5—C .....Belt Filtration
5—D .....Centrifugation
5—E .....Chemical Conditioning
5—F .....Chlorine Treatment
5—G .....Composting
5—H .....Drying Beds
5—I .....Elutriation
5—J .....Flotation Thickening
5—K .....Freezing
5—L .....Gravity Thickening
5—M .....Heat Drying
5—N .....Heat Treatment
5—O .....Incineration
5—P .....Land Application
5—Q .....Landfill
5—R .....Pressure Filtration
5—S .....Pyrolysis
5—T .....Sludge Lagoons
5—U .....Vacuum Filtration
5—V .....Vibration
5—W .....Wet Oxidation

Table 2D-1

GROUP A

Biochemical Oxygen Demand (BOD)
Chemical Oxygen Demand (COD)
Total Organic Carbon (TOC)
Total Suspended Solids (TSS)
Flow
Ammonia (as N)
Temperature (winter)
Temperature (summer)
pH

GROUP B

Bromide
Total Residual Chlorine
Color
Fecal Coliform
Fluoride
Nitrate-Nitrite (as N)
Oil and Grease
Phosphorus (as P) Total
Radioactivity
(1) Alpha, Total
(2) Beta, Total
(3) Radium, Total
(4) Radium 226, Total
Sulfate (as SO_4)
Sulfide (as S)
Sulfite (as SO_3)
Surfactants
Aluminum, Total
Barium, Total
Boron, Total
Cobalt, Total
Iron, Total
Magnesium, Total
Molybdenum, Total
Manganese, Total
Tin, Total
Titanium, Total

Section 1

Antimony, Total
Beryllium, Total
Chromium, Total
Lead, Total
Nickel, Total
Silver, Total
Zinc, Total
Phenols, Total
Arsenic, Total
Cadmium, Total
Copper, Total
Mercury, Total
Selenium, Total
Thallium, Total
Cyanide, Total

Section 2

2,3,7,8,Tetrachlorodibenzo-P-Dioxin

Section 3

GC/MS FRACTION* — VOLATILE COMPOUNDS

Acrolein
Benzene
Carbon Tetrachloride
Chlorodibramomethane
2-Chloroethylvinyl Ether
Dichlorobomomethane
1,2-Dichloroethane
1,2-Dichloropropane
Ethylbenzene
Methyl Chloride
1,1,2,2-Tetrachloroethane
Toluene
1,1,1-Trichloroethane
Trichloroethylene
Vinyl Chloride
Acrylonitirle
Bromoform
Chlorobenzene
Chloroethane
Chloroform
1,1-Dichloroethane
1,1-Dichloroethane
1,3-Dichloropropylene
Methyl Bromide
Methylene chloroethane
Tetrachloroethylene
1,2-Trans-Dichloroethylene
1,1,2-Trichloroethane

GS/MS FRACTION — ACID COMPOUNDS

2-Chlorophenol
2,4-Dimethylphenol
2,4-Dinitro-phenol
4-Nitrophenol
Pentachlorophenol
2,4,6-Trichlorophenol
2,4-Dichlorophenol
4,6-Dinitro-O-Cresol
2-Nitrophenol
P-Chloro-M-Cresol
Phenol

GC/MS FRACTION — BASE/NEUTRAL COMPOUNDS

Acenaphthene
Anthracene
Benzo (a) Anthracene
3,5-Benzofluoranthene
Benzo (k) Fluoranthene
Bis (2-Chloroethyl) Ether Bis
Bis (2-Ethylhexyl) Phthalate
Butyl Benzyl Phthalate
4-Chlorophenyl Phenyl Ether
Dibenzo (a, h) Anthracene
1,3-Dichlorobenzene
3,3-Dichlorobenzidine
Dimethyl Phthalate
2,4-Dinitrotoluene
Di-N-Octyl Phthalate
Fluoranthene
Hexachlorobenzene
Hexachlorocyclopentadiene
Indeno (1,2,3-cd) Pyrene
Naphthalene
N-Nitro-sodimethylamine
N-Nitro-sodiphenylamine
Pyrene
Acenaphtylene
Benzidine
Benzo (a) Pyrene
Benzo (ghi) Perylene
Bis (2 Chloroethoxy) Methane
(2-Chloroisopropyl) Ether
4-Bromophenyl Phenyl Ether
2-Chloronaphthalene
Chrysene
1,2-Dichlorobenzene
1,4-Dichlorobenzene
Diethyl Phthalate
Di-N-Butyl Phthalate
2,6-Dinitrotoluene
1,2, Diphenylhydrazine (as Azobenzen)
Fluorene
Hexachlorobutadiene
Hexachloroethane
Isophorone
Nitrobenzene
N-Nitrosodi-N-Propylamine
Phenanthrene
1,2,4-Trichlorobenzene

GC/MS FRACTION — PESTICIDES

Aldrin
Alpha-BHC
Beta-BHC
4,4' DDT
4,4'-DDD
Alpha-Endosulfan
Endosulfan Sulfate
Endrin Aldehyde
Heptachlor Epoxide
PCB-1254
PCB-1232
PCB-1260
Toxaphene
Gamma-BHC
Delta-BHC
Chlordane
4,4' DDE
Dieldrin
Beta-Endosulfan
Endrin
Heptachlor
PCB-1242
PCB-1221
PCB-1248
PCB-1016

*fractions defined in 40 CFR Part 136

Table 2D-2

TOXIC POLLUTANTS AND HAZARDOUS SUBSTANCES REQUIRED TO BE IDENTIFIED BY APPLICANTS IF EXPECTED TO BE PRESENT

TOXIC POLLUTANT

Asbestos

HAZARDOUS SUBSTANCES

Aceltaldehyde
Allyl alcohol
Allyl chloride
Amyl acetate
Aniline
Benzonitrile
Benzyl chloride
Butyl acetate
Butylamine
Captan
Carbaryl
Carbofuran
Carbon disulfide
Chlorpyrifos
Coumpahos
Cresol
Crotonaldehyde
Cyclohexane
2,4-D (2,4-Dichlorophinoxyacetic acid)
Diazinon
Dicamba
Dichlobenil
Dichlone
2,2 Dichloropropionic acid
Dichlorvos
Diethyl amine
Dimethyl amine
Dintrobenzene
Diquat
Disulfoton
Diuron
Epichlorohydrin
Ethion
Ethylene diamine
Formaldehyde
Furfural
Guthion
Isoprene
Isopropanolamine dodecylbenzenesulfonate
Kelthane
Kepone
Malathion
Mercaptodimethur
Methoxychlor

HAZARDOUS SUBSTANCES

Methyl mercaptan
Methyl methacrylate
Methyl parathion
Mevinphos
Mexacarbate
Monoethyl amine
Monomethyl amine
Naled
Naphthenic acid
Nitrotoluene
Parathion
Phenolsulfonate
Phosgene
Propargite
Propylene oxide
Pyrethrins
Quinoline
Resorcinol
Strontium
Strychnine
2,4,5-T (2,4,5-Trichlorophenoxyacetic acid)
TDE (Tetrochlorodiphenyl ethane)
2,4,5-TP [2-(2,4,5-Trichlorophenoxy) propanic acid]
Trichlorofon
Triethanolamine dodecylbenzenesulfonate
Triethylamine
Uranium
Vanadium
Vinyl acetate
Xylene
Xylenol
Zirconium

TABLE 2D-3

HAZARDOUS SUBSTANCES

Acetaldehyde
Acetic acid
Acetic anhydride
Acetone cyanohydrin
Acetyl bromide
Acetyl chloride
Acrolein
Acrylonitrile
Adipic acid
Aldrin
Allyl alcohol
Alyll chloride
Aluminum sulfate
Ammmonia
Ammonium acetate
Ammonium benzoate
Ammonium bicarbonate
Ammonium bichromate
Ammonium bifluoride
Ammonium bisulfite
Ammonium carbamate
Ammonium carbonate
Ammonium chloride
Ammonium chromate
Ammonium citrate
Ammonium flouroborate
Ammonium fluoride
Ammonium hydroxide
Ammonium oxalate
Ammonium silicofluoride
Ammonium sulfamate
Ammonium sulfide
Ammonium sulfite
Ammonium tartrate
Ammonium thiocyanate
Ammonium thiosulfate
Amyl acetate
Aniline
Antimony pentachloride
Antimony potassium tartrate
Antimony tribromide
Antimony trichloride
Antimony trifluoride
Antimony trioxide
Arsenic disulfide
Arsenic trichloride
Arsenic trioxide
Arsenic trisulfide
Barium cyanide
Benzene
Benzoic acid
Benzonitrite
Benzoyl chloride
Benzyl chloride
Beryllium chloride
Beryllium fluoride
Beryllium nitrate
Butylacetate
n-Butylphthalate
Butylamine
Butyric acid
Cadmium acetate
Cadmium bromide
Cadmium chloride
Calcium arsenate
Calcium arsenite
Calcium carbide
Calcium chromate
Calcium cyanide
Calcium dodecylbenzenesulfonate
Calcium hypochlorite
Captan
Carbaryl
Carbofuran
Carbon disulfide
Carbon tetrachloride
Chlordane
Chlorine
Chlorobenzene
Chloroform
Chloropyrifos
Chlorosulfonic acid
Chromic acetate
Chromic acid
Chromic sulfate
Chromous chloride
Cobaltous bromide
Cobaltous formate
Cobaltous sulfamate
Coumaphos
Cresol
Crotonaldehyde
Cupric acetate
Cupric acetoarsenite
Cupric chloride
Cupric nitrate
Cupric oxalate
Cupric sulfate
Cupric sulfate ammoniated
Cupric tartrate
Cyanogen chloride
Cyclohexane
2,4-D acid
(2,4-Dichlorophenoxyacetic acid)
2,4-D esters
(2,4-Dichlorophenoxyacetic acid esters)
DDT
Diazinon
Dicamba
Dichlobenil
Dichlone
Dichlorobenzene
Dichloropropane
Dichloropropene
Dichloropropene-Dichloropropane mix
2,2-Dichloropropionic acid
Dichlorvos
Dieldrin
Diethylamine
Dimethylamine
Dinitrobenzene
Dinitrophenol
Dinitrotoluene
Diquat
Disulfoton
Diuron
Dodecylbenzesulfonic acid
Endosulfan
Endrin
Epichlorohydrin
Ethion
Ethylbenzene
Ethylenediamine
Ethylene dibromide
Ethylene dichloride
Ethylene diaminetetracetic acid (EDTA)
Ferric ammonium citrate
Ferric ammonium exalate
Ferric chloride
Ferric fluoride
Ferric nitrate
Ferric sulfate
Ferrous chloride
Ferrous sulfate
Formaldehyde
Formic acid
Fumaric acid
Furfural
Guthion
Heptachlor
Hexachlorocyclopentadiene
Hydrochloric acid
Hydrofluoric acid
Hydrogen cyanide
Hydrogen sulfide
Isoprene
Isopropanolamine dodecylbenzenesulfonate
Kelthane
Kepone
Lead acetate
Lead arsenate
Lead chloride
Lead fluoborate
Lead fluorite
Lead iodide
Lead nitrate
Lead stearate
Lead sulfate
Lead sulfide
Lead thiocyanate
Lindane
Lithium chromate
Malathion

TABLE 2D-4

HAZARDOUS SUBSTANCES *(Continued)*

Maleic acid
Maleic anhydride
Mercaptodimethur
Mercuric cyanide
Mercuric nitrate
Mercuric sulfate
Mercuric thiocyanate
Mercurous nitrate
Methoxychlor
Methyl mercaptan
Methyl methacrylate
Methyl parathion
Mevinphos
Mexacarbate
Monoethylamine
Monomethylamine
Naled
Naphthalene
Naphthenic acid
Nickel ammonium sulfate
Nickel chloride
Nickel hydroxide
Nickel nitrate
Nickel sulfate
Nitric acid
Nitrobenezene
Nitrogen dioxide
Nitrophenil
Nitrotoluene
Paraformaldehyde
Parathion
Pentachlorophenol
Phenol
Phosoene
Phosphoric acid
Phosphorus
Phosphorus oxychloride
Phosphorus pentasulfide
Phosphorus trichloride
Polychlorinated biphenyls (PCB)
Potassium arsenate
Potassium arsenite
Potassium bichromate
Potassium cyanide
Potassium hydroxide
Potassium permanganate
Propargite
Propionic acid
Propionic anhydride
Propylene oxide
Pyrethrins
Quinoline
Resorcinol
Selenium oxide
Silver nitrate
Sodium
Sodium arsenate
Sodium arsenite
Sodium bichromate
Sodium bifluoride
Sodium bisulfite
Sodium chromate
Sodium cyanide
Sodium dodecylbenzenesulfonate
Sodium fluoride
Sodium hydrosulfide
Sodium hydroxide
Sodium hypochlorite
Sodium methylate
Sodium nitrate
Sodium phospate (dibasic)
Sodium phosphate (tribasic)
Sodium selenite
Strontium chromate
Strychnine
Styrene
Sulfuric acid
Sulfur monochloride
2,4,5-T acid (2,4,5-Trichlorophenoxy acetic acid)
2,4,5-Tamines (2,4,5-Trichlorophenoxy acetic acid amines)
2,4,5-T esters (2,4,5-Trichlorophenoxy acetic acid esters)
2,4,5-T salts (2,4,5-Trichlorophenoxy acetic acid salts)
2,4,5-TP acid (2,4,5-Trichlorophenoxy propanoic acid)
2,4,5-TP acid esters (2,4,5-Trichlorophenoxy propanoic acid esters)
TDE (Tetrachlorodiphenyl ethane)
Tetraethyl lead
Tetraehyl pyrophosphate
Thallium sulfate
Toluene
Toxaphene
Trichlorofon
Trichloroethylene
Trichlorophenol
Triethanolamine dodecylbenzenesulfonate
Triethylamine
Trimethylamine
Uranyl acetate
Uranyl nitrate
Vanadium pentoxide
Vanadyl sulfate
Vinyl acetate
Vinylidene chloride
Xylene
Xylenol
Zinc acetate
Zinc ammonium chloride
Zinc borate
Zinc bromide
Zinc carbonate
Zinc chloride
Zinc cyanide
Zinc fluoride
Zinc formate
Zinc hydrosulfite
Zinc nitrate
Zinc phenolsulfonate
Zinc phosphide
Zinc silicofluoride
Zinc sulfate
Zirconium nitrate
Zirconium potassium fluoride
Zirconium sulfate
Zirconium tetrachloride

Table 2D-4

EPA Form 3510-2D (7-86)

[FR Doc. 86-16647 Filed 7-25-86; 8:45 am]
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federal register

Monday
July 28, 1986

Part IV

Department of Defense

48 CFR Part 247

Department of Defense, Federal Acquisition Regulation Supplement; Cargo Preference; Proposed Rule and Request for Comment

DEPARTMENT OF DEFENSE

48 CFR Part 247

Department of Defense, Federal Acquisition Regulation Supplement; Cargo Preference

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comment.

SUMMARY: The Department of Defense proposes, as a result of the Court of Appeals for the District of Columbia decision in *Rainbow Navigation, Inc.* v. *the Department of the Navy et al.*, 783 F.2d 1072 (D.C. Cir. 1986), an addition to the DoD FAR Supplement at DFARS Sections 247.502 and 247.506 to set out the requirement established by the Cargo Preference Act of 1904 that U.S.-flag vessels are to be used for the ocean transportation of supplies bought for the military unless the freight charged is "excessive or otherwise unreasonable". The proposed addition also identifies procedures to be followed and factors to be considered in making this determination.

DATE: Comments on the proposed rule should be submitted to the Executive Secretary, DAR Council, at the address shown below on or before August 27, 1986, to be considered in the formulation of a final rule. Please cite DAR Case 86–98 on all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)/DARS, c/o OASD(A&L), Room 3C841, The Pentagon, Washington, DC 20301–30662.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background.

The Cargo Preference Act of 1904 established the requirement that U.S.-flag vessels are to be used for the ocean transportation of supplies bought for the military unless the freight charged is "excessive or otherwise unreasonable". The proposed rule provides DFARS coverage to identify procedures to be followed and factors to be considered in making this determination.

B. Regulatory Flexibility Act Information.

The proposed addition to DoD FAR Supplement Subpart 247.5 does not appear 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 the revision merely sets forth internal DoD procedures for determining whether rates are excessive or otherwise unreasonable. Comments are invited.

C. Paperwork Reduction Act Information.

The proposed rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq. and does not require the contractor to file reports, fill out forms, or keep records.

List of Subjects in 48 CFR Part 247

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR Part 247 be amended as follows:

PART 247—TRANSPORTATION

1. The authority citation for 48 CFR Part 247 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.

2. Section 247.502 is added to read as follows:

247.502 Policy.

(a)(1) The Cargo Preference Act of 1904 (10 U.S.C. 2631) requires the Department of Defense to use only U.S.-flag vessels for ocean transportation of supplies bought for the Army, Navy, Air Force, or Marine Corps unless the freight charged by those vessels is excessive or otherwise unreasonable.

3. Section 247.506 is amended by adding paragraphs (S–71) and (S–72) to read as follows:

247.506 Procedures.

* * * * *

(S–71) For purposes of the Cargo Preference Act of 1904, authority to determine that the freight charged by the U.S.-flag vessels is excessive or otherwise unreasonable has been delegated to the Secretary of Defense and redelegated to the Secretary of the Navy.

(S–72) The 1904 Act anticipates that the exclusion of foreign-flag concerns will result in the payment of a premium for transportation. However, the 1904 Act does not grant U.S.-flag carriers a right to have the Government subsidize inefficiency or inappropriate pricing. In this connection, noncompetitively established rates require particular scrutiny. Therefore, any cost to the Government beyond the economic penalty normally associated with the exclusion of foreign competition shall be analyzed and fully documented in accordance with the procedures set out below.

(1) The factors which the Secretary of the Navy may consider in determining whether the freight charged by U.S.-flag carriers is excessive or otherwise unreasonable are economic in nature. In making this determination, the Secretary of the Navy may, on a case-by-case basis, consider:

(i) Whether the negotiated freight includes costs or profit that are unreasonable, considering the factors in Part 215; or

(ii) Whether the freight charged results in excessive cost to the Government.

(2) When the contracting officer has reason to believe that the freight charged by U.S.-flag carriers is excessive or otherwise unreasonable, he shall forward a report through his HCA to the Director, Office of Contracts and Business Management, Military Sealift Command (MSC) for concurrence. If MSC concurs with the contracting officer, the report will be forwarded to the Secretary of the Navy to determine, in his discretion, whether the freight is excessive or otherwise unreasonable. The report shall be in a D&F format and shall include the following information, as appropriate:

(i) An analysis of the carrier's costs or profit in accordance with Part 215, including the basis for the contracting officer's conclusion that the costs are unreasonable or the profit proposed exceeds that which the contracting officer determines is necessary to adequately motivate the contractor and compensate the contractor for the degree of risk incurred (i.e., the costs or profit proposed should not be so high as to exploit the preference for U.S.-flag carriers); or

(ii) An analysis of whether the cost to the U.S. Government is excessive, taking into account factors such as the differential between freight charged by the U.S.-flag carrier and an estimate of what foreign-flag carriers would charge based upon a price analysis, a comparison of rates charged on comparable routes, efficiency of operation regardless of rate differential, and any other relevant economic and financial considerations affecting the U.S. Government.

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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1985. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[3] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[4] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.