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Contents

Federal Register
Vol. 51, No. 177
Friday, September 12, 1986

Agricultural Marketing Service
RULES
Lemons grown in California and Arizona, 32423

Agricultural Research Service
NOTICES
Meetings:
National Arboretum Advisory Council, 32502

Agricultural Stabilization and Conservation Service
RULES
Marketing quotas and acreage allotments:
Peanuts, 32620

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Agricultural Research Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Forest Service; Rural Electrification Administration
NOTICES
Committees; establishment, renewals, terminations, etc.:
Foreign Animal and Poultry Diseases Advisory Committee, 32502
Cooperative agreements:
Rutgers University, 32502
Privacy Act; systems of records, 32502

Animal and Plant Health Inspection Service
RULES
Interstate transportation of animals and animal products (quarantine):
Brucellosis
Cattle, bison, and swine, 32574

Army Department
NOTICES
Meetings:
Historical Advisory Committee, 32516

Blind and Other Severely Handicapped, Committee for Purchase from
See Committee for Purchase from the Blind and Other Severely Handicapped

Centers for Disease Control
NOTICES
Meetings:
Immunization Practices Advisory Committee, 32538
Nursing personnel; reducing back stress; NIOSH meeting, 32538

Coast Guard
PROPOSED RULES
Ports and waterways safety:
Puget Sound, WA; vessel traffic service, 32489

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration

Committee for Purchase from the Blind and Other Severely Handicapped
NOTICES
Procurement list, 1986:
Additions and deletions, 32515
(2 documents)
Additions and deletions; correction, 32516

Committee for the Implementation of Textile Agreements
NOTICES
Textile consultation; review of trade:
Japan, 32513

Commodity Credit Corporation
RULES
Loan and purchase programs:
Tobacco, 32424

Customs Service
RULES
Air commerce:
Security areas; employee identification strip or seal; use and display, etc., 32448

Defense Department
See also Army Department
NOTICES
Meetings:
Strategic Defense Initiative Advisory Committee, 32516

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Salkind, Morris, D.O., 32545

Education Department
NOTICES
Agency information collection activities under OMB review, 32516
Meetings:
Bilingual Educational National Advisory and Coordinating Council, 32518

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 32547

Energy Department
See Energy Information Administration; Federal Energy Regulatory Commission

Energy Information Administration
NOTICES
Agency information collection activities under OMB review, 32518
Forms; availability, etc.:
Coal survey forms, 32520

Environmental Protection Agency
RULES
Air pollution: standards of performance for new stationary sources:
Quality assurance and control revisions, 32454
Hazardous waste:
Identification and listing—
Exclusion, 32458
National Environmental Policy Act; implementation (municipal wastewater treatment construction grants program); final, 32606
PROPOSED RULES
Toxic substances:
Significant new uses—
1-Propanol, 3-mercapto-, 32495
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 32533
Weekly receipts, 32533
Toxic and hazardous substances control:
Premanufacture exemption approvals, 32534, 32535 (2 documents)
Premanufacture exemption approvals; correction, 32535
Premanufacture notices receipts; correction, 32535, 32536 (2 documents)

Executive Office of the President
See Presidential Documents

Farm Credit Administration
RULES
Farm credit system:
Stockholder/borrower rights; mergers, consolidations, and territory transfers; conservorships and receiverships, 32431
NOTICES
Farm credit system:
Amarillo Production Credit Association; voluntary liquidation, denial, 32536

Federal Aviation Administration
PROPOSED RULES
Airworthiness directives:
Dornier, 32480
Transition areas, 32481–32484 (4 documents)
VOR Federal airways, 32480

Federal Communications Commission
NOTICES
Meetings; Sunshine Act, 32570

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 32570, 32571 (3 documents)

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Chocorua Forestlands Ltd. Partnership et al., 32523
Natural gas certificate filings:
Columbia Gas Transmission Co. et al., 32523
Natural gas companies:
Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend, 32526
Preliminary permits surrender:
Streamline Hydro, Inc., 32527
Applications, hearings, determinations, etc.:
Arkla Energy Resources , 32527
Cambridge Electric Light Co., 32528
Caprock Pipeline Co., 32528
El Paso Natural Gas Co., 32528, 32529 (3 documents)
Kansas Gas & Electric Co., 32530
Marin Municipal Water District, 32530
Mid Louisiana Gas Co., 32530
Natural Gas Pipeline Co. of America, 32530
Northern States Power Co., 32531
Panhandle Eastern Pipe Line Co., 32531
Raton Gas Transmission Co., 32531
Ringwood Gathering Co., 32532
Sea Robin Pipeline Co., 32532
Southern Natural Gas Co., 32532
Texas Gas Transmission Corp., 32533

Federal Highway Administration
RULES
Accounting; CFR Part removed, 32453

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
Houston Belt & Terminal Railway Co. et al., 32568

Federal Reserve System
NOTICES
Federal Open Market Committee:
Domestic policy directives, 32537
Applications, hearings, determinations, etc.:
BTB Corp., 32536
Mellon Bank Corp., 32536
Mountaineer Bankshares of West Virginia, Inc., et al., 32537

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
Detroit Auto Dealers Association, Inc., et al., 32485

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Surety companies acceptable on Federal Bonds:
Allianz Insurance Co., 32569

Fish and Wildlife Service
RULES
Endangered Species Convention:
Cacti, 32477
Migratory bird hunting:
Seasons, limits, and shooting hours; establishment, etc., 32460

Food and Drug Administration
RULES
Color additives:
[Phthalocyaninato(2-)] copper; change in organic chlorine content specification, etc., 32453
Organization and authority delegations:
Director, St. Louis Branch, 32451

NOTICES
Committees; establishment, renewals, terminations, etc.:
Cardiovascular and Renal Drugs Advisory Committee, 32538
Endocrinologic and Metabolic Drugs Advisory Committee, 32539
Human drugs:
New drug applications; opportunity for hearing, etc.—Becton Dickinson & Co. et al., 32539
Meetings:
Consumer information exchange, 32539

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Illinois; Diamond Star Auto Manufacturing Plant, 32504

Forest Service
NOTICES
Environmental statements; availability, etc.:
Southern Region; Southern pine beetle suppression program, 32504

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration; Public Health Service

Health Care Financing Administration
NOTICES
Medicaid:
State plan amendments, reconsideration; hearings—Iowa, 32540

Health Resources and Services Administration
NOTICES
Grants and cooperative agreements:
General internal medicine and general pediatrics, residency training, 32541

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
Cabazon Indian Reservation, CA, 32543

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau

International Trade Administration
NOTICES
Antidumping:
Mirrors in stock sheet and lehr end sizes from—
Belgium, 32505
Italy, 32506
Japan, 32507
Portugal, 32508
United Kingdom, 32510
West Germany, 32511
Meetings:
Military Critical Technologies List Implementation Technical Advisory Committee and President's Export Council, 32504

Interstate Commerce Commission
PROPOSED RULES
Motor carriers:
Passenger motor carriers (buses); operations over superhighways and alternate routes, 32500
NOTICES
Agreements under sections 5a and b, applications for approval, etc.:
Alaska Carriers Association Inc., 32545
Motor carriers:
Compensated intercorporate hauling operations, 32543
Railroad operation, acquisition, construction, etc.:
Atchison, Topeka & Santa Fe Railway Co. et al., 32544
Montana Western Railway Co., Inc., 32544
Newburgh & South Shore Railroad Co., 32545

Justice Department
See Drug Enforcement Administration; Prisons Bureau

Labor Department
See also Employment Standards Administration; Occupational Safety and Health Administration; Pension and Welfare Benefits Administration
NOTICES
Privacy Act; systems of records, 32546

Land Management Bureau
NOTICES
Realty actions; sales, leases, etc.:
Oregon, 32542

National Archives and Records Administration
NOTICES
RECORDFACTS; new publication availability, 32557

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
High seas salmon off Alaska, 32478
Tuna, Atlantic fisheries, 32478

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Baltimore Gas & Electric Co., 32558
Export and import license applications for nuclear facilities or materials, 32557
Applications, hearings, determinations, etc.:
Maine Yankee Atomic Power Co., 32559

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc.:
Connecticut; correction, 32453
NOTICES
Variance applications, etc.:
Lenox China, Inc., 32548

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Additional Securities Benefit Fund et al., 32548
PECA-IBEW Annuity Fund et al., 32555

Presidential Documents
PROCLAMATIONS
Special observances:
Employ the Handicapped Week, National (Proc. 5524), 32421
Hispanic Heritage Week, National (Proc. 5522), 32417
Lupus Awareness Month (Proc. 5523), 32419

Prisons Bureau
RULES
Inmate control, custody, care, etc.:
Recreation programs, showing of movies, 32602

Public Health Service
See also Centers for Disease Control; Food and Drug Administration; Health Resources and Services Administration
PROPOSED RULES
Grants:
Nursing student loan program, 32616
NOTICES
Meetings; advisory committees:
September/October, 32542

Rural Electrification Administration
RULES
Telephone borrowers:
Lien accommodations and subordination policy, 32428

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 32559
Meetings; Sunshine Act, 32571
(2 documents)
Self-regulatory organizations; proposed rule changes:
Boston Stock Exchange, Inc., 32559
New York Stock Exchange, Inc., 32560
Applications, hearings, determinations, etc.:
Alger Fund, 32564
PB-SB 1983 Investment Partnership I et al., 32565
PVNGS Funding Corp., Inc., 32560
Scandinavia Fund, Inc., 32563

Small Business Administration
NOTICES
Loan guarantees; pilot programs:
Illinois, 32568
Organization, functions, and authority delegations:
Inspector General, 32567

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration
NOTICES
Aviation proceedings:
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 32568

Treasury Department
See Customs Service; Fiscal Service

Separate Parts In This Issue

Part II
Department of Agriculture, Animal and Plant Health Inspection Service, 32574

Part III
Department of Justice, Bureau of Prisons, 32602

Part IV
Environmental Protection Agency, 32606

Part V
Department of Health and Human Services, Public Health Service, 32616

Part VI
Department of Agriculture, Agricultural Stabilization and Conservation Service, 32620

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

5522 32417
5523 32419
5524 32421

7 CFR

729 32620
910 32423
1464 32424
1747 32428

9 CFR

51 32574
71 32574
78 32574
80 32574
92 32574

12 CFR

611 32431

14 CFR

Proposed Rules:

39 32480
71 (5 documents) 32480-32485

16 CFR

Proposed Rules:

13 32485

19 CFR

6 32448

21 CFR

5 32451
74 32453

23 CFR

11 32453

28 CFR

544 32602

29 CFR

1956 32453

33 CFR

Proposed Rules:

161 32489

40 CFR

6 32606
60 32454
261 32458

Proposed Rules:

721 32495

42 CFR

Proposed Rules:

57 32616

49 CFR

Proposed Rules:

1042 32500

50 CFR

20 32460
23 32477
285 32478
674 32478

Federal Register
Vol. 51, No. 177
Friday, September 12, 1986

Presidential Documents

Title 3—

The President

Proclamation 5522 of September 10, 1986

National Hispanic Heritage Week, 1986

By the President of the United States of America

A Proclamation

National Hispanic Heritage Week provides an opportunity for all Americans to recognize and celebrate the great and varied contributions Hispanic Americans have made and continue to make to this country.

As a Nation of immigrants founded on universal ideals, America's vision of freedom based on God-given rights embraces all the people of the world. Throughout our history, we have been fortunate in attracting to our shores immigrants from every part of the world. Their values, energies, and spirit have enriched America's culture and added to her dynamism and prosperity.

No part of our national mosaic better exemplifies this tradition than America's numerous citizens of Hispanic heritage. Their love of freedom is reflected daily in their abundant economic, cultural, and political vitality. Their profound religious faith nourishes the spirit of a Nation whose first principle is the God-given dignity of the human person. Through hard work Hispanics have done much to contribute to the betterment of their families and their communities. Many have played important roles as leaders in American society. Their ties to the nations of Latin America form an important part of the bond between America and its neighbors to the South, many of whom are enjoying a renaissance of freedom and democratic government. The roots of their culture bind us also to democratic Spain and its great cultural legacy. For all these reasons, we rejoice in the strength and inspiration America derives from its citizens of Hispanic heritage.

In recognition of the many achievements of the Hispanic American Community, the Congress, by Joint Resolution approved September 17, 1968 (Public Law 90–498), authorized and requested the President to issue annually a proclamation designating the week that includes September 15 and 16 as National Hispanic Heritage Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 14, 1986, as National Hispanic Heritage Week, in recognition of the Hispanic individuals, families, and communities that enrich our national life. I call upon the people of the United States, especially the educational community, to observe this week with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 86-20808
Filed 9-10-86; 4:34 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5523 of September 10, 1986

Lupus Awareness Month, 1986

By the President of the United States of America

A Proclamation

Systemic lupus erythematosus (also known as lupus or SLE) is an inflammatory disease of connective tissue, which can produce changes in the structure and function of the skin, joints, and internal organs. The exact cause of lupus is unknown, but evidence suggests that the disease may result from a disorder in the body's production of antibodies (proteins that fight invading organisms). In lupus, abnormal antibodies are produced that react against the patient's own tissue. More than 500,000 Americans have the disease. Ninety percent of these victims are women in their child-bearing years.

Although research has yet to find a cure for lupus, the outlook has vastly improved. Patients are living longer, more normal lives as a result of increased awareness of the disease, improved diagnostic methods, and more effective therapy. As a result of advances from biomedical research, positive findings have emerged from such diverse projects as studies on defects in the immune system; research on genetic and environmental factors influencing the disease and its complications; studies aimed at developing improved treatment, including new drugs and techniques; and research in epidemiology and data systems.

In order for us to take advantage of the knowledge already gained, public awareness of the symptoms and treatment of lupus—and of the need for continuing scientific research—remains essential. The Federal government and private voluntary organizations have developed a strong and enduring partnership committed to research on lupus. Working together, our objective must be to uncover the cause and find a cure for this devastating disease.

The Congress, by Public Law 99–365, has designated the month of October 1986 as "Lupus Awareness Month" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of October 1986 as Lupus Awareness Month. I urge the people of the United States and educational, philanthropic, scientific, medical, and health care organizations and professionals to observe this month with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 86–20809
Filed 9–10–86; 4:35 pm]
Billing code 3195–01–M

Presidential Documents

Proclamation 5524 of September 10, 1986

National Employ the Handicapped Week, 1986

By the President of the United States of America

A Proclamation

During the past decade, our Nation has seen increased awareness of the capabilities of workers with disabilities. We have demonstrated a greater commitment to the principle of equal employment opportunity for all Americans.

This awareness has led to actions by people with disabilities, by business, by organized labor, and by government at all levels to encourage the full integration of workers with disabilities into the American work force.

This cooperative and unified action has enabled people with disabilities to forge ahead—as leaders, as employers and employees, as team members, as vital members of American society. Medical and technological developments, coupled with new awareness of the capabilities of people with disabilities, can lead to greater and more fruitful participation of all Americans in our work force.

The first full week in October of each year is National Employ the Handicapped Week. During these seven days, we emphasize our recognition of the changing roles of people with disabilities in America today. Their aspirations and demonstrated ability to meet challenges and make the most of opportunities have resulted in changing the way the Nation thinks about handicaps and disabilities. Let us recognize through our actions, as well as our words, that people with disabilities are first of all our fellow citizens, who happen to be disabled.

The Congress, by Joint Resolution approved August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of the first full week in October of each year as "National Employ the Handicapped Week." This special week is a time for all Americans to join together to renew their dedication to meeting the goal of full opportunities for disabled citizens.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 5, 1986, as National Employ the Handicapped Week. I urge all governors, mayors, other public officials, leaders in business and labor, and private citizens to help meet the challenge of insuring equal employment opportunities and full citizenship rights and privileges for people with disabilities.

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

Ronald Reagan

[FR Doc. 86-20810
Filed 9-10-86; 4:36 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 51, No. 177
Friday, September 12, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 526]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule with request for comments.

SUMMARY: Regulation 526 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 200,000 cartons during the period September 14 through September 20, 1986. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 526 (§ 910.826) is effective for the period September 14–20, 1986. Comments due October 2, 1986.

ADDRESS: Interested persons are invited to submit written comments concerning the possible impact of volume regulations on small entities. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, 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 available for public inspection in the office of the Docket Clerk during regular working hours.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 has been determined to be a "non-major" rule under criteria contained therein.

At the beginning of each marketing year, the Lemon Administrative Committee submits a marketing policy to the Department which discusses, among other things, the potential use of volume and/or size regulations for the ensuing season. The Committee's 1986–87 season marketing policy contemplated the use of volume regulation this season. The Department reviewed that policy with respect to legal and administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The regulatory action in this instance is proposed volume control (prorate) for shipments of fresh domestic lemons grown in California and Arizona, authorized under marketing order 910. At the present time, the Agricultural Marketing Servcie is not able to conclusively determine all the costs and benefits of the proposed regulation on small business entities. However, if a "significant economic impact on a substantial number of small entities" would be present, it is the Department's view that under the proposed regulation this impact would not be adverse. Although the information currently available to AMS is limited, the known costs to growers of implementing the regulations appear to be significantly offset when compared to potential benefits of regulation.

The California-Arizona lemon industry is characterized by a large number of growers that cover a large geographical area. The exact number of growers is not presently known, but estimates are that this number is in the range of 2,000 to 2,500. An actual number is difficult to obtain, due to the various types of legal entities involved in growing lemons. For example, one grower may be involved in several different legal entities; either as an individual or with others. It is therefore difficult to ascertain if such an individual constitutes one or several growers. There is also a lack of complete information regarding all the legal entities themselves.

Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2 (1985)) as those having average annual gross revenues for the last three fiscal years of less than $100,000. It is believed that the California-Arizona lemon industry is dominated by small growers. It is difficult to substantiate the exact makeup of the industry in view of the absence of data regarding numbers and names of producers, and value of production of each. In addition, the number of small growers may vary significantly from year to year depending on price levels, production levels, and yields.

Regardless of the lack of determination of the number of small growers in the industry, the proposed regulations apply to the entire industry, therefore all small growers are affected. Furthermore, the regulations are applied uniformly and in proportion to each grower's shipments throughout the industry.

The reporting and recordkeeping requirements under M.O. 910 are incurred by handlers of lemons. However, the handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by the handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

If the alternative of not using volume regulations for the 1986–87 season was adopted, it is likely that most of these reporting and recordkeeping functions would still be carried out. The method of calculating the quantities of lemons for fresh shipments by handlers for any given week is based on information gathered over several previous week's time. Therefore, there is an incentive to keep and maintain records in anticipation of future implementation of regulation.

As long as M.O. 910 provides the authority for weekly volume regulation, most of the recordkeeping will likely continue, as it did during the 1985–86 season when no volume regulation was used.

Based on consideration of the conditions that exist in the lemon industry at this time, and the evaluation of alternatives to the implementation of prorate regulations, USDA has certified that the issuance of weekly volume regulations will not have a significant economic impact on a substantial number of small entities.

The Fruit and Vegetable Division of the Agricultural Marketing Service, however, encourages the submission of comments on economic impacts on small entities from all interested parties. USDA's position on this certification of the regulatory action will be further evaluated in view of the applicable comments received.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1986–87. The committee met publicly on September 9, 1986, at Yuma, Arizona, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is poor and that the market is oversupplied, which has resulted in decreases in price. The use of prorate was recommended in order to strengthen the rapidly declining market for lemons.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subject in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.826 is added to read as follows:

§ 910.826 Lemon Regulation 526.

The quantity of lemons grown in California and Arizona which may be handled during the period September 14 through September 20, 1986, is established at 200,000 cartons.

Dated: September 11, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-20814 Filed 9-11-86; 9:37 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1464

Tobacco; Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations at 7 CFR Part 1464 to implement provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 and the Food Security Act of 1985 with respect to the tobacco price support program. Major changes include: (1) New formulas for determining the level of price support for kinds of tobacco for which marketing quotas are in effect or have not been disapproved by producers; (2) a requirement that purchasers of tobacco pay assessments to applicable No Net Cost Tobacco Funds or Accounts; (3) a reduction in the quantity of tobacco produced on a farm which may be eligible to receive price support from 110 percent to 103 percent of the effective burley and flue-cured tobacco farm marketing quota; and (4) a penalty for the failure of a person to collect and timely remit No Net Cost Fund or Account contributions or assessments. Other editorial changes also are made in 7 CFR Part 1464 for clarity.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Jack S. Forlines, Tobacco Marketing Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2515, Washington, DC 20013, (202) 447–3518.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of Law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 29, 1983).

Section 1102 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (the "1985 Act") amended section 106(f) of the Agricultural Act of 1949, as amended (the "1949 Act"), to establish the level of price support for the 1985 and 1986 crops of burley tobacco at $1.488 per pound and for the 1986 crop of flue-cured tobacco at $1.4338 per pound. For the 1987 and subsequent crops of those kinds of tobacco for which marketing quotas are in effect or are not disapproved by producers, the level of price support is established at the same level established for the previous crop plus or minus, respectively, an adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply and demand with respect to such tobacco, of: (1) 66.7 percent of the amount by which (a) the average price received by producers for such tobacco, respectively, on U.S. auction markets during the 5 marketing years immediately preceding the marketing

year for which the determination is made, excluding the highest and lowest years, is greater or less than (b) such average prices calculated in the same manner for the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is made; and (2) 33.3 percent of the change in an index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made. The index of prices paid shall include items representing general, variable costs of producing tobacco, as determined by the Secretary, and excluding the cost of land, risk, overhead, management, purchase or leasing of quotas, marketing contributions or assessments, and other costs not directly related to the production of tobacco.

Section 1102 of the 1985 Act also amended section 106(f) of the 1949 Act with respect to the 1986 and subsequent crops of other kinds of tobacco for which marketing quotas are in effect or are not otherwise disapproved by producers. Generally, this amendment provides that the levels of price support for such crops are the levels established for the previous crops of such kinds of tobacco plus or minus, respectively, the amount by which: (1) The level of price support for the crop for which the determination is made, as determined in accordance with section 106(b), is greater or less than (2) the level of price support, determined in accordance with section 106(b), for the immediately preceding crop. This difference may be adjusted downward by the Secretary if the level of price support for which the determination is being made is greater than the immediately preceding crop's level of price support. Such downward adjustment of the difference may be made only to the extent that the increase in the level of price support after adjustment is not less than 65 percent of the increase in the level of price support which would otherwise have been established for such kind of tobacco if such downward adjustment had not been made. Notwithstanding these provisions, if requested by the board of directors of an association through which price support is made available for a kind of tobacco other than burley or flue-cured, the Secretary may reduce level of price support for the respective kind of tobacco to the extent requested in order to more accurately reflect the market value and improve marketability of such tobacco.

Since the levels of price support for eligible tobacco are statutorily established, 7 CFR 1464.3 is amended to provide that such levels shall be established in accordance with section 106 of the 1949 Act. The previous provisions of 7 CFR 1464.3 which provided that reduced levels of price support shall be applicable to certain designated varieties of flue-cured tobacco are retained.

Section 1105 of the 1985 Act amended section 106(c) of the 1949 Act to provide that if acreage poundage or poundage farm marketing quotas are in effect under section 317 or 319 of the Agricultural Adjustment Act of 1938, as amended, price support shall not be available on tobacco marketed in excess of 103 percent of the marketing quota for the farm on which such tobacco was produced.

Previously such quantity of tobacco eligible to receive price support could not exceed 110 percent of such marketing quota. Accordingly, 7 CFR 1464.2 is amended to reflect the reduction in the quantity of tobacco produced on a farm which may be eligible to receive price support.

The No Net Cost Tobacco Program Act of 1982 (the "1982 Act") amended the 1949 Act to provide that the price support program for tobacco is to be conducted in such a manner as to result in no net cost to the government. The 1982 Act added sections 106A and 106B to the 1949 to provide that this would be accomplished through: (1) Producer contributions to No Net Cost Tobacco Funds maintained by the cooperative marketing associations through which price support is made available to producers or (2) producer marketing assessments maintained in No Net Cost Tobacco Accounts established by the Commodity Credit Corporation for such an association. Such contributions and assessments are made annually for each crop of each kind of tobacco which receives price support.

Section 1108 of the 1985 Act amended sections 106A and 106B of the 1949 Act to provide that, in addition to producer assessments or contributions, purchasers of flue-cured and burley tobacco shall pay to the cooperative marketing association through which price support is made available to producers an assessment for deposit in such association's No Net Cost Tobacco Fund or No Net Cost Tobacco Account in an amount announced by the Secretary with respect to all purchases of such kind of tobacco marketed by a producer from a farm and purchases from the association's stocks of the 1986 and subsequent crops. The amount of producer contributions or assessments and purchaser assessments to applicable No Net Cost Tobacco Funds or Accounts are to be determined in such a manner that purchasers and producers share equally, to the maximum extent practicable, in maintaining such Fund or Account.

Section 1108 of the 1985 Act also provided that any contribution or assessment shall be collected: (1) From the person who acquired the tobacco from the producer, except that if the tobacco is marketed by sale an amount equal to the applicable producer contribution or assessment may be deducted by the purchaser from the price paid to the producer; (2) if the tobacco is marketed by a producer through a warehouseman or agent, from such warehouseman or agent; or (3) if the tobacco is marketed by a producer directly to any person outside the United States, from the producer who may add an amount equal to the purchaser assessment to the price paid by the purchaser. If the sale of the tobacco is made through a warehouseman or agent, such warehouseman or agent may deduct an amount equal to the applicable producer contribution or assessment from the price paid to the producer and add an amount equal to the purchaser assessment to the price paid by the purchaser.

Each person who fails to collect and remit any contribution or assessment in the manner prescribed by the Secretary shall be liable, in addition to any amount due, for a marketing penalty equal to 75 percent of the average market price for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which such failure to remit has occurred. Any such penalty shall be assessed after notice of the violation and an opportunity for a hearing. The penalty may be reduced by the Secretary in an amount determined equitable in any case which the Secretary determines that the failure was unintentional or without knowledge on the part of the person involved.

7 CFR 1464.10 is amended to incorporate the provisions of section 1108 of the 1985 Act with respect to assessment and collection of purchaser assessments. Section 1464.10 also is amended for clarity with respect to the assessment and collection of producer contributions and assessments.

7 CFR 1464(i) sets forth the manner in which contributions and assessments are to be collected and remitted. The provisions are substantially similar to requirements previously applicable only to producer assessments and contributions. 7 CFR 1464.10(i)(2)

provides that a dealer or warehouseman may deduct the amount of any producer contribution or assessment from the price paid to the producer for such tobacco.

7 CFR Part 1464(j) provides that if any person fails to collect and remit a contribution or assessment a marketing penalty shall be assessed. It has been determined that a marketing penalty will not be assessed if contributions or assessments are remitted to the appropriate association not later than 15 days after the day on which the contribution or assessment was required to be made. If a warehouseman fails to collect a contribution or assessment within 15 days of the date specified in the loan contract between the warehouseman and the association, the association shall provide the State ASC committee a statement of the reason for the warehouseman's delay in making a timely payment.

In accordance with 7 CFR 1464.10(j)(3), the State ASC committee is responsible for initially assessing any marketing penalty which is assessed. In accordance with 7 CFR 1464.10(j)(4), the Deputy Administrator may reduce the amount of any marketing penalty if it is determined that the failure to collect and remit a contribution or assessment was unintentional or without knowledge of the person involved.

Sections 1201 through 1223 of the Food Security Act of 1985 provide that certain benefits, including tobacco price support loans, shall not be available to persons who have cultivated certain highly erodible land or newly converted wetland. The regulations implementing these provisions are set forth at 7 CFR Part 12 (51 FR 23496, June 27, 1986). Accordingly, 7 CFR 1464.7 is amended to provide that an eligible producer for purposes of receiving a tobacco price support loan must be in compliance with the provisions of 7 CFR Part 12.

This final rule also makes other minor changes in 7 CFR Part 1464 for purposes of clarity and organization.

Section 1108(c) of the 1985 Act provides that the Secretary shall implement the provisions of sections 1102 through 1109 of that Act without regard to the provisions requiring notice and comment and other procedures for public participation in rulemaking contained in 5 U.S.C. 553 or in any directive of the Secretary. Accordingly, this final rule shall become effective on September 12, 1986.

List of Subjects in 7 CFR Part 1464

Price support programs, Tobacco.

Final Rule

PART 1464—[AMENDED]

Accordingly, 7 CFR Part 1464 is amended as follows:

1. The authority citation for Part 1464 is revised to read:

Authority: Secs. 4 and 5 of the Commodity Credit Charter Act, as amended, 62 Stat. 1070 as amended, 1072, 15 U.S.C. 714b, 714c, secs. 101, 106, 106A, 106B, 401, 403 of the Agricultural Act of 1949, as amended, 63 Stat. 1051, as amended, 74 Stat. 6, as amended, 96 Stat. 197, as amended, 63 Stat. 1054, as amended, 7 U.S.C. 1441, 1445, 1445–1, 1421, 1423.

§ 1464.2 [Amended]

2. Section 1464.2 is amended in paragraphs (b)(1)(i) and (b)(2)(vii) by removing the number "110" each place it appears and inserting in its place the number "103".

3. Section 1464.3 is revised to read:

§ 1464.3 Level of price support.

(a) The level of price support for eligible tobacco shall be determined in accordance with section 106 of the Agricultural Act of 1949, as amended.

(b) Flue-Cured tobacco of varieties Coker 139, Coker 140, Coker 316, Reams 64, Reams 266, and Dixie Bright 244, or a mixture or strain of such seed varieties or any breeding line of Flue-Cured tobacco seed varieties, including, but not limited to, 187 Golden Wilt (also designated by such names as No-Name, XYZ), having the quality and chemical characteristics of the seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, Reams 266, or Dixie Bright 244 will be supported at one-half the support rate, plus 50 cents per hundred pounds, for comparable grades of acceptable varieties.

§ 1464.5 [Amended]

4. Section 1464.5 is amended: (1) By removing from the first sentence the words "for each crop" and (2) by removing from the last sentence the words "any crop" and inserting in their place the words "the 1981 or any prior crop".

5. Section 1464.7 is revised to read:

§ 1464.7 Eligible producer.

To qualify as an eligible producer for purposes of receiving price support during the current marketing year a person must have eligible tobacco, as provided in § 1464.8, for marketing and such person:

(a) Must have agreed to make contributions to a No Net Cost Fund or pay assessments to a No Net Cost Account, as applicable, in accordance with § 1464.10.

(b) Must not have been found, after notice and opportunity for an administrative hearing in accordance with Part 780 of this title, to have:

(1) Knowingly delivered nested tobacco for the purpose of receiving price support.

(2) Filed a false report with respect to the use of pesticides on tobacco produced for marketing during the current marketing year.

(c) Must be in compliance with the provisions of Part 12 of this title.

6. Section 1464.8 is revised to read:

§ 1464.8 Eligible tobacco.

Eligible tobacco for the purpose of pledging such tobacco as collateral for a price support loan is any tobacco of a kind for which price support is available, as provided in § 1464.2, that is in sound and merchantable condition and:

(a) Is not a kind of tobacco for which marketing quotas are not in effect for the marketing year because marketing quotas have been disapproved in a referendum of producers;

(b) Is offered for marketing by the person who was the producer of the tobacco, or in the case of a deceased producer, by the duly authorized successor(s) in interest;

(c) Is offered for marketing in accordance with § 1464.2(b);

(d) If marketing quotas are in effect for the kind of tobacco:

(1) Except for burley tobacco, the farm operator has filed a report of the acreage planted to tobacco on the farm in the applicable year in accordance with Part 718 of this title.

(2) The tobacco was produced on a farm on which neither the reported nor determined acreage of the kind of tobacco exceeds any acreage allotment established for the farm in accordance with the applicable Parts 724 through 726 of this title for the kind of tobacco for the applicable year.

(3) Is identified when delivered to the association either directly or through an auction warehouse with a single marketing card for each lot of tobacco.

(e) If marketing quotas are in effect for the kind of tobacco or if marketing quotas are not in effect but would have been in effect for the kind of tobacco had such marketing quotas not been terminated by the Secretary, the operator of the farm on which the tobacco was produced:

(1) Has certified that all tobacco delivered from such farm for price support will not have not been nested as defined in Part 29 of this title.

(2) Has certified to the county ASC committee on a form approved by the

Deputy Administrator that all pesticides (including plant regulators, defoliants, and desiccants), as defined in 40 CFR 162.3, which were used in connection with the production of the tobacco have been approved by the Environmental Protection Agency for use on tobacco and any such pesticides that were used were applied in accordance with label directions.

(3) Has not refused to permit the sampling of such tobacco, either on the farm or where stored, for chemical analysis for the purpose of verifying the accuracy of any pesticide certification.

(f) With respect to burley and flue-cured tobacco only, is a quantity of tobacco which when added to the pounds of the respective kind of tobacco previously marketed from the farm during the marketing year does not exceed 103 percent of the effective farm marketing quota established for the respective kind of tobacco for that year.

(g) With respect to flue-cured tobacco only, is a quantity of tobacco which was delivered to the association through an auction warehouse and is a quantity which when added to the pounds of flue-cured tobacco previously marketed from the farm at that warehouse does not exceed the quantity of flue-cured tobacco designated by the farm operator for marketing at that warehouse.

(h) With respect to Puerto Rican tobacco only, is tobacco which the producer has certified to the association as meeting the following requirements:

(1) All pesticides (including plant regulators, defoliants, and desiccants), as defined in 40 CFR 162.3, which were used in connection with the production of the tobacco, have been approved by the Environmental Protection Agency for use on tobacco and any such pesticides that were used were applied in accordance with label directions.

(2) All tobacco delivered for price support has not been nested as defined in Part 29 of this title.

7. Section 1464.9 is revised to read:

§ 1464.9 Refund of price support advance.

In any case in which a producer has received price support on a lot of tobacco such producer shall refund to CCC any price support advance received with respect to such lot of tobacco if it is determined, after notice and opportunity for an administrative hearing in accordance with Part 780 of this title, that such producer:

(a) Knew that such lot of tobacco was nested, as defined in Part 29 of this title, at the time such tobacco was delivered for the purpose of receiving price support.

(b) Filed a false report with respect to the use of pesticides on tobacco produced on the farm from which such lot of tobacco was identified, at the time of marketing, as having been produced.

8. In § 1464.10 paragraph (a)(2) is amended by removing the words "(except Flue-cured)"; paragraphs (a)(9) and (g) through (j) are added; and paragraphs (b) through (f) are revised to read:

§ 1464.10 No Net Cost Tobacco Fund or Account.

(a) * * *

(9) "Purchaser" means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, burley or flue-cured tobacco from the producer, or, with respect to the 1986 and subsequent crops of such tobacco, from an association.

(b) *Establishing a No Net Cost Tobacco Fund.* Except as provided in paragraph (c) of this section, each association shall establish and maintain a Fund in accordance with the requirements of section 106A of the Agricultural Act of 1949, as amended.

(c) *Establishing a No Net Cost Tobacco Account.* Upon request of any association, an Account shall be establish and maintained for such association in lieu of a Fund. Also, after consultation with an association, the Secretary may established and maintain an Account for such association in lieu of a Fund if the Secretary determines that the accumulation of the Fund for such association is, and is likely to remain, inadequate to reimburse CCC for net losses which CCC may sustain under its loan agreement with such association. The requirements of section 106B of the Agricultural Act of 1949, as amended, shall be applicable with respect to an Account.

(d) *Producer contributions or assessments.* As a condition of eligibility for price support during the applicable marketing year a producer of quota tobacco shall agree to make contributions to the Fund established for the association serving the area for the kind of tobacco to be marketed by such producer during such marketing year, or, if a Fund has not been established for such association, pay assessments to the Account established for such association. The amount of any contribution or assessment shall be determined in accordance with sections 106A and 106B of the Agricultural Act of 1949, as amended.

(e) *Filing of agreement.* Any agreement to make contributions to a Fund or pay assessments to an Account shall be on a form approved by the Deputy Administrator and shall be filed with the local county ASC committee prior to the issuance of a marketing card for use in identifying tobacco to be marketed from the farm of the kind of tobacco for which such agreement is applicable.

(f) *Responsibility of farm operator.* The farm operator shall determine whether all producers on the farm agree to make contributions to the Fund or pay assessments to the Account, as applicable, that has been established for the association serving the area and may sign on their behalf an agreement which acknowledges that such persons will make such contibutions or pay such assessments.

(g) *Special provisions applicable to burley tobacco.* (1) Notwithstanding the provisions of paragraphs (d) and (e) of this section, if a Fund has been established for an association that serves burley tobacco producers, a producer of burley tobacco shall agree, as a condition of eligibility to receive price support, to make contributions to the association's Fund during each of the 3 marketing years of any three-year period for which marketing quotas have been approved for burley tobacco.

(2) Any agreement to make contributions to a Fund shall be on a form approved by the Deputy Administrator and shall be filed with the local county ASC committee by September 30 preceding the beginning of the first marketing year of the applicable three-year period.

(3) If during the applicable three-year period there is a change in the operator of the farm or a new farm burley tobacco quota has been approved for a farm, the successor operator or the farm operator of the new farm shall agree, as a condition of eligibility to receive price support, to contribute to the Fund in any remaining marketing year of the applicable three year period and shall file such agreement with the local county ASC committee by September 30 preceding the beginning of the next marketing year.

(4) The amount of any contribution shall be determined for each respective marketing year in accordance with section 106A of the Agricultural Act of 1949, as amended.

(h) *Purchaser assessments.* Each purchaser of burley and flue-cured quota tobacco shall pay an assessment with respect to purchases of all such kind of tobacco marketed by a producer from a farm, including purchases from the association of such tobacco from the 1986 and subsequent crops. Such assessment shall be determined in

accordance with section 106A or 106B, as applicable, of the Agricultural Act of 1949, as amended, and shall be paid into the applicable association's Fund or Account.

(i) *Collection and remission of contributions or assessments.*

(1) Any producer contribution or assessment due under this section shall be collected at the time of marketing:

(i) From any dealer or warehouseman who acquired the tobacco involved from the producer; or

(ii) If the tobacco involved is marketed by a producer directly to any person outside the United States, from the producer; or

(iii) If the tobacco involved is delivered directly to an association, by such association.

(2) A dealer or warehouseman may deduct the amount of any producer contribution or assessment from the price paid to the producer for such tobacco.

(3) Any purchaser assessment due under this section shall be collected at the time of marketing:

(i) From the dealer or warehouseman who acquired the tobacco involved from the producer; or

(ii) If the tobacco involved is marketed by a producer directly to any person outside the United States, from the producer who may add an amount equal to the purchaser assessment to the price paid by the purchaser for such tobacco.

(4) If tobacco involved is marketed at a warehouse auction, the warehouseman may add an amount equal to the purchaser assessment to the price paid by the purchaser of such tobacco.

(5) All persons who are responsible for collecting any contribution or assessment required by this section shall remit such collections to the applicable association within 15 days of the date on which the tobacco was marketed except as provided in subparagraphs (i) and (ii).

(i) Warehousemen who are responsible for collecting any contribution or assessment required by this section shall remit such collections to the applicable in accordance with the provisions of the loan contact between the association and the warehouseman.

(ii) Dealers who are responsible for collecting any contribution or assessment as required by this section shall remit such collections to the State ASCS office in accordance with Parts 724 through 726 of this title.

(6) Any person who fails to collect and timely remit any collections required by this section shall be subject to a late payment charge. Such late payment shall be calculated and assessed in accordance with Part 1403 of this title.

(j) *Penalty for failure to collect and remit contributions or assessments.* (1) If any person fails to collect and remit any contributions or assessments according to the provisions of this section such person shall be liable, in addition to any amount of contributions or assessments and any late payment charges, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco for the immediately preceding year on the quantity of tobacco as to which failure occurs. Such a penalty only shall be assessed after the person has been notified of the pending assessment of the penalty and the person has been afforded an opportunity for a hearing with respect to the assessment of the penalty. However, such marketing penalty shall not be assessed if such contributions or assessment are collected and remitted not later than 15 days after the date required by this part.

(2) If a warehouseman fails to collect and remit any contribution or assessment to an association within 15 days after the date provided in the loan contract between the warehouseman and such association, the association shall provide to the State ASC committee for the state in which the warehouseman's business is located a statement of the reason for the failure of the person to timely remit such collection, including the name and address of the warehouse involved, the pounds of tobacco purchased, the date of purchase, and the date the collection was required to be remitted. The association shall submit such facts within 25 days after the applicable due date regardless of whether such assessment or contribution has been remitted to the association.

(3) The State ASC committee shall be responsible for assessing any marketing penalty determined in accordance with paragraph (j)(1) of this section.

(4) The Deputy Administrator may reduce the amount of any marketing penalty for which a person otherwise would be liable in accordance with the provisions of this section.

(5) The marketing penalty provided in this section is in addition to, and not exclusive of, any other remedies that may be available with respect to collection and remission of any contributions or assessments made in accordance with this section.

Signed at Washington, DC, on September 5, 1986.

Earle J. Bedenbaugh,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86-20492 Filed 9-11-86; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1747

Lien Accommodation and Subordination Policy (Telephone Program)

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) is adding a new part, Part 1747, Lien Accommodations, to 7 CFR Chapter XVII, containing the mortgage lien accommodation and subordination application procedure and criteria of the REA telephone program and the Rural Telephone Bank (RTB). The rule will enable REA and RTB telephone borrowers to attract the outside capital necessary to finance other telecommunication services. Certain criteria are set forth. The rule will have an impact on all present and future REA telephone borrowers.

EFFECTIVE DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: John H. Arnesen, Assistant Administrator—Telephone, Rural Electrification Administration, Room 4048, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382-9554. The Final Regulatory Impact Analysis describing the options considered in developing this rule is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This rule is issued in conformity with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets and, therefore, has been determined to be "not major".

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees, and 10.852—Rural Telephone Bank Loans. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015 Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. 1976) and, therefore, does not require an environmental impact statement or an environmental assessment.

This regulation contains no information or recordkeeping requirements which require approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et seq.).

Background

On May 8, 1986, REA published a Notice of Proposed Rulemaking to add a new part to 7 CFR Chapter XVII. Currently REA encourages borrowers to submit requests for mortgage lien accommodations or subordinations for purposes provided in the Rural Electrification Act (RE Act) as amended (7 U.S.C. 901 et seq.). This final rule sets forth the REA and RTB policy with respect to the use of financing from private lenders for projects to provide telephone service as defined by section 203(a) of the RE Act.

In addition to facilitating financing from private lenders for RE Act purposes, this new part establishes criteria which REA will consider in accommodating or subordinating the Government's lien for telecommunication services not eligible to be financed under the RE Act.

The final rule defines "telecommunication services" and sets forth application procedures for REA and RTB to consider mortgage lien accommodation or subordination requests which will facilitate financing of such telecommunication services.

Comments

In the Notice of Proposed Rulemaking (NPR), REA invited interested parties to file comments on or before June 9, 1986. Although some comments were received after that date, all responses received have been considered in preparing the final rule.

Fourteen different organizations or groups commented on the proposed rule. They are: (1) National Rural Telecom Association, National Telephone Cooperative Association, United States Telephone Association (NRTA, et al.), (2) National Rural Utilities Cooperative Finance Corporation (CFC), (3) Central Bank for Cooperatives (BC), (4) Hargray Telephone Company, Inc. (Hargray), (5) Missouri Telephone Company (Missouri), (6) Telocator Network of America (Telocator), (7) National Association of Business and Educational Radio, Inc. (NABER), (8) Associated Telephone Answering Exchanges, Inc. (ATAE), (9) Allied Radiotelephone Utilities of California (Allied), (10) Radio Paging Service (RPS), (11□ The Phone Works (TPW), (12) Able Communications Inc. (Able), (13) LRPS/ Stenocall (LRPS) and (14) United States Department of the Treasury.

Comments opposing the proposed rule were submitted by organizations or groups allied with or currently providing telecommunication services or facilities that are not eligible to be financed under the RE Act. Comments supporting the rule were submitted by organizations representing or allied with telephone systems financed by REA or RTB loans or loan guarantees.

Principal objection to the proposed rule was that mortgage lien accommodation or subordination for non-RE Act purposes would provide an unfair competitive advantage to REA borrowers. Those opposed contended that the rule would provide REA-financed systems with an advantage in the cost of financing that would not be available to non-borrowers and, in effect, be a government subsidy of these telecommunication services. One party commented that the proposed rule would have the unfortunate result of placing many rural Americans in the position of having to subsidize their local telephone company's efforts to diversify into new markets, creating an unfair situation for non-REA borrowers to compete against those that can borrow money from the Federal Government and have their loans from outside sources guaranteed by the Federal Government.

Parties supporting the rule commented that deregulation and competition in the industry is eroding and jeopardizing their historical revenue sources. They contended that they must have the flexibility to diversify to successfully accomplish their objective of serving rural America with quality, affordable telecommunication services in this new environment.

Under present policy, REA has approved very few requests for mortgage lien accommodation or subordination for services not eligible for financing under the RE Act. REA borrowers are generally limited to using internally generated funds or unsecured debt for financing other telecommunication services.

In cases where loan security is not affected, this rule will provide an opportunity for REA borrowers to provide telecommunication services on an equal basis with non-REA borrowers. A lien accommodation from REA does not provide any special incentive to a lender to loan funds at an advantageous interest rate to an REA borrower. Rather, it merely allows the lender to obtain a security interest in facilities it is financing for an REA borrower in the same approximate degree it could obtain Security from a non-REA borrower.

The policy will not permit the use of REA, RTB or FFB loan funds for non-RE Act purposes or the subsidization of unregulated activities by the REA-financed systems.

REA finds that the accommodation or subordination of its lien in appropriate cases as provided for in the rule is advantageous to the Government because providing an opportunity for REA borrowers to compete in the deregulated telephone and expanding telecommunication markets will provide REA and RTB borrowers with additional revenues which should improve their financial stability.

Improved financial stability of REA and RTB borrowers will advance and facilitate their ability to obtain financing from private lenders for services now eligible for financing from REA, RTB or the FFB.

Several of those opposed to the rule contended that the rule would have an effect on the economy of $100 million or more and was not, therefore, in conformance with Executive Order 12291, Federal Regulation.

REA's opinion on this issue is based on three points. REA has reviewed the equity capital that REA and RTB borrowers have available to allocate to investments in telecommunications projects that would be eligible for financing by this rule by mortgage lien accommodation or subordination. That review shows that if all REA and RTB borrowers were to request mortgage lien accommodation or subordination that their level of equity required by private lending would support a maximum level of investment by the borrowers of from $35 million to $70 million.

Secondly, REA believes that this rule will result in far fewer requests for mortgage lien accommodation or subordination than the equity levels

would, at maximum, support because (1) the nature of the projects not eligible for REA or RTB financing, (2) the time involved to develop engineering and economic studies and (3) the special requirements and conditions of the rural areas.

Thirdly, at present less than 10 percent of all telephone borrowers apply annually for financing for Act purposes. Current annual loan levels are approximately 300 million dollars. REA estimates that fewer borrowers would request lien accommodations and that their funding requests for other telecommunication services would be substantially less than their funding requests for their primary (telephone) business purpose.

One respondent commented that the proposed rule would provide REA telephone borrowers with advantages sought in 1983 by legislation which was rejected by the Congress.

REA emphasizes that the 1983 legislation was a major revision of the entire REA telephone and electric programs. It was rejected by Congress for a number of reasons. The mortgage lien accommodation and subordination feature of that legislation for non-RE Act purposes was a minor part of that comprehensive legislation. The rule provides a method for considering the financing of non-Act telecommunication projects by REA telephone borrowers, rather than mandating mortgage lien accommodation or subordination as was proposed in the 1983 legislation. REA also emphasizes that each request for a mortgage lien accommodation or subordination will be considered under the proposed rule on a case-by-case basis utilizing specific criteria and following application procedures set forth in the rule.

The Department of the Treasury commented in opposition to the section of the rule that would allow subordination of REA's lien on after acquired property.

REA will not take a subordinate position on any property which it has financed, or on any property on which it currently enjoys a security position. The only circumstance under which REA will consider a subordination will be on property which the borrower is considering obtaining in the future with financing from private lenders. This "after-acquired" property would be obtained without government financing or government guarantee. It is REA's contention that the government, therefore, has no need in these circumstances to have an equal or superior standing with the private lender on the after-acquired property until such time as the private loan is repaid. At that point the government's lien would attach to the "after-acquired" property.

Both those who supported the proposed rule and those who opposed it commented on the definition of "telecommunication project" in Part 1747.2(e). Those opposed to the proposed rule commented that the definition was too broad. They generally wanted the definition to apply only to facilities presently eligible to be financed under the RE Act. Supporters of the rule wanted expansion of the definition; several commenters wanted it to specifically include acquisitions, refinancing, and rural development. REA acknowledges that there could be some confusion concerning the term "telecommunication project". Consequently, all references to "telecommunication project" are changed to "telecommunication services" to coincide with RE Act language. The definition in the rule closely parallels the definition of telephone service in the RE Act, but has been made more expansive in order to reflect technological and market changes.

REA does not believe the definition is too broad because one of the primary purposes of the rule is to encourage and enable REA borrowers to compete in a wide range of telecommunication endeavors. Neither should the definition be so broad that it includes any project that promotes "rural development" because REA believes that its telephone borrowers should focus on those enterprises which are clearly related to telecommunications. The definition, as written, allows mortgage lien accommodations or subordinations for acquisitions, but not for refinancing. This is because acquisitions directly relate to the provision of new, and expansion of existing, telecommunication facilities, while refinancing does not necessarily lead to these ends.

Several parties commented that references to financing other than from REA, RTB, or FFB as "private lenders," "other lending organizations" or "financing elsewhere," could be confusing and may not include some lenders, such as the Banks for Cooperatives of the Farm Credit System. The final rule is changed to define "private lenders" as lenders other than "REA, RTB or FFB."

Several parties commented that not all requests for mortgage lien accommodation or subordination will require consideration by the Administrator or RTB Governor of all of the items listed in 1747.20(b) "to determine that security for outstanding government loans and guarantees is reasonably adequat. . ." The final rule has been changed so that it reads, the Administrator or the RTB Governor will consider, among other matters, when applicable, the following . . ."

Several respondents suggested also that engineering studies prepared for financing from private lenders may be sufficient for REA as part of an application for mortgage lien accommodation or subordination. They suggested that the requirement for engineering studies implied that separate studies should be prepared for REA. The final rule is changed by adding "when applicable" to 1747.30(b)(3).

List of Subjects in 7 CFR Part 1747

Loans programs-communications telephone.

In view of the above, REA hereby adds a new part, Part 1747—Lien Accommodation and Subordination (Telephone Program), to 7 CFR Chapter XVII to read as follows:

Part 1747—Lien Accommodations and Subordination Policy

Sec.
1747.1 General.
1747.2 Definitions.
1747.3–1747.9 (Reserved).
1747.10 Act Purposes.
1747.11–1747.19 (Reserved).
1747.20 Non-Act Purposes .
1747.21–1747.29 (Reserved).
1747.30 Application Procedures.

Authority: 7 U.S.C. 901 *et seq.*, 7 U.S.C. 1921 et seq.

§ 1747.1 General.

Recent changes in the telephone industry, including deregulation and technological developments, have caused REA borrowers and other organizations providing telephone services to consider undertaking projects to provide new telecommunication services. Although certain telecommunication services may not be eligible for financing under the RE Act, these services may nevertheless advance Act objectives where the borrower obtains financing from private lenders. The borrower's financial strength and the assurance of repayment of outstanding Government debt may be improved as a result of providing new telecommunication services. To facilitate the financing of new telecommunication services, REA is willing to consider accommodating the Government s lien on telephone borrowers' systems or subordinating the Government's lien on after-acquired property of telephone borrowers. This part sets forth REA policy with respect

to such lien accommodations and subordinations. The policies of this part will also be utilized by the Governor of the Rural Telephone Bank in carrying out the Rural Telephone Bank's loan program.

§ 1747.2 Definitions.

(a) "Act" means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et *seg.*)

(b) "Accommodation" means sharing the Government's lien on a pari passu or pro rata basis with a private lender.

(c) "Subordination" means granting a lien which a private lender has on specific property priority over the Government's lien on such property.

(d) "After-acquired property" means property which is to be acquired by the borrower and which would be subject to the lien of the Government's mortgage when acquired.

(e) "Telecommunication services" means any service for the transmission, emission, or reception of signals, sounds, images, or intelligence of any nature by optical waveguide, wire, radio, or other electromagnetic systems and shall include all facilities used in providing such service as well as the development, manufacture, sale, and distribution of such facilities.

(f) "Private lender" means any lender other than the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

§§ 1747.3–1747.9 [Reserved]

§ 1747.10 Act purposes.

(a) Borrowers are encouraged to submit requests for accommodation of the Government's lien on the borrower's system in order to facilitate obtaining financing from private lenders for purposes provided in the RE Act.

(b) The Administrator will consider requests for the subordination of the Government's lien on after-acquired property which will enable borrowers to obtain financing from private lenders for purposes provided in the Act: Provided, however, that property integral to the operation of projects financed with loans made or guaranteed by REA shall be financed with funds obtained through lien accommodations instead of lien subordinations, unless the Administrator determines that it is in the Government's interest to do otherwise.

§§ 1747.11–1747.19 [Reserved]

§ 1747.20 Non-act purposes.

(a) The Administrator will consider requests for the accommodation of the Government's lien on the borrower's system or the subordination of the Government's lien on after-acquired property which will enable the borrowers to obtain financing from private lenders for the purpose of providing new telecommunication services which may not be eligible for financing under the Act if the Administrator is satisfied that:

(1) The borrower will have the ability to repay its existing and proposed indebtedness;

(2) The security for outstanding Government loans and guarantees is reasonably adequate and will not be adversely affected by the accommodation or subordination; and

(3) Approval of the request is in the interests of the Government.

(b) In determining that the security for outstanding Government loans and guarantees is reasonably adequate and will not be adversely affected by the accommodation or subordination the Administrator will consider, among other matters, when applicable, the following:

(1) Market forecasts for the project;

(2) Projected revenues, expenses and net income of the borrower's existing system and the project;

(3) Maximum debt service on indebtedness of both the borrower's system and the project;

(4) Projected rate of return on the borrower's investment in the project;

(5) Fair market value of property acquired by the borrower as part of the project;

(6) Impact of the project on the ratio of the borrower's secured debt to assets;

(7) Projected growth in borrower's system and project equity; and

(8) Amount of funds available for plant additions, replacements and other similar costs of the system and the project.

(c) In determining whether the accommodation or subordination is in the interests of the Government, the Administrator may consider, among other matters, whether the project will improve the borrower's financial strength and the assurance of repayment of Government debt.

§§ 1747.21–1747.29 [Reserved]

§ 1747.30 Application procedures.

(a) Requests for information regarding applications for lien accommodations or subordination under this part should be addressed to the Assistant Administrator—Telephone Rural Electrification Administration, Washington, DC 20250–1500.

(b) An application for a lien accommodation or subordination shall include the following supporting information:

(1) A board Resolution from the applicant requesting the lien accommodation or subordination and stating the general purpose for which the funds from the private lender will be used, the proposed amount of the loan, and the proposed terms and conditions of the loan;

(2) An opinion from counsel representing the applicant that the applicant has the authority under its articles of incorporation, bylaws, and under applicable state law to undertake the project;

(3) Engineering and pertinent studies related to the projects or purposes to be financed, when applicable;

(4) Feasibility studies with pro forma financial statements showing the ability to repay the loan and provide an appropriate margin or net income;

(5) Such information regarding the environmental impacts of the project as may be required pursuant to 7 CFR Part 1794; and

(6) Any other information or documentation deemed pertinent by the borrower or the Administrator in support of the application.

(c) When the Administrator makes a determination that an application for an accommodation or subordination will not be approved the Administrator shall set forth the reasons therefor in writing and furnish such determination and reasons to the borrower within 30 days of the determination.

Dated: August 7, 1986.

Jack Van Mark,

Acting Administrator.

[FR Doc. 86–20558 Filed 9–11–86; 8:45 am]

BILLING CODE 3410–15–M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Farm Credit System; Merger, Consolidation, Etc.

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by action of the Farm Credit Administration Board (Board), publishes final regulations implementing recently enacted amendments to the Farm Credit Act of 1971 (Act) relating to mergers, consolidations, and territory transfers, and conservatorships and receiverships of the financial institutions of the Farm Credit System (System).

EFFECTIVE DATE: The regulations shall become effective upon the expiration of 30 days after this publication during

which either or both Houses of Congress are in session. Notice of effective date will be published.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090 (703) 883-4020

SUPPLEMENTARY INFORMATION: On May 8, 1986, the FCA published a Notice of Proposed Rulemaking (51 FR 17035) for the promulgation of regulations implementing a number of sections of the Act which were amended by the Farm Credit Amendments Act of 1985 (1985 Amendments). These regulations governing the operations of System institutions relate to the topics of mergers, consolidations, territory transfers, conservatorships and receiverships, and stockholder/borrower rights. The FCA received 21 comments on the proposed regulations. Comments were received from six System borrowers, five System associations, a System bank, the Farm Credit Corporation of America (FCCA) on behalf of the 37 banks of the System, a Congressman, an attorney, a public accounting firm, two farmers' organizations, a legal services group, the governor of a Midwestern State and certain persons representing various interests in that State, and a group of attorneys general from five Midwestern States. Because of the number and complexity of the issues raised by commentators, the Board has determined that in order to properly respond to the comments, the regulations will be divided into two groups and considered separately. The first group of regulations is contained in this publication and relates to mergers, consolidations, territorial transfers, and conservatorships and receiverships of System institutions. The second group of regulations, relating to the rights of borrowers and stockholders of System institutions, will be considered by the Board in the near future.

The Board analyzed and considered each comment and responds to the comments on the basis of a thorough consideration of the merits of the points of view expressed therein.

Section-by-Section Analysis and Response to Comments

§ 611.1090 Request for district changes—general.

The regulation establishes the requirements applicable to the merger of districts, the transfer of territories between districts, and the means by which a district may change its name. District mergers and territory transfers require the approval of the stockholders of the banks involved and the FCA.

The FCCA commented that stockholder approval should not be required for all transfers of territories since many of such transfers involve only small parcels of land and relatively few borrowers. The FCCA believes that in cases involving minor transfers, the interests of stockholders are adequately protected by other regulations governing the transfer of territory between associations and the requirement that district boards approve all transfers between districts. The FCCA also requested clarification of whether the regulation requires approval by the stockholders of the district banks, which are production credit associations (PCAs), Federal land bank associations (FLBAs), and cooperative borrowers, or by the stockholders of the PCAs and FLBAs involved. The FCCA believes that the regulation should only require approval by the stockholders of the banks involved.

The FCCA correctly notes that in accordance with § 5.17(a)(2) of the Act, mergers of district banks must be approved by the stockholders of the banks, not the stockholders of the associations in the district. Thus, the merger must be approved by the cooperatives that are stockholders of the banks for cooperatives (BCs) involved, the FLBAs that are stockholders of the Federal land banks (FLBs) involved, and the PCAs that are stockholders of the Federal intermediate credit banks (FICBs) involved. While this requirement is clear in the law and implicit in the regulation, the Board revised the final regulation to clarify the point.

In response to the comment that the regulation should be amended to eliminate the requirement for stockholder approval for some transfers of territories between districts, the Board notes that § 5.17(a)(2) of the Act provides that all transfers of territories between banks require the approval of the stockholders of the banks involved and § 5.0 requires that changes in the boundaries of districts require the approval of the district boards. In accordance with these statutory requirements, the regulation must include a requirement for stockholder approval for all territory transfers. In the event a transfer of territory between districts involves all of the banks in a district, the approval of the district board and the approval of the stockholders of each of the banks is required. In the event a transfer of territory between districts involves only one or two of the banks in a district, approval is only required of the stockholders of the banks involved.

The Board noted that the proposed regulation contained only minor technical amendments to a regulation that has been in effect for a considerable period of time. However, the nature of the comments received indicates that there is some uncertainty regarding its provisions. Accordingly, the Board decided to substantially rewrite the regulation to correct any ambiguities and reduce the possibility of misinterpretation.

Section 611.1121 Charter amendment procedures.

The proposed regulation only contains procedural changes to the current regulation that provide for direct communications between the FCA and associations. The new procedures provide that the district bank shall review and analyze the proposed amendment to an association's charter and forward its recommendation on such proposal to the FCA and to the association. The association transmits the proposed amendment to the FCA and upon receipt of such material, the FCA reviews the materials and either approves or disapproves the request. Finally, the FCA notifies the association of its action and provides a copy of the communication to the bank.

The FCCA expressed its objection to this regulation and other regulations which provide for direct communications between the FCA and associations. The FCCA stated that this change is not required by the 1985 Amendments and believes that this constitutes an attempt by the FCA to erode the supervisory functions of the banks over associations. The FCCA maintains that communications between associations and the FCA should only be made through the district bank since this provides the only means by which banks have an opportunity to raise relevant issues in a timely manner with the FCA or the associations.

The Board does not concur in the recommendations of the FCCA. The Act establishes the FCA as the Federal agency responsible for chartering, examining, and regulating all banks and associations of the System. While, in the past, the FCA has delegated many functions to district banks and has relied on the banks to transmit communications to associations, those delegations did not eliminate the FCA's authorities or responsibilities in connection with the activities of associations. The 1985 Amendments eliminated the authority of the FCA to delegate its functions to the

banks and required the FCA to conduct yearly examinations of all banks and associations. In addition, the amendments give the FCA specific enforcement authorities which can be exercised with respect to both banks and associations. In order for the FCA to be in a position to effectively carry out its statutory responsibilities, it must establish direct communications with System associations and must, by regulation, ensure that it is in a position to take actions with respect to associations, regardless of the position of the bank involved. These regulatory changes in no way affect the debtor/creditor relationship between the banks and associations and the statutory supervisory responsibility of banks over associations. Contrary to the assertion of the FCCA, the regulations do contain provisions which ensure that banks receive timely notification of decisions by the FCA and associations.

Section 611.1122 Requirements for mergers or consolidations.

The proposed regulation amends the current regulation by eliminating the requirement for association boards of directors to approve a districtwide reorganization plan that has been adopted by a district board. Rather, each association board would provide stockholders with a statement either endorsing or opposing the association's participation in the plan. The regulation also provides that bank approvals of association mergers or consolidations (hereafter referred to as "mergers") are only required at the preliminary approval stage. After approval by the bank, preliminary approval by the FCA, and an affirmative stockholder vote, the FCA will grant final approval in connection with the issuance of new or amended charter documents. In addition, the regulation provides for direct communication between the FCA and the associations requesting approval of a merger proposal.

The FCCA supported the portion of the regulation that permits the stockholders of all associations to vote on mergers that are part of a district reorganization plan even though the board of directors of one or more associations oppose the proposal. However, the FCCA expressed concern that § 611.1122(a)(3)(ii) could be interpreted to mean that where the board of directors of more than one association disapproves participation in a districtwide plan, the merger process would be terminated.

Taking the opposite position, a California PCA objected to the provision on the basis that it prevents a board of directors from carrying out its duties and circumvents the board's responsibilities as the stockholders' elected governing body.

The FCCA opposed the elimination of the requirement for district banks to give final approval to mergers of associations. The FCCA stated that since the district bank's authority is equal to that of the FCA, providing the FCA, but not the district bank, with final approval authority is inconsistent with the Act. The FCCA believes that such approval authority is essential in order for the banks to discharge their supervisory responsibilities. Reiterating an earlier comment, the FCCA objected to the provision in the regulation that relates to direct communications between the FCA and the associations involved in a merger.

Other comments addressed more general issues. A Minnesota legal services organization requested that the FCA clarify the statement in the supplemental information accompanying the proposed regulation that the authority of the agency to amend charters and transfer territories on its own initiative was unchanged. Several individual borrowers stated that the merger regulations should attempt to preserve control of associations at the local level. They believe that the centralization that has occurred at the district level has led to a breakdown in communications between borrowers and association personnel.

The Board has made a technical amendment to the regulation which clarifies that, in the case of districtwide mergers, the stockholders of the associations involved will have an opportunity to vote on the merger, even if more than one association board of directors is opposed to the proposal. In response to the comment that this provision is in derogation of the authorities and responsibilities of association boards, it is noted that §§ 4.12 and 5.17(a)(2) of the Act do not require association boards of directors to approve association mergers. To the contrary, this is one of the few corporate acts for which the Act specifically requires stockholder approval. While under general corporate legal principles board approval would be required, the Board believes that the amended regulation carries out the express provisions of the Act and is also consistent with the intent of several provisions contained in the 1985 Amendments which were designed to maximize stockholder involvement in mergers of System associations.

The elimination of the two stages of bank approval in connection with association mergers is more in the nature of a technical change. Following approval by the bank, preliminary approval by the FCA, and approval by the stockholders of the associations involved, the only remaining step in the process is the granting of final approval by the FCA in connection with the issuance of new or amended charter documents to the associations involved. There is no need for a second stage of bank approval and it is unclear upon what basis the bank could disapprove a merger after it has been approved by the stockholders of the associations involved. If the bank has a basis for opposing a merger proposal it should deny approval of that proposal before it is submitted to the stockholders for a vote.

In response to the comment seeking clarification of the authority of the FCA to require a merger, the proposed regulations did not amend the existing authority of the FCA derived from § 5.17(a)(2) to issue or amend charters of any System institution when deemed appropriate to carry out the policies and objectives of the Act. This general agency power is, of course, limited by other provisions in the Act, such as § 4.12, which provides that the FCA may only require the merger of an association with the concurrence of the district board, when an association has failed to meet its outstanding obligations or failed to conduct its operations in accordance with the Act.

Section 611.1123 Merger or consolidation agreements.

The proposed regulation provides that association directors may, with FCA approval, terminate a merger that has been approved by stockholders only where (1) the information disclosed to stockholders contained material errors, (2) misrepresentations were made to stockholders regarding the impact of a merger, (3) fraudulent activities were used to obtain stockholder approval, or (4) any other intervening event of a significant nature occurred subsequent to a stockholder vote that could have had an impact on such vote. The FCCA commented that while it, in general, agrees with the purpose for the regulation, it objects to the approach taken by the FCA. The FCCA argued that Congress did not intend for the FCA, rather than the stockholder-elected directors, to have the authority to overrule a stockholder vote on a merger or consolidation. The FCCA stated that if the FCA believes it should have the power to terminate a merger for reasons 1 through 3, the agency should adopt a regulation to that effect. The FCCA does not believe those reasons are

appropriate grounds for an association board to stop a merger. In the FCCA's view, there is no basis in the 1985 Amendments for requiring a merging association to make what the FCCA characterizes as a legal determination. The FCCA suggests that the regulation should provide that a merger agreement may be terminated by one or more of the merging associations with the concurrence of the district banks only upon a determination that an intervening event occurred between the time of the vote and the effective date of the merger that would have a significant adverse impact on the future viability of the continuing institution or that additional material information became available following the stockholder vote and that it would be in the best interest of the stockholders to reconsider the proposed merger. The FCCA also noted, as a technical matter, that the explanation of the proposed regulation appears to be inconsistent with the language of the regulation in that the former focuses on matters that could have an impact on the vote, while the latter applies to events that could have a significant impact on the future viability of the institution.

In response to the FCCA comment that this regulation gives the FCA the authority to override a stockholder vote in favor of a merger, the FCCA has apparently misread the regulation. The regulation does not empower the FCA to override stockholder votes, but rather requires that in order for a board to override the stockholder vote, FCA concurrence must be obtained.

The Board believes that the FCCA recommendation that the district bank be substituted for the FCA as the authority responsible for concurring in the association board decision to disapprove a merger is without merit. The FCA's statutory responsibility for the examination and regulation of all System institutions, including associations, and its specific authority to issue and amend charters of institutions, require that the FCA have the final determinative authority regarding these actions. In light of the fact that the statute explicitly provides that associations may merge upon the affirmative vote of the stockholders of the associations involved, any association board action that would override a stockholder vote must be carefully circumscribed and closely monitored by the FCA. The inclusion of the district bank in the process would only add an additional step since FCA approval of this board action is imperative. While the Board agrees that it is unlikely that this type of situation will often arise, instances have occurred in the past where association boards, which have been reluctant to go along with mergers at the outset, have sought to override affirmative votes by their stockholders based on their determination of what they believe to be in the stockholders' best interests. The Board believes that the association boards should be able to voice those concerns and propose that the merger not proceed, but that FCA approval of such action is required in order to preserve the preeminence of stockholder rights in connection with mergers.

In addition, the Board believes that the circumstances under which a stockholder vote can be overridden must be carefully delineated and strictly interpreted. The proposed regulation sets forth four conditions under which a board of directors can override a vote of stockholders. The first three relate to actions occurring before or at the time of the vote that could have had an effect on the vote. The last criterion relates to an event which occurred after the vote that could have a significant adverse impact on the future viability of the association. In response to the FCCA comment regarding the first three criteria, the Board notes that the criteria do not necessarily require association boards to make an admission of improper disclosure regarding matters over which they had control. It would be anticipated that any board invoking one of those three criteria would do so on the basis that another association that was a party to the merger had provided inaccurate or incomplete information or had used impermissible tactics in trying to influence the outcome of the vote. The last criterion is specifically limited to intervening events which could have an adverse impact on the viability of the continuing institution. This provision is partially consistent with one of the proposals set forth by the FCCA. However, it does not allow the override to be based on intangible considerations which would not have an effect on the viability of an association but which would, in the opinion of a board, have influenced the outcome of the vote. The Board believes that adoption of the change proposed by the FCCA would create an open-ended invitation for a board to continue to seek revotes until the stockholders finally acquiesced in the position of the board.

Section 611.1124 Territorial adjustments.

The proposed regulation sets forth the disclosure requirements for the transfer of territory between associations. The disclosure requirements parallel those relating to mergers but do not include the same requirements for detailed financial information. While generally concurring with the substance of the proposed regulation, the FCCA offers several comments relating to specific aspects of the regulation. The FCCA suggests that the FCA add a provision similar to that contained in the merger section of the proposed regulations that would permit a stockholder vote on a districtwide territorial transfer plan adopted by a district board notwithstanding disapproval by a particular association board. In addition, the FCCA also recommends that the term "financial statements and related information" as used in § 611.1124(f)(8) be defined to mean the association's annual financial statements for the previous 3 years as well as other financial information prepared by the association concerning the proposed transfer of territory. Consistent with its previous comments, the FCCA objects to the provision that provides for direct communication between the associations and the FCA. In addition, the FCCA suggests that this section should include a cross-reference to § 611.1090 which would clarify that these procedures would apply to the transfer of a portion of an association's territory to an association operating in a different district.

The Board agrees with the recommendation of the FCCA regarding the need for a provision in the territorial transfer regulations comparable to the merger regulations which provides that in the event of a districtwide territorial transfer plan, the stockholders of the affected associations should have an opportunity to vote on the proposal even if one or more of the association boards involved objects to the proposal. The Board agrees with the recommendation of the FCCA that § 611.1124(f)(8) be amended to clarify that "financial statements and related information" of the association that are available upon request by an association stockholder means the association's financial statements for the previous 3 years plus any other financial information prepared by the association concerning the proposed transfer of territory. The Board also agrees with the need for a cross-reference to § 611.1090. The final regulation has been amended to reflect these changes.

Section 611.1125 Treatment of associations not approving districtwide mergers or consolidations.

The proposed regulation prohibits district banks from discriminating against associations that refuse to join a districtwide merger or consolidation by

denying or limiting financial services or assistance, financially related services, or professional or technical assistance.

Two comments were received on the proposed regulation. A North Dakota farmers' group made a general comment that the regulation should be more emphatic in its prohibition of district bank discrimination against associations not approving a districtwide merger. The FCCA concurred with the requirements contained in the proposed regulation, but recommended the adoption of several technical amendments. The FCCA stated that the regulation should be amended to clarify that (1) district banks are not required to treat FLBAs in the same manner as PCAs, and (2) a decision not to provide financial assistance to an association is only discriminatory if it is based on the association's refusal to join a merger.

In response to the first comment, the sole purpose for the regulation is to achieve the result sought by the farmers' organization. The regulation clearly prohibits the types of discriminatory conduct which could occur between a bank and a dissenting association. The Board amended the final regulation to include the clarifying amendments sought by the FCCA and believes that with these amendments the concern of the farmers' organization will have been addressed.

The proposed regulation, in accordance with the requirements of the Act, prohibits bank actions directed at dissenting associations that are not based on valid financial considerations. In the normal course of business banks must make decisions affecting associations based on the needs of the associations and their financial and operating strengths and weaknesses. The Board agrees with the FCCA comment that this intent should be clarified and the final regulation is amended accordingly.

The Board believes there is no basis for the FCCA's comment that the regulation could require that FLBAs and PCAs be treated uniformly. The regulation prohibits discrimination by banks against associations. FICBs have financial dealings with PCAs, not FLBAs, and the reverse applies to FLBs. FICBs do not lend money or provide financial assistance to FLBAs; as such, there is no basis upon which they can treat FLBAs differently.

Section 611.1156 Grounds for appointment of conservators and receivers.

The proposed regulation establishes the grounds for the appointment of a conservator or receiver of a System institution. The Act and the regulation provide that an institution is insolvent when its assets are less than its obligations to creditors and others, including its members. While member stock is part of the capital of an institution, for purposes of this regulation it is considered an obligation of the institution. Thus, an institution is deemed insolvent when its stock has a book value less than par. "Obligation" is defined to include liabilities, stock and participation certificates, but not other "equities," such as retained earnings. The regulation also restates the other statutory bases for the appointment of conservators and receivers.

Comments on this provision were received from a North Dakota farmers' organization, the FCCA, and the System's accounting firm. The farmers' organization suggested that the regulation should define the terms "unsafe or unsound practice" and "unsafe or unsound condition." It believes that in the absence of a definition, such terminology tends to be subjective and judgmental, and might be utilized by the FCA in an arbitrary and capricious manner. The FCA is authorized to define this term by regulation, rule or order. The Board is not required to and does not believe it would be appropriate to adopt a general regulatory definition that would be applicable solely to these receivership regulations.

The FCCA and the accounting firm expressed concern regarding the inclusion of capital stock and participation certificates in the definition of "obligation" for purposes of determining insolvency. The FCCA asserted that the inclusion of capital in the definition of obligation is contrary to well-established principles of corporate law and is without any basis in the Act. The accounting firm argued that this treatment is a significant departure from the generally accepted meaning of capital and stated that it knows of no other comparable definition.

The FCCA made a number of arguments to support its position. It stated that the Bankruptcy Act and the Uniform Commercial Code do not treat stockholder capital as a debt of the institution for purposes of determining insolvency. The FCCA also stated that it has found no court decision holding that the capital stock of a corporation is an obligation for purposes of determining insolvency and noted that, in the cases it has examined, the courts have excluded capital stock from such determination. The FCCA stated that the definition of insolvency in § 4.12(b), which was adopted as part of the 1985 Amendments, was drawn from the language in the statute granting the Federal Home Loan Bank Board (FHLBB) the authority to appoint conservators and receivers for savings and loan associations. The FCCA argues that analogizing the relationship of members of a mutual savings and loan association to System stockholders is inappropriate because such members are depositors who are creditors of the institution. Furthermore, the FCCA stated that the FHLBB has never treated a member's capital investment in an association as an obligation of a savings institution.

In further support of its position, the FCCA argued that the disclosure documents provided to borrowers describe the benefits and risks of stock investments in PCAs and FLBAs. Those documents clearly state that capital stock is an "at risk" investment in the institutions. The FCCA stated that if capital stock is treated as an obligation of the institution, it should be reflected in the financial statements as a liability rather than equity. In this same vein, the accountant added that this definition may force the FCCA to give consideration to reclassifying capital stock and participation certificates as liabilities in the financial statements of System institutions.

The FCCA also suggested a technical change in § 611.1156(b)(5) to add the word "FCA" before "examiner." The Board believes this technical amendment is unwarranted and could be confusing since bank credit reviewers are not empowered to "examine" System institutions.

The Board approved the final regulation without change. Prior to enactment of the 1985 Amendments, the Act provided that a System institution was deemed insolvent when it had defaulted on an obligation. The principal obligations of each System institution are its debt obligations. In the case of PCAs, the principal debt obligation is embodied in a general financing agreement that provides a direct line of credit with the FICB. In the case of System banks, the principal obligations are the notes and bonds on which they are primarily or secondarily liable. Upon a determination of insolvency, the FCA may, but is not required to, place the institution in liquidation.

The old definition of insolvency in the Act was, in substance, cash insolvency rather than book insolvency. Because of the nature of the repayment terms contained in the general financing agreements, and the credit limits contained in those agreements, a PCA would usually default on its general financing agreement before its stock

was impaired. At that point, the PCA could be placed in liquidation. The Act provided for liquidation prior to impairment in order to prevent stockholders from initiating "runs" on their associations, and to provide a financial buffer that would protect the FICB from the additional losses that are often incurred in connection with the collection of the assets of a PCA in liquidation. This definition of insolvency also protects investors in System securities by ensuring that there is a reserve of equity capital that can be impaired. The 1985 Amendments changed the terminology used in defining insolvency, but did not change the underlying purpose of the prior law, which was to define insolvency in a manner that would provide adequate protection to banks and investors in System securities and protect stockholders from "runs" on their institutions.

The Board recognizes that the definition of insolvency in the Act is different in its effect than the definitions of insolvency that are applicable to most other entities under banking and the bankruptcy law. However, there are legitimate reasons for those differences. If a PCA operates with impaired stock, its stockholders will have to be provided with a disclosure of that impairment. Upon the disclosure of an impairment, it can be reasonably projected that all borrowers who are able to do so will seek credit elsewhere to repay their loans, and if possible seek retirement of their stock at its impaired value. Any PCA that attempts to conduct normal operations with impaired stock will see its asset base rapidly disappear and could see a serious erosion of its capital. Eventually, its stock will have little or no value. When the PCA is placed in liquidation at that point, its principal creditor, the FICB, will in all probability suffer a significant loss on its loan to the PCA. If this occurs on a large enough scale, it could cause the insolvency of the FICB and consequent losses to investors in its securities.

The definition of insolvency is applicable to banks for the same reasons. While, in theory, a bank can continue to operate with impaired stock, the impairment of the bank's stock will have to be reflected on each association's books by a reduction in the value of its assets. That action will have the effect of moving all associations closer to impairment with the same results discussed above.

The Board believes that the FCCA and the System accountant are primarily concerned that this definition of insolvency would cause other parties to consider System stock as debt rather than equity. That is not the purpose or effect of this regulation. In fact, this regulation has the exact opposite result. This definition appears in a subpart which specifically provides in §§ 611.1166 and 611.1174 that all debt obligations of associations must be paid before the stockholders receive a liquidating dividend upon final liquidation of the bank or association. The regulations make clear that System stock is treated as an equity investment, not a debt obligation, for purposes of determining the priority of claimants in the event of liquidation. This is consistent with the treatment of equity stock in a commercial bank. Even equity stock in a commercial bank is, in effect, an obligation that is subordinated to the claims of general creditors. Equity stockholders are entitled to a distribution on their equity from any residual funds on final liquidation.

This definition in no way changes the status of stock and other forms of equity, and does not alter the priority of debt over equity. To the contrary, if the definition were amended in accordance with these comments, it would have the exact negative effect that these commentators are concerned about. It would result in each System institution being permitted to continue operations and incur financial losses that would completely dissipate all its equity capital prior to the liquidation of the institution. In that event, there would be no resources to protect holders of System securities from potential losses on their investments. Realization of this fact could cause a serious disruption in the current funding activities of the System.

Section 611.1157 Conservators and receivers.

The proposed regulation describes the purposes, responsibilities, and authorities of conservators and receivers. A conservator operates an institution on a continuing basis until the FCA makes a determination regarding the institution's future status. The conservator exercises all powers of the association necessary to continue its operations and otherwise protect the interests of all concerned parties. A receiver is appointed to wind up the business affairs of the institution, collect its debts, liquidate its assets, and distribute the proceeds to creditors and stockholders.

The FCCA objected to the phrase in § 611.1157(a) which provides that a conservatorship may be terminated and the institution "turned over to such management as FCA may direct." The FCCA stated that upon discharge of a conservator, the management of the institution should be returned to its elected board of directors on such terms as are acceptable to FCA and the board. The FCCA believes this is the only way of ensuring the future accountability of a board of directors to its stockholders. The FCCA argued that if the FCA is not satisfied with the conduct of certain directors it should seek their removal pursuant to the appropriate enforcement powers, and not attempt to circumvent the procedures for removing officers and directors through the use of conservatorship powers. Accordingly, the FCCA suggested that the FCA adopt a provision similar to the FHLBB regulation at 12 CFR 547.8 (1986).

The Board adopted a technical amendment to the second sentence of this section in accordance with the recommendation made by the FCCA.

In response to the substantive comment of the FCCA regarding this provision, the Board notes that the FCCA did not discuss FHLBB regulations upon which this regulation was patterned. The FHLBB regulations specifically provided, at 12 CFR 547.7, that "[t]he Board may at any time: (a) Direct the conservator or receiver to turn over the association to its previous management or new management;". The FHLBB regulation referred to by the FCCA relates only to circumstances in which the conservator is directed to return control of the association to its prior management.

The purpose of this regulation is to provide maximum flexibility to the FCA in making a determination regarding the eventual resolution of the problems of an institution in conservatorship. While a conservator is in possession of an institution, he/she succeeds to all of the powers and duties of the directors, officers, and employees of the institution. During the period an institution is under a conservator, situations may exist which would make it imprudent, impractical, or otherwise not in the best interests of the institution to return its operations to the prior management. In those situations, the FCA must have the flexibility to appoint a new board and management to serve until such time as new elections can be held for the institution.

Section 611.1158 Action for removal of conservator or receiver.

The proposed regulation provides that an institution may, through its board of directors, and within 30 days of the appointment of the conservator or receiver, bring an action in United States District Court for an order requiring the FCA to remove such conservator or receiver. The regulation

specifically provides that only the board is empowered to authorize the filing of a removal action.

A North Dakota farmers' organization suggested that the 30-day appeal period should be extended to 60 days. It also suggested that a procedure should be provided whereby a suspended board of directors could obtain review of any action of a conservator or receiver. As a technical matter, the farmers' organization believes that the language in §§ 611.1160(d), 611.1170(c), and 611.1180(c) should be rewritten to emphasize that an institution's board of directors is empowered to meet to determine whether to file a removal petition.

The FCCA commented that stockholders of an institution should be entitled to initiate a derivative action to seek removal of an FCA conservator or receiver. It stated there is no basis in the Act or the regulations of other Federal banking agencies for limiting the right to initiate a removal action to the institution's board of directors. As a general matter, the FCCA believes that the FCA's authority under § 4.12 must be interpreted in light of the provisions of the 1985 Amendments which empower the Farm Credit System Capital Corporation (Capital Corporation) to provide financial assistance to System institutions. In this regard, the FCCA believes it would be an abuse of discretion for the FCA to appoint a conservator or receiver to an institution on the grounds of insolvency pending a decision by the Capital Corporation on a request for financial assistance.

The regulatory provision providing for an action to be filed in District Court for the removal of a conservator or receiver is specifically provided for in § 4.12 of the Act. This is a jurisdictional requirement specifically provided for in the statute and is consistent with a similar provision provided for with respect to FHLBB receivers and conservators. This provision has been upheld in court and the staff knows of no reasons why the FCA, by regulation, should attempt to enlarge it.

The provision providing that removal actions shall be filed by the board of the institution is consistent with the statutory requirement that such actions only be brought by the institution involved. The regulation merely seeks to clarify that the board is empowered to meet for the sole purpose of deciding whether such action should be commenced.

In response to the comment from the farmers' organization, the Board does not believe the regulation can be more explicit in providing specifically for the board of directors to meet to determine whether or not to file a removal petition. Section 611.1158 specifically provides that notwithstanding any other provisions in the regulations, the board of an institution may meet to determine whether to initiate an action on behalf of the institution to remove a receiver.

In response to the FCCA comment, the Board does not believe that the regulation should authorize a derivative action by stockholders to challenge the appointment of a receiver. The Board believes that the statutory requirement is clear, that such actions may only be brought by the institution. The Board believes that derivative actions should not be provided for in the regulation and should not be permitted in a reviewing court. The regulatory provision authorizing the board to meet is specifically designed to protect the interests of the institution's stockholders by ensuring that the board has the opportunity and means to deliberate and decide the matter in a timely fashion.

Section 611.1160 Appointment of receiver.

The regulation describes the procedure by which a receiver is appointed by the FCA to take control of an association. Notice of the appointment shall be provided to the institution and the district bank and shall be published in the **Federal Register.** All rights, privileges and powers of the board of directors, officers, and employees of the association are vested exclusively in the receiver and those persons are suspended except as provided for in the case of a voluntary liquidation of a solvent association. In the latter case, the board of directors of the association may, at the discretion of the Chairman of the FCA, remain in office to provide advice to the receiver during the liquidation.

A group of attorneys general from six Midwestern States (attorneys general) expressed concern that the regulations do not adequately minimize the adverse impact of a liquidation on borrowers. They specifically objected to the absence of a requirement for personal notice to the borrowers of an institution placed in liquidation. The attorneys general noted that the proposed regulations regarding appointment of a conservator in § 611.1180(b) do provide for personal notice for borrowers and stated there is no reason why the appointment of receivers should be handled differently. They believe it is even more important for borrowers to be aware of a pending liquidation in order to arrange their affairs and minimize the impact of a liquidation. They suggested that personal notice should be given to borrowers prior to a receiver's accepting appointment and more probably as soon as a decision to appoint a receiver is made.

The FCCA expressed concern that § 611.1160(d) can be interpreted as prohibiting a receiver from re-employing officers and employees of an association during the liquidation. The FCCA believes such action is clearly authorized in § 611.1161 and should be acknowledged in this section. The FCCA also reiterated its comment made in § 611.1157(a) regarding the reinstatement of an institution's board of directors following the termination of a receivership.

The comment by the attorneys general regarding the need for a notification to stockholder-borrowers upon the appointment of a receiver apparently arises out of a misunderstanding of the nature of the proposed amendments to the liquidation regulations. The proposed regulations only amend §§ 611.1160, 1161, 1165, and 1167 of existing FCA regulations found in Subpart L. The proposed regulations do not amend § 611.1163, which specifically provides for notice to all stockholders of an institution placed in liquidation. The FCA Board believes that this section in the existing regulation contains exactly the type of notice provision sought by the attorneys general.

The Board agrees with the comment of the FCCA regarding the authority of the receiver to employ a person who had served as an officer or director of an institution and amends § 611.1160(d) to clarify that point.

The Board disagrees with the FCCA comment regarding the reinstatement of boards of directors for the same reasons set forth in response to the comments on § 611.1157.

Section 611.1161 Powers and duties of the receiver.

The proposed regulation describes the authorities and responsibilities of the receiver of an association and provides that the receiver conducts the operations of an association for the benefit of its creditors and stockholders. Among the authorities of the receiver are the power to take any action the receiver considers appropriate or expedient to carry on the business of the association during liquidation and the power to institute, maintain, intervene, and participate in the name of the association in any legal proceeding by or against the association in which the association, its creditors, or its members have any interest, and to represent same.

The attorneys general group objected to the provision authorizing the receiver to take action that he or she considers appropriate or expedient to carrying on the business of the association during liquidation. The group argued that this provision gives unreasonably broad discretion to a receiver and is inconsistent with the requirement that the adverse impact of a liquidation on borrowers be minimized. The attorneys general suggested that language should be amended to ensure that the receiver does not violate the borrowers' rights provided for in the Act and related regulations.

The FCCA objected to language in § 611.1161(h) which provides that the receiver shall "represent in every way the association, its members, and creditors." It argued that a receiver cannot possibly represent all the interests of the varied parties. The FCCA recommended that the regulation be amended to provide that the receiver shall represent the interests of the association alone.

The two comments received on this regulation do not relate to matters that were amended by the proposed regulation. Rather, the two comments relate to language that was in the FCA receivership regulations as approved in 1985 and as published in the current version of the CFR. Similar provisions are contained in the receivership regulations of other banking agencies. See 12 CFR 548.2 (a), (f).

The attorneys general are apparently concerned that this section gives the receiver the authority to take actions which are not authorized by the Act or other applicable laws, or contracts entered into by the institution. Such is clearly not the case. The section merely gives the receiver the same authorities that all receivers of any type of institution have and clarifies that, subject to existing legal requirements and the supervision of the FCA, the receiver exercises all rights, privileges, and immunities relating to the operation of the institution.

Similarly, the comment by the FCCA appears to be premised on its belief that the regulation authorizes a receiver to take any action the receiver desires involving any conceivable right or interest of a member of the association. Clearly, such is not the case. The regulation simply provides that in the conduct of litigation, the receiver is empowered to represent all of the interests of the institution. Many of the institution's interests are also jointly the interests of its stockholders and creditors. In fact, every collection action brought by an operating association or an association in liquidation is done for the ultimate benefit and in preservation of the interests of its stockholders and creditors.

Section 611.1162 Preservation of equity.

This regulation is a current FCA regulation for which no amendments have been proposed by the FCA; however, one comment was received from the FCCA. The regulation provides that capital stock and participation certificates may not be retired during the pendency of a liquidation until all creditors are paid and the receiver makes a final distribution to stockholders. The FCCA believes that in the context of an FLBA liquidation, this provision could cause great hardship to an FLB borrower who has repaid his loan to an FLB that is not itself in receivership. Since each FLBA is not a direct lender but rather operates as an agent of the FLB, it is purely a "pass-through entity" issuing stock to the borrower and making an equivalent investment in the bank. Therefore, unless the FLB is itself in receivership there is no reasonable basis for freezing the borrower's stock in an FLBA. The FCCA suggested that a "conservatorship" would be more appropriate for an FLBA and that members should be able to have their stock retired except when the FLB is in receivership.

The FCCA provided a comment on this regulation even though it was not a regulation included in the group of liquidation regulations subject to amendment. The Board agrees that as a practical matter there would probably be few instances in which an FLBA would be liquidated in the absence of a concurrent liquidation of the FLB. However, in the event of any liquidation of an FLBA, the stock of the association must be preserved to pay the debts of the association prior to a distribution to stockholders. The Board does not believe an amendment to this regulation is necessary.

Section 611.1165 Sale and transfer of loans.

The regulation authorizes a receiver to sell loans at fair market value, including any amount borrowed to purchase stock in an association, to the Capital Corporation or any commercial lending institution. Additionally, a receiver may sell a loan to an association authorized to make loans in the territory previously served by the association in liquidation. When an association purchases a loan offered for sale by a receiver the borrower must agree to buy stock in and become a member of the "new" association.

All the comments received on this regulation relate to matters in the proposed regulations which are unchanged from current FCA receivership regulations.

A North Dakota farmers' organization questioned whether there was a conflict between §§ 611.1165(b)(1) and 611.1165(c). The organization commented that paragraph (b)(1) appears to require the purchase of capital stock in a purchasing association while paragraph (c) provides that an association may purchase a loan only when the borrower agrees to buy stock in and become a member of the association.

The attorneys general group stated that the regulation does not fulfill the intent of Congress because it does not contain provisions that minimize the adverse impact of liquidations on borrowers. The group recommended that the FCA should direct institutions to liberalize the financing of loans that are sold, for example, by providing an extended time period during which borrowers can purchase stock in the new association.

The FCCA suggested that the regulation be amended to avoid a potential double payment by a borrower of the amount borrowed to purchase stock where a borrower's stock has previously been retired and applied against an outstanding loan before the association was placed in receivership.

In response to the comment by the farmers' organization, the Board does not believe there is any conflict between the two paragraphs. Paragraph (b) sets forth the procedures associated with the sale of a loan to a neighboring association. The regulation requires, among other things, that in order for a loan to be sold to a neighboring association the borrower must become a stockholder of such association in accordance with the normal requirements of the Act. Failure to include this requirement would, of course, completely nullify the entire purpose of stock purchases and would eliminate the value of stock as an available source of capital for the payment of the debts of the association to its creditors. Paragraph (c) provides that the purchasing association has 90 days to make a determination whether or not to accept loans. If an association would otherwise accept a loan, but the borrower refuses to become a member of the new association, the association must return that loan to the liquidating association. This latter provision was specifically placed in the final regulation adopted by the FCA in 1985 following a comment by an interested party that the

regulations needed to clarify that each borrower has the option of refusing to have his loan transferred to a neighboring association.

In response to the attorneys general comment, the proposed regulations continue, unchanged, the provisions in the current FCA receivership regulations that authorize banks to provide interest-free loans to stockholders for the purchase of stock in a neighboring association. In liquidations where banks have had the financial capacity to offer these interest-free loans, it has enabled loans to be transferred from an association in receivership to a neighboring association with no immediate out-of-pocket expense to the borrower. Under the programs which have been used, the borrower continued to pay interest on any outstanding loan for the purchase of stock in the association in liquidation, but would not incur an interest expense on a loan to purchase stock in the new association. Following the final distribution of assets from the liquidating association or 5 years, whichever is sooner, the borrower is then required to pay interest on any funds borrowed to purchase stock in the purchasing association. These provisions cannot be made mandatory because in many instances the bank may not have the financial capacity to make such interest-free loans.

The Board believes these provisions fully carry out the intent of Congress by establishing a reasonable and financially practical method by which the impact of a liquidation on individual borrowers can be minimized while at the same time not endangering the financial integrity of the bank and other associations in a district. While this provision has been unchanged from current FCA regulations, the Board has amended the regulation to specifically include a reference to the authority for the bank to provide such loans at no interest or at a reduced rate of interest.

In response to a recommendation by the FCCA the Board made a technical amendment to § 611.1165(a).

Section 611.1167 Inventory, examination, audit, and reports to stockholders.

The regulation provides for the following: An inventory of the assets and liabilities of the institution by the receiver; examination of the institution by the FCA; audit of the institution by the FCA or, at its discretion, an independent CPA; and periodic financial reporting to the FCA and stockholders.

The System accountant suggested that the institution in receivership should be required to meet all financial reporting rules set forth in FCA regulations. In addition, the accounting firm suggested that such institutions should also be required to report at least quarterly to the FCCA so that the System and the banks can prepare combined financial statements on a timely basis. The FCCA suggested that the regulation be amended to require that copies of such reports are provided to the district bank. The FCCA stated that such reports are necessary in order to prepare accurate Systemwide, district bank, and individual bank financial statements. The FCCA also recommended that the regulation provide for annual stockholder meetings for associations in receivership during which the receiver could present the annual report and stockholders would have an opportunity to ask questions.

The Board agrees with the comments received by the System accountant that institutions in liquidation are required to meet financial reporting rules set out in FCA regulations. However, since the reporting and disclosure requirements contained in 12 CFR Parts 620 and 621 include numerous provisions which are applicable to "going concerns," rather than institutions in liquidation, all of the provisions in those regulations cannot be made applicable to institutions in receivership.

The proposed regulation did not contain specific reporting and disclosure requirements because the FCA had not completed the process of promulgating disclosure and reporting requirements for System institutions. Those disclosure and reporting regulations have now been finalized and, accordingly, the Board has amended this section to include references to specific quarterly and yearend financial reporting requirements and disclosure requirements to stockholders that apply to institutions in receivership. The requirements relating to the distribution of financial reports of institutions in receivership are the same as the requirements applicable to other System institutions.

The Board does not agree with the recommendation that the proposed regulations be amended to include a requirement for annual stockholder meetings. The primary purpose of stockholder meetings is to elect directors for the institution. An association in receivership is under the control of a receiver who is exercising authority in accordance with the FCA regulations and as agent of the FCA. Stockholders who have questions about the operations of the association can direct their inquiries at any time they deem appropriate to the receiver or the FCA.

Section 611.1170 Appointment of receiver.

The regulation provides that upon appointment of a receiver for a bank, all rights, powers, and privileges of the board, officers, and employees are vested exclusively in the receiver and such individuals are suspended except as provided in the case of a voluntary liquidation under paragraph (g). The FCCA restated the comment it made regarding § 611.1160, that the regulation should clarify that a receiver is authorized to re-employ officers and employees of the bank for purposes of assisting in its liquidation. In addition, the FCCA stated, for the same reasons cited in its comment to § 611.1157(a), if the FCA elects to terminate a receivership, the authority of the board of directors should be reinstated.

For the same reasons discussed with respect to § 611.1160, the Board has amended this section to clarify that the receiver has the authority to employ persons who previously served as officers or employees of the bank before it was placed in liquidation.

For the same reason discussed in connection with § 611.1160, the Board does not believe the regulations should be amended to provide that in the case a receivership is terminated, the prior board of directors is reinstated.

Section 611.1175 Inventory, examination, audit, and reports to stockholders.

This section directs receivers to prepare and file periodic reports with the FCA covering various matters relating to the receivership. The FCCA recommended that the regulation be amended to require receivers to make regular reports to bank stockholders. They argued that the stockholders of a bank in receivership have just as much interest in the status of the receivership as the borrowers/stockholders of liquidating associations and that bank stockholders require current and accurate financial information concerning the receivership in order to prepare their own financial statements. In addition, the FCCA restated its comments to § 611.1167 relating to regular stockholder meetings during the pendency of a receivership and a requirement that the receiver provide timely, quarterly financial information to the FCCA. The System accountant concurred with the FCCA with respect to requiring the receiver to file financial reports with the FCCA so that the banks can provide combined financial statements on a timely basis.

The Board agrees with the FCCA comment regarding the need for reports to the associations or cooperatives that are stockholders of a bank in receivership and has amended the regulation to include a provision comparable to the stockholder reporting provision contained in § 611.1167(d).

For the same reasons discussed with respect to § 611.1167, the Board does not believe the regulation should be amended to include a requirement for annual stockholder meetings.

The Board concurs with the recommendation that the regulation be amended to specifically require the receiver to file copies of financial reports with the FCCA and has amended the regulation accordingly. This requirement is appropriate in light of the new responsibility of the FCCA to assemble Systemwide financial information.

Section 611.1180 Appointment of a conservator.

The proposed regulation provides the grounds for and procedures applicable to the appointment of a conservator for a System bank, association, or service organization; the authority of the Chairman of the FCA to terminate a conservatorship and remove the conservator and turn over management of the institution to such individuals as the Chairman may direct; the vesting of the institution's powers exclusively in the conservator; and subjecting the conservator to the direction and supervision of the FCA.

The FCCA restated the comment made to § 611.1157 regarding the authority of the Chairman to direct the conservator to turn over management of the institution to such persons as the Chairman may direct. The FCCA also suggested that § 611.1180(c) should be clarified to avoid unnecessary disruption to an institution by providing that existing officers and employees should be deemed approved to continue their activities subject to the direction of the conservator unless and until the FCA provides notification to the conservator to the contrary. In addition, the FCCA requested clarification of whether a conservator has the same immunity from personal liability as a receiver.

The FCCA correctly noted that under the conservator regulations the officers and employees of the institution are not immediately suspended from their employment upon the appointment of the conservator. Rather, while the conservator is vested with the authorities of the board of directors, officers, and employees, existing officers and employees would remain in their positions unless and until advised by the conservator that their services were no longer required. The Board concurs with the recommendation for a clarification of this point and has amended § 611.1180(c) accordingly.

In response to the comment by the FCCA regarding the status of FCA conservators, the Board notes that it was the intent of the conservatorship regulations to provide the conservator with the same agent status and the immunities as an agent of the FCA as are specifically provided for with respect to FCA receivers. Accordingly, the Board has amended § 611.1181 by adding a new paragraph (a) which contains language substantially the same as is contained in §§ 611.1161 and 611.1171.

Section 611.1181 Powers and duties of conservators.

The proposed regulation grants conservators various powers to operate an institution, but provides that certain of those authorities are subject to the prior approval of the FCA. In addition, the regulation provides that in the case of litigation, the conservator shall represent the interest of the institution, its stockholders and creditors. The FCCA stated that if prior FCA approval is required in each instance provided for in the regulation, the conservator will have difficulty exercising his responsibilities. The FCCA also restated its comment regarding § 611.1161 that a conservator cannot represent all interests of shareholders, creditors, and the institution.

As discussed above with respect to § 611.1180, the Board added a new paragraph (a) relating to the status of the conservator of this section, which parallels comparable provisions contained in the receivership regulations. The Board does not believe any changes should be made to the prior approval requirements in this regulation. These prior approval requirements, which are similar to the requirements contained in the FHLBB regulations, serve a very useful purpose. A conservatorship, unlike a receivership, is generally intended to operate for a relatively short period of time, during which the operations of the institution can be stabilized and a more permanent solution for its condition can be determined. In the interim, the FCA must maintain close control over the operations of the institution. While many activities require the prior approval of the FCA, the FCA will establish guidelines for the operations of conservatorships which will provide approvals for classes and categories of activities. Those categories will establish threshold limits under which a preapproval is granted subject to monitoring and reporting requirements.

Section 611.1182 Inventory, examination, audit, and reports to stockholders.

The regulation requires the examination and audit of the institution and the filing of periodic reports with the FCA. The FCCA interpreted these regulations to require that the disclosure, reporting, and stockholder meeting requirements applicable to ongoing institutions would be applicable to institutions in conservatorship. The FCCA stated that in the event its interpretation was not correct, it recommended the same changes that were suggested with respect to §§ 611.1167 and 611.1175, relating to the financial reporting requirements and stockholder meetings. The System accountant also restated its comments from §§ 611.1167 and 611.1175, relating to financial reporting requirements.

The FCCA is incorrect in its assumption that the financial reporting and stockholder meeting requirements applicable to other System institutions would apply to institutions in conservatorships in accordance with these regulations. The proposed regulations provide that the specific reporting procedures regarding an institution in conservatorship shall be established by the FCA. For the same reasons discussed with respect to § 611.1167, the Board has amended the regulation to include reporting requirements similar to those contained in §§ 611.1167 and 611.1175, with appropriate modifications to reflect the differences between receiverships and conservatorships. These reports are necessary in order to assure that each district, and the System as a whole, can compile accurate and complete financial statements.

The regulations do not require annual stockholder meetings since the primary reason for a stockholder meeting, the election of directors, does not exist during the pendency of the conservatorship. The conservator does have the authority at his discretion or at the direction of the FCA to hold informational stockholder meetings in order to apprise the members of the bank or association of the current status or upcoming developments relating to the institution. However, in most instances such information can be imparted to stockholders in written form and therefore, there is no necessity for the regulations to require stockholder meetings.

List of Subjects in 12 CFR Part 611

Accounting, Agriculture, Archives and records, Banks, Banking, Credit, Government securities, Investments, Organization and functions (Government agencies), Rural areas.

As stated in the preamble, Part 611 of Chapter VI, Title 12, of the Code of Federal Regulations, be amended as follows:

PART 611—ORGANIZATION

1. The authority citation for Part 611 is revised to read as follows:

Authority: Secs. 1.13, 2.10, 4.11, 4.12, 4.28A–4.28L, 5.9, 5.10, 5.15, and 5.17, Pub. L. 99–205, 99 Stat. 1678.

Subpart F—General Rules for Districts

2. Section 611.1090 is revised to read as follows:

§ 611.1090 Request for district changes—general.

(a) A district board in its capacity as the board of an individual bank or as the board of all banks in a district, as appropriate, may recommend the following actions:

(1) The merger of one or more banks in the district with one or more like banks in another district;

(2) The transfer of territory between one or more banks in the district and one or more like banks in another district; and

(3) A change in the name of a district.

(b) Upon approval of an appropriate resolution by the district board, the resolution, together with supporting documentation, shall be submitted to the Farm Credit Administration for preliminary approval. Following the receipt of written notification of preliminary approval by the Farm Credit Administration, the proposal shall be submitted for approval by a majority vote of the Federal land bank associations, production credit associations, and cooperatives that are stockholders of the banks involved. Upon approval by the stockholders, the proposal shall be submitted to the Farm Credit Administration for final approval and issuance of amendments to the charters of the institutions involved. A proposed change in the name of a district does not require stockholder approval.

§ 611.1115 [Removed]

3. Section 611.1115 is removed.

Subpart G—Mergers, Consolidations, and Charter Amendments of Associations

4. Section 611.1121 is amended by revising paragraphs (b), (c), and (d) and the introductory text to the section to read as follows:

§ 611.1121 Charter amendment procedures.

This section shall apply to any request by an association to amend its charter.

* * * * *

(b) Upon receipt of a proposed amendment from an association, the district bank shall review the materials submitted and provide the association with its analysis of the proposal within a reasonable period of time. Concurrently, the bank shall communicate its recommendation on the proposal to the Farm Credit Administration, including the reasons for the recommendation, and any analysis the bank believes appropriate. Following review by the bank, the association shall transmit the proposed amendment with attachments to the Farm Credit Administration.

(c) Upon receipt of an association's request for a charter amendment, the Farm Credit Administration shall review the materials submitted and either approve or disapprove the request. The Farm Credit Administration may require submission of any supplemental materials it deems appropriate.

(d) The Farm Credit Administration shall notify the association of its approval or disapproval of the amendment request, and provide a copy of such communication to the bank. A notification of approval shall be accompanied by a copy of the charter, as amended.

5. Section 611.1122 is amended by revising paragraphs (a) introductory text, (a)(3), (b), (c), (e) introductory text, (e)(4), (9), and (i) to read as follows:

§ 611.1122 Requirements for mergers or consolidations.

* * * * *

(a) Where two or more associations plan to merge or consolidate, or where the district board has adopted a reorganization plan for the associations in the district, the associations involved shall jointly submit a request to the district bank containing the following:

* * * * *

(3)(i) A certified copy of the resolution of the board of directors of each association recommending approval of the merger or consolidation; or

(ii) In the case of a district reorganization plan, a certified copy of the resolution of the board of directors of each association recommending either approval or disapproval of the proposal.

* * * * *

(b) Upon receipt of a request for approval of an association merger or consolidation, the district bank shall review the materials submitted to determine whether they comply with the requirements of these regulations and shall communicate with the associations concerning any deficiency. When the bank approves the request to merge or consolidate it shall notify the associations and the Farm Credit Administration of its approval together with the reasons for its approval and any supporting analysis the bank deems appropriate. The associations shall jointly submit the proposal together with required documentation to the Farm Credit Administration for preliminary approval.

(c) Upon receipt of an association merger or consolidation request, the Farm Credit Administration shall review the request and either deny or give its preliminary approval to the request. When a request is denied, written notice stating the reasons for the denial shall be transmitted to the associations and a copy provided to the bank. When a request is preliminarily approved, written notice of the preliminary approval shall be given to the associations and a copy provided to the bank. Preliminary approval by the Farm Credit Administration shall not constitute approval of the merger or consolidation. Approval of a merger or consolidation shall be only pursuant to paragraph (9) of this section.

* * * * *

(e) Notice of the meeting to consider and act upon a proposed merger or consolidation of associations shall be accompanied by the following information covering each constituent association.

* * * * *

(4) A brief statement by the boards of directors of the constituent associations setting forth the basis for the boards' recommendation on the merger or consolidation.

* * * * *

(g) Upon approval of a proposed merger or consolidation by the stockholders of the constituent associations, a certified copy of the stockholders' resolution shall be forwarded to the Farm Credit Administration. The merger or consolidation shall be effective when thereafter finally approved and on the date as specified by the Farm Credit Administration. Notice of final approval shall be transmitted to the associations and a copy provided to the bank.

* * * * *

(i) The notice and accompanying information required under paragraph (e) of this section shall not be sent to stockholders until preliminary approval of the merger or consolidation has been given by the Farm Credit Administration.

* * * * *

6. Section 611.1123 is amended by revising paragraphs (a) introductory text and (a)(7) to read as follows:

§ 611.1123 Merger or consolidation agreements.

(a) Associations operating under the same title of the Act may merge or consolidate voluntarily only pursuant to a written agreement. The agreement shall set forth all of the terms of the transaction, including, but not limited to, the following:

* * * * *

(7) A statement that the board of directors of each constituent association can terminate the agreement before the effective date upon a determination by an association, with the concurrence of the Farm Credit Administration, that:

(i) The information disclosed to stockholders contained material errors or omissions;

(ii) Material misrepresentations were made to stockholders regarding the impact of the merger or consolidation;

(iii) Fraudulent activities were used to obtain stockholders' approval; or

(iv) An event occurred between the time of the vote and the merger that would have a significant adverse impact on the future viability of the continuing institution.

* * * * *

7. Section 611.1124 is revised to read as follows:

§ 611.1124 Territorial adjustments.

This section shall apply to any request submitted to the Farm Credit Administration to modify association charters for the purpose of transferring territory from one association to another.

(a) Territorial adjustments, except as specified in paragraph (m) of this section, require approval of a majority of the voting stockholders of each association present and voting or voting by written proxy at a duly authorized meeting at which a quorum is present.

(b) When two or more associations agree to transfer territory, each association shall submit a proposal to the district bank containing the following:

(1) A statement of the reasons for the proposed transfer and the impact the transfer will have on its stockholders and holders of participation certificates;

(2) A certified copy of the resolution of the board of directors of each association approving the proposed territory transfer;

(3) A copy of the agreement to transfer territory that contains the following information:

(i) A description of the territory to be transferred.

(ii) Transferor association's plan to transfer loans and the types of loans to be transferred.

(iii) Transferor association's plan to retire and transferee association's plan to issue equities held by holders of stock, participation certificates, and allocated equities, if any, and a statement by each association that the book value of its equities is at least equal to par.

(iv) An inventory of the assets to be sold by the transferor association and purchased by the transferee association.

(v) An inventory of the liabilities to be assumed from the transferor association by the transferee association.

(vi) A statement that the holders of stock and participation certificates whose loans are subject to transfer have 60 days from the effective date of the territory transfer to inform the transferor association of their decision to remain with the transferor association for normal servicing until the current loan is paid.

(vii) A statement that the transfer is conditioned upon the approval of the stockholders of each constituent association.

(viii) The effective date of the proposed territory transfer.

(4) A copy of the stockholder disclosure statement provided for in paragraph (f) of this section; and

(5) Any additional relevant information or documents that the association wishes to submit in support of its request or that may be required by the Farm Credit Administration.

(c) Upon receipt of documents supporting a proposed territory transfer, the district bank shall review the materials submitted and provide the associations with its analysis of the proposal within a reasonable period of time. The bank shall concurrently advise the Farm Credit Administration of its recommendation regarding the proposed territory transfer. Following review by the bank, the associations shall transmit the proposal to the Farm Credit Administration together with all required documents.

(d) Upon receipt of an association's request to transfer territory, the Farm Credit Administration shall review the request and either deny or give preliminary approval to the request. When a request is denied, written notice stating the reasons for the denial shall be transmitted to the associations, and a copy provided to the bank. When a request is preliminarily approved, written notice of the preliminary approval shall be transmitted to the associations, and a copy provided to the bank. Preliminary approval by the Farm Credit Administration shall not constitute approval of the territory transfer. Final approval shall be granted only in accordance with paragraph (h) of this section.

(e) Upon receipt of preliminary approval by the Farm Credit Administration, each constituent association shall, by written notice, and in accordance with its bylaws, call a meeting of its voting stockholders. The affirmative vote of a majority of the voting stockholders of each association present and voting or voting by written proxy at a meeting at which a quorum is present shall be required for stockholder approval of a territory transfer.

(f) Notice of the meeting to consider and act upon a proposed territory transfer shall be accompanied by the following information covering each constituent association:

(1) A statement either on the first page of the materials or on the notice of the stockholders' meeting, in capital letters and bold face type, that:

THE FARM CREDIT ADMINISTRATION HAS NEITHER APPROVED NOR PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION ACCOMPANYING THE NOTICE OF MEETING OR PRESENTED AT THE MEETING AND NO REPRESENTATION TO THE CONTRARY SHALL BE MADE OR RELIED UPON.

(2) A copy of the Agreement to Transfer Territory and a summary of the major provisions of the Agreement.

(3) The reason the territory transfer is proposed.

(4) A map of the association's territory as it would look after the transfer.

(5) A summary of the differences, if any, between the transferor and transferee associations' interest rates, interest rate policies, collection policies, service fees, bylaws, and any other items of interest that would impact a borrower's lending relationship with the institution.

(6) A statement that all loans of the transferor association that finance operations located in the transferred territory shall be transferred to the transferee association except as otherwise provided for in this section or in accordance with agreements between

the associations as provided for in § 614.4070 of this chapter.

(7) Where proxies are to be solicited a form of written proxy, together with instructions on the purpose and authority for its use, and the proper method for signature by the stockholders.

(8) A statement that the associations' bylaws, financial statements for the previous 3 years, and any financial information prepared by the associations concerning the proposed transfer of territory are available on request to the stockholders of any association involved in the transaction.

(g) No bank or association, or director, officer, or employee thereof, shall make any untrue or misleading statement of a material fact, or fail to disclose any material fact necessary under the circumstances to make statements made not misleading, to a stockholder of any association in connection with a territory transfer.

(h) Upon approval of a proposed territory transfer by the stockholders of the constituent associations, a certified copy of the stockholders' resolution for each constituent association and one executed Agreement to Transfer Territory shall be forwarded to the Farm Credit Administration. The territory transfer shall be effective when thereafter finally approved and on the date as specified by the Farm Credit Administration. Notice of final approval shall be transmitted to the associations and a copy provided to the bank.

(i) No director, officer, or employee of a bank or an association shall make an oral or written representation to any person that a Preliminary or final approval by the Farm Credit Administration of a territory transfer constitutes, directly or indirectly, a recommendation on the merits of the transaction or an assurance concerning the adequacy or accuracy of any information provided to any association's stockholders in connection therewith.

(j) The notice and accompanying information required under paragraph (f) of this section shall not be sent to stockholders until preliminary approval of the territory transfer has been granted by the Farm Credit Administration.

(k) Where a territory transfer is proposed simultaneously with a merger or consolidation, both transactions may be voted on by stockholders at the same meeting. Only stockholders of a transferee or transferor association shall vote on a territory transfer.

(l) Each borrower whose real estate or operations is located in a territory that will be transferred shall be provided with a written Notice of Territory Transfer immediately after the Farm Credit Administration has given final approval of the territory transfer. The Notice shall inform the borrower of the transfer of the borrower's loan to the transferee association and the exchange of related equities for equities of like kinds and amounts in the transferee association. If a like kind of equity is not available in the transferee association, similar equities shall be offered that will not adversely affect the interest of the owner. The Notice shall give the borrower 60 days from the effective date of the territory transfer to notify the transferor association in writing if the borrower decides to stay with the transferor association for normal servicing until the current loan is paid. Any application by the borrower for renewal or for additional credit shall be made to the transferee association, except as otherwise provided for by an agreement between associations in accordance with § 614.4070 of this chapter.

(m) This section shall not apply to territory transfers initiated by order of the Chairman of the Farm Credit Administration or to territory transfers due to the liquidation of the transferor association.

(n) Where a proposed action involves the transfer of a portion of an association's territory to an association operating in a different district, such proposal must comply with the provisions of this section and § 611.1090 of this part.

8. Section 611.1125 is revised to read as follows:

§ 611.1125 Treatment of associations not approving districtwide mergers.

(a) Issuance of charters. When issuing charters or certificates of territory for districtwide mergers or consolidations of associations, the Farm Credit Administration will not issue any charters or certificates of territory that include the territory of one or more associations whose stockholders voted to disapprove the merger or consolidation.

(b) A district bank shall not take any of the following actions with respect to an association that has determined to not participate in a districtwide merger or consolidation:

(1) Discriminate in the provision of any financial service and assistance, including, but not limited to, access to loan funds and rates of interest on loans and discounts offered by the district bank to associations and their member/borrowers;

(2) Discriminate in the provision of any financially related services that are offered by the district bank to associations and their member/borrowers;

(3) Discriminate in the provision of any professional assistance that may be normally provided by the district bank to associations; or

(4) Discriminate in the provision of any technical assistance that may be normally provided by the district bank to associations.

(c) This regulation does not prohibit a district bank from taking any action with respect to an association, including, but not limited to, charging different rates of interest or different prices for services, or declining to provide financial assistance; provided that any such action is fully documented and based on an objective analysis of applicable criteria that are uniformly and consistently applied by the district bank to all associations in the district.

9. Part 611 is amended by adding Subpart K, Appointment of Conservators and Receivers, to read as follows:

Subpart K—Appointment of Conservators and Receivers

Sec.

611.1155 General.
611.1156 Grounds for appointment of conservators and receivers.
611.1157 Conservators and receivers.
611.1158 Actions for removal of conservator or receiver.

Subpart K—Appointment of Conservators and Receivers

§ 611.1155 General.

The Farm Credit Administration has exclusive authority to appoint conservators or receivers for System institutions and to establish the procedures under which conservatorships and receiverships are operated. This subpart sets forth the basis for the appointment of conservators and receivers and establishes general guidance for the operations of conservatorships and receiverships. Subparts L and M of this part set forth the specific powers and procedures for receivers of associations and banks, respectively. Subpart N of this part sets forth the powers and procedures applicable to conservatorships of banks and associations.

§ 611.1156 Grounds for appointment of conservators and receivers.

(a) Upon a determination by the Farm Credit Administration of the existence of one or more of the factors set forth in paragraph (b) of this section, with respect to any bank, association, or other institution of the System, the Farm

Credit Administration may, at its discretion, appoint a conservator or receiver for such institution.

(b) The grounds for the appointment of a conservator or receiver for a System institution are:

(1) The institution is insolvent. For purposes of this paragraph, "insolvent" means that the assets of the institution are less than its obligations to its creditors and others, including its members. A determination of insolvency is made when an examination conducted or adopted by the Farm Credit Administration reveals that the capital stock or participation certificates of an institution are worth less than their par or stated value;

(2) There has been a substantial dissipation of the assets or earnings of the institution due to the violation of any law, rule, or regulation, or the conduct of an unsafe or unsound practice;

(3) The institution is in an unsafe or unsound condition to transact business;

(4) The institution has committed a willful violation of a final cease-and-desist order issued by the Farm Credit Administration; or

(5) The institution is concealing its books, papers, records, or assets, or is refusing to submit its books, papers, records, assets, or other material relating to the affairs of the institution for inspection to any examiner or to any lawful agent of the Farm Credit Administration.

§ 611.1157 Conservators and receivers.

(a) A Farm Credit Administration conservator is appointed by the Chairman of the Farm Credit Administration pursuant to section 4.12(b) of the Act and § 611.1156 of this part to take possession of an institution in accordance with the terms of the appointment. Upon appointment, a conservator shall direct the institution's further operation until the Farm Credit Administration decides whether to liquidate the institution. Upon correction or resolution of the problem or condition that provided the basis for the appointment and upon a determination by the Farm Credit Administration that the institution can be returned to normal operations, the Farm Credit Administration may turn the institution over to such management as the Farm Credit Administration may direct. A conservator shall exercise all powers necessary to continue the ongoing operations of the institution, to conserve and preserve the institution's assets and property, and otherwise protect the interests of the institution, its stockholders, and creditors as provided in Subpart N of this part.

(b) A Farm Credit Administration receiver is appointed by the Chairman of the Farm Credit Administration pursuant to section 4.12(b) of the Act and § 611.1156 of this part to take possession of a System institution in order to wind up the business operations of such institution, collect the debts owed to the institution, liquidate its property and assets, pay its creditors, and distribute the remaining proceeds to its stockholders. A receiver shall exercise all powers necessary to the efficient termination of an institution's operation, as provided for in Subparts L and M of this part.

§ 611.1158 Action for removal of conservator or receiver.

Upon the appointment of a conservator or receiver to a System institution by the Farm Credit Administration, the institution may, within 30 days of such appointment, bring an action in the United States District Court for the judicial district in which the home office of the institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Farm Credit Administration to remove such conservator or receiver. Notwithstanding any other provisions of Subparts L, M, or N of this part, the institution's board of directors is empowered to meet subsequent to such appointment and authorize the filing of an action for removal. An action for removal may only be authorized by such institution's board of directors.

Subpart L—Liquidation of Associations

10. Section 611.1160 is revised to read as follows:

§ 611.1160 Appointment of receiver.

(a) The board of directors of an association, by the adoption of an appropriate resolution, may vote to liquidate the association, and upon approval of the resolution by the Farm Credit Administration after consultation with the supervisory bank, the Chairman by order may place the association in receivership and appoint a receiver.

(b) The Farm Credit Administration may, at its discretion, appoint a receiver for any System association in accordance with the grounds for appointment set forth in § 611.1156 of this part.

(c) Upon the appointment of a receiver and acceptance by the receiver of the appointment, the Chairman shall immediately notify the institution and its district bank and notice of the appointment shall be published in the **Federal Register.**

(d) Upon the issuance of the order placing an association in liquidation, all rights, privileges, and powers of the board of directors, officers, and employees of the association are vested exclusively in the receiver, and said individuals are suspended except as provided for in paragraph (9) of this section. Persons who were serving as officers or employees may be employed by the receiver in accordance with § 611.1161 of this part.

(e) The voluntary or involuntary liquidation of an association shall be conducted by the receiver as agent of the Farm Credit Administration. The receiver shall be responsible for collecting the assets, paying the creditors, and paying any liquidating dividend to stockholders of the association. Upon completion of the liquidation and discharge of the receiver by the Farm Credit Administration, the Chairman will cancel the charter of the association.

(f) The Chairman may at any time remove or replace the receiver or may terminate the receivership and direct the receiver to turn over the association to its previous management or such other management as the Chairman may order, in which event the provisions of this subpart shall no longer apply.

(g) In the case of the voluntary liquidation of an association where grounds for the appointment of a receiver pursuant to § 611.1156 of this part do not exist, the Chairman may appoint a receiver, taking into consideration the recommendations of the board of directors of the liquidating association. The board of directors of the association may, at the discretion of the Chairman, remain in office to provide advice and recommendations to the receiver during the pendency of the liquidation.

11. Section 611.1161 is revised to read as follows:

§ 611.1161 Powers and duties of the receiver.

The receiver of an association serves as the trustee of the receivership estate and conducts its operations for the benefit of the creditors and stockholders of the association. In this capacity, as trustee of the estate, the receiver is an agent of and is subject to the specific procedures and approval requirements established by the Farm Credit Administration and enjoys the same immunities against personal liability that exist for all employees and agents of the Farm Credit Administration. As the agent of the Farm Credit

Administration and acting on behalf of the association in receivership, the receiver is authorized and empowered to:

(a) Exercise all powers as are conferred upon the officers and directors of the association under law and the charter, articles, and bylaws of the association.

(b) Take any action the receiver considers appropriate or expedient to carry on the business of the association during the process of liquidating its assets and winding up its affairs.

(c) Extend credit to existing borrowers as necessary to honor existing commitments and to effectuate the purposes of the receivership.

(d) Borrow such sums as necessary to effectuate the purposes of the receivership.

(e) Pay any sum the receiver deems necessary or advisable to preserve, conserve, or protect the association's assets or property, or rehabilitate or improve such property and assets.

(f) Pay any sum the receiver deems necessary or advisable to preserve, conserve, or protect any asset or property on which the association has a lien or in which the association has a financial or property interest, and pay off and discharge any liens, claims, or charges of any nature against such property.

(g) Investigate any matter related to the conduct of the business of the association, including, but not limited to, any claim of the association against any individual or entity, and institute appropriate legal or other proceedings in the name of the association to prosecute such claims.

(h) Institute, prosecute, maintain, defend, intervene, and otherwise participate in the name of the association in any legal proceeding by or against the association or in which the association or its creditors or members have any interest, and represent in every way the association, its members, and creditors.

(i) Employ attorneys, accountants, appraisers, and other professionals to give advice and assistance to the receivership generally or on particular matters, and pay their retainers, compensation, and expenses, including litigation costs.

(j) Hire any employees necessary for proper administration of the receivership, which employees shall be covered by a bond satisfactory to the receiver and the Farm Credit Administration;

(k) Execute, acknowledge, and deliver, in person or through a general or specific delegation, any instrument necessary for any authorized purpose, and any instrument executed under this paragraph shall be valid and effectual as if it had been executed by the association's officers by authority of its board of directors.

(l) Sell for cash or otherwise, any mortgage, deed of trust, chose in action, note, contract, judgment or decree, stock, or debt owed to the association, or any property (real or personal, tangible or intangible).

(m) Purchase or lease office space, automobiles, furniture, equipment, and supplies, and purchase insurance, professional, and technical services necessary for the conduct of the receivership.

(n) Release any assets or property of any nature, regardless of whether the subject of pending litigation, and repudiate, with cause, any lease or executory contract the receiver considers burdensome.

(o) Settle, release, or obtain release of, for cash or other consideration, claims and demands against or in favor of the association or the receiver.

(p) Pay out of the assets of the association, all expenses of the receivership and all costs of carrying out or exercising the rights, powers, privileges, and duties as receiver.

(q) Pay out of the assets of the association, all approved claims of indebtedness in accordance with priorities established in this subpart.

(r) Take all actions in the name of the association in receivership, and have such rights, powers, and privileges as are necessary and incident to the exercise of any specific power.

(s) Take such actions, and have such additional rights, powers, privileges, immunities, and duties as the Farm Credit Administration authorizes, directs, confers, or imposes by order or by amendment of any order or by regulation.

12. Section 611.1165 is revised to read as follows:

§ 611.1165 Sale and transfer of loans.

(a) The receiver is authorized to sell loans, including any amount outstanding that was used to purchase stock or participation certificates of the association, to the Farm Credit System Capital Corporation (Capital Corporation) or to any commercial lending institution at fair market value (including any amount borrowed to purchase stock in the association). All loans not purchased by other System institutions are eligible for purchase by the Capital Corporation.

(b) The receiver is authorized to sell loans to an association (hereafter referred to as "purchasing association") that has been authorized, by charter amendment, agreement, or otherwise, to make loans in the territory heretofore served by the association in liquidation only on the following basis:

(1) A loan, including any amount outstanding that was used to purchase stock or participation certificates of the association, may be sold at not less than its fair market value (including the amount borrowed to purchase stock or participation certificates in the liquidating association) and the borrower will immediately make the required capital investment in the purchasing association by providing cash sufficient therefor or by increasing the loan by an amount necessary to make such capital investment.

(2) A loan, including any amount outstanding that was used to purchase stock or participation certificates of the association, may be sold at not less than its fair market value in conjunction with an agreement between the borrower, the receiver, the bank, and the purchasing association, which provides for a loan, at no interest or a reduced rate of interest, from the bank to the borrower or the purchasing association in the amount of the required capital investment in the purchasing association, to be repaid on or before the completion of the liquidation of the association, on terms set forth in the agreement.

(c) An association to which the receiver proposes to sell a loan shall have not less than 90 days to purchase the loan. The association may purchase any such loan at its discretion provided that the borrower agrees to buy stock and become a member of the association.

13. Section 611.1167 is revised to read as follows:

§ 611.1167 Inventory, examination, audit, and reports to stockholders.

(a) As soon as practicable after taking possession of an association, the receiver shall make an inventory of the assets and liabilities as of the date possession was taken. Such inventory shall include the book value and the fair market value of the association's assets. The method of listing assets must provide such information to the satisfaction of the Farm Credit Administration. One copy of the inventory shall be filed with the Farm Credit Administration.

(b) The association in receivership shall be examined on an annual basis by the Farm Credit Administration. The association shall be audited by the Farm Credit Administration or, at the discretion of the Farm Credit

Administration, by an independent certified public accountant at such times as the Farm Credit Administration determines. The cost of such examination and audit, as determined by the Farm Credit Administration, shall be paid from the assets of the association in receivership.

(c) Each association in receivership shall prepare and file with the Farm Credit Administration financial reports in accordance with the requirements of Part 621 of this chapter with the exception of those provisions that, in accordance with generally accepted accounting principals, are not applicable to an entity that is not considered a "going concern." The receiver of the association shall provide the certification required by § 621.12 of this chapter.

(d) Each association in receivership shall prepare and distribute financial reports in accordance with the provisions of Part 620, Subpart A, of this chapter. The provisions of § 620.3 of this chapter relating to the content of reports shall not be applicable to associations in receivership except as specifically provided for in this paragraph (d). The receiver of the association shall provide the certification required by § 620.2(e) of this chapter and shall provide the signature required by § 620.2(f) of this chapter. Each report shall include:

(1) A discussion of the material events or developments occurring as of the date the association was placed in receivership with a thorough explanation of events or circumstances that have resulted or that may result in material deviations from the plan of liquidation.

(2) A brief description of any material pending legal proceedings, in accordance with § 620.3(c) of this chapter.

(3) A description of the reasons for any changes in independent public accountants used by the receivership, in accordance with § 620.3(1) of this chapter.

(4) A statement of net assets (or liabilities) and a statement of changes in net assets (or liabilities) for each of the last 2 years, and related footnotes. Financial statements and related footnotes shall be prepared in accordance with generally accepted accounting principles for entities not considered "going concerns," and instructions and other requirements of the FCA. The statements shall be audited in accordance with generally accepted auditing standards and shall include an opinion of a qualified public accountant, as defined in § 621.2(a)(21) of this chapter.

(e) Each association in receivership shall prepare and distribute quarterly financial reports in accordance with Subpart B of Part 620 of this chapter, except for § 620.11 of this chapter relating to the content of reports. The receiver of the association shall provide the certification required by § 620.10(d) of this chapter. Quarterly reports shall include:

(1) Information that is presented in accordance w th generally accepted accounting principles for interim financial reporting.

(2) Information as provided for in paragraphs (d) (i) and (ii) of this section.

(3) Financial statements as provided for in paragraph (d) of this section, with captions of major components of the financial statements representing not less than 15 percent of the institution's total liabilities.

(f) Upon the final liquidation of the association, the receiver shall cause to be sent to each stockholder of record, a report summarizing the activities of the receiver and describing the disposition of the assets of the receivership and claims against the receivership.

Subpart M—Liquidation of Banks

14. Section 611.1170 is revised to read as follows:

§ 611.1170 Appointment of receiver.

(a) The board of directors of a bank, by the adoption of appropriate resolution, may vote to liquidate the bank, and upon approval of the resolution by the Farm Credit Administration, the Chairman may, by order, place the bank in receivership and appoint a receiver.

(b) The Farm Credit Administration may, at its discretion, appoint a receiver for any System bank in accordance with the grounds for appointment set forth in § 611.1156 of this part.

(c) Upon the issuance of an order placing a bank in liquidation, all rights, privileges, and powers of the board of directors, officers, and employees of the bank are vested exclusively in the receiver, and such individuals are suspended, except as provided for in paragraph (g) of this section. Persons who were serving as officers or employees may be employed by the receiver in accordance with § 611.1171 of this part.

(d) Upon the appointment of a receiver, and acceptance by the receiver of the appointment, the Chairman shall immediately notify the institution, and notice of the appointment shall be published in the **Federal Register**.

(e) A voluntary or involuntary liquidation of a bank shall be conducted by the receiver, as agent of the Farm Credit Administration. The receiver shall be responsible for collecting the assets, paying the creditors, paying any liquidating dividend to stockholders, and winding up the affairs of the bank. Upon completion of the liquidation, the Chairman will revoke the charter of the bank.

(f) The Chairman may at any time remove and replace the receiver or may direct the receiver to return the bank to the previous management or such other management as the Chairman may order, in which event the provisions of this subpart shall no longer apply.

(g) In the case of the voluntary liquidation of a bank, where the grounds for the appointment of a receiver pursuant to § 611.1156 of this part do not exist, the Chairman may appoint a receiver, taking into consideration the recommendations of the board of directors of the liquidating bank. The board of directors may, at the discretion of the Chairman, remain in office to provide advice and recommendations to the receiver during the pendency of the liquidation.

(h) For purposes of this subpart, the term "bank" includes each bank, the Farm Credit System Capital Corporation, and any service organization chartered pursuant to Part D of Title IV of the Act.

15. Section 611.1175 is revised to read as follows:

§ 611.1175 Inventory, examination, audit, and reports to stockholders.

(a) As soon as practicable after taking possession of a bank, the receiver shall make an inventory of the assets and liabilities of the bank as of the date possession was taken. Such inventory shall include the book value and fair market value of the bank's assets and the book value of the bank's liabilities and any security therefor. The method of listing assets and liabilities must provide such information to the satisfaction of the Farm Credit Administration. One copy of the inventory shall be filed with the Farm Credit Administration.

(b) The bank in receivership shall be examined on an annual basis by the Farm Credit Administration. The bank shall be audited by the Farm Credit Administration or, at the discretion of the Farm Credit Administration, by an independent certified public accountant at such times as the Farm Credit Administration determines. The cost of such examination and audit, as determined by the Farm Credit Administration, shall be paid from the assets of the bank in receivership.

(c) Each bank in receivership shall prepare and file with the Farm Credit Administration financial reports in accordance with the requirements of Part 621 of this chapter with the exception of those provisions that, in accordance with generally accepted accounting principles, are not applicable to an entity that is not considered a "going concern." The receiver of the bank shall provide the certification required by § 621.12 of this chapter.

(d) Each bank in receivership shall prepare and distribute financial reports in accordance with the provisions of Part 620, Subpart A, of this chapter. The provisions of § 620.3 of this chapter relating to the content of reports shall not be applicable to banks in receivership except as specifically provided for in this paragraph (d). The receiver of the bank shall provide the certification required by § 620.2(e) of this chapter and shall provide the signature required by § 620.2(f) of this chapter. Each report shall include:

(1) A discussion of the material events or developments occurring as of the date the bank was placed in receivership with a thorough explanation of events or circumstances that have resulted or that may result in material deviations from the plan of liquidation.

(2) A brief description of any material pending legal proceedings, in accordance with § 620.3(c) of this chapter.

(3) A description of the reasons for any changes in independent public accountants used by the receivership, in accordance with § 620.3(1) of this chapter.

(4) A statement of net assets (or liabilities) and a statement of changes in net assets (or liabilities) for each of the last 2 years, and related footnotes. Financial statements and related footnotes shall be prepared in accordance with generally accepted accounting principles for entities not considered "going concerns," and instructions and other requirements of the Farm Credit Administration. The statements shall be audited in accordance with generally accepted auditing standards and shall include an opinion of a qualified public accountant, as defined in § 621.2(a)(21) of this chapter.

(e) Each bank in receivership shall prepare and distribute quarterly financial reports in accordance with Subpart B of Part 620 of this chapter, except for § 620.11 of this chapter relating to the content of reports. The receiver of the bank shall provide the certification required by § 620.10(d) of this chapter. Quarterly reports shall include:

(1) Information that is presented in accordance with generally accepted accounting principles for interim financial reporting.

(2) Information as provided for in paragraphs (d)(i) and (ii) of this section.

(3) Financial statements as provided for in paragraph (d)(iv) of this section, with captions of major components of the financial statements representing not less than 15 percent of the institution's total liabilities.

(f) Upon the final liquidation of the bank, the receiver shall cause to be sent to each stockholder of record a report summarizing the activities of the receiver and describing the disposition of the assets of the receivership and claims against the receivership.

16. Part 611 is amended by adding a new Subpart N, Conservators and Conservatorships of Banks and Associations, to read as follows:

Subpart N—Conservators and Conservatorships of Banks and Associations

Sec.

611.1180 Appointment of a conservator.
611.1181 Powers and duties of conservators.
611.1182 Inventory, examination, audit, and reports to stockholders.
611.1183 Final discharge and release of conservators.

Subpart N—Conservators and Conservatorships of Banks and Associations

§ 611.1180 Appointment of a conservator.

(a) The Farm Credit Administration may appoint ex parte and without notice a conservator for any System institution provided the grounds for appointment as set forth in § 611.1156 exist.

(b) Upon the appointment of a conservator and acceptance by the conservator of the appointment, the Chairman of the Farm Credit Administration shall immediately notify the institution and, in the case of an association, the district bank, and notice of the appointment shall be published in the **Federal Register**. As soon as practicable after the conservator takes possession of the institution, the conservator shall notify, by first class mail, each holder of stock and participation certificates in the institution of the establishment of the conservatorship and shall describe the effect of the conservatorship on the institution's operations and on the borrower's loan and equity holdings.

(c) Upon the issuance of the order placing a System institution in conservatorship, all rights, privileges, and powers of the members, board of directors, officers, and employees of the institution are vested exclusively in the conservator.

(d) The conservatorship of a System institution shall be conducted by the conservator as agent of the Farm Credit Administration. The conservator, under the direction and supervision of the Farm Credit Administration, shall be responsible for conserving and preserving the assets of the institution and continuing the ongoing operations of the institution until the conservatorship is terminated by order of the Chairman.

(e) The Chairman may, at any time, remove or replace the conservator or may terminate the conservatorship and direct the conservator to turn over the institution's operations to such management as the Chairman may designate, in which event the provisions of this subpart shall no longer apply.

(f) For purposes of this subpart, "System institutions" includes each bank, association, the Farm Credit System Capital Corporation, and the service organizations chartered under Part D of Title IV of the Act.

§ 611.1181 Powers and duties of conservators.

(a) The conservator of an institution serves as the trustee of the institution and conducts its operations for the benefit of the creditors and stockholders of the institution. In this capacity, as trustee, the conservator is an agent of and is subject to the specific procedures and approval requirements established by the Farm Credit Administration and enjoys the same immunities against personal liability that exist for all employees and agents of the Farm Credit Administration.

(b) The conservator may, with respect to System institutions, exercise the powers that a receiver of an association may exercise under § 611.1161(d), (k), (p), (r), and (s) of this part. The conservator may, with the prior approval of the Farm Credit Administration, exercise the powers that a receiver of a System bank or association may exercise under § § 611.1161 (i), (j), (l), (n), (o), and (q) and 611.1171 of this part. In interpreting those paragraphs for purposes of this section, the term "conservator" and "conservatorship" shall be read for "receiver" and "receivership," and "institution" shall be read for "association."

(c) The conservator may also, subject to the restrictions contained in this section:

(1) Exercise all powers as are conferred upon the officers and directors of the institution under law and the charter, articles, and bylaws of the institution, except that the conservator may not declare, credit, pay, or otherwise distribute dividends on stock or other equities of a System institution without the prior approval of the Farm Credit Administration;

(2) Pay any sum the conservator deems necessary or advisable to preserve, conserve, or protect the institution's assets or property, or with prior approval of the Farm Credit Administration, rehabilitate or improve such property and assets;

(3) Extend credit to new and existing borrowers as is necessary to the continuing operation of the institution and to effectuate the purposes of the conservatorship;

(4) Investigate any matter related to the conduct of the business of the institution including, but not limited to, any claim of the institution against any individual or entity and, under the supervision of the General Counsel of the Farm Credit Administration, institute, prosecute, maintain, defend, intervene, and otherwise participate in legal or other proceedings in the name of the institution in which the institution, its creditors, or stockholders have any interest, and otherwise represent in every way the institution, its creditors, or stockholders;

(5) Purchase or lease, for 1 year or less, property and supplies, and purchase insurance, professional, and technical services necessary for the conduct of the conservatorship, or with the prior approval of the Farm Credit Administration, lease property for greater than 1 year; or

(6) Take any action the conservator considers appropriate or expedient to the continuing operation of the institution subject to the restrictions contained in this section.

§ 611.1182 Inventory, examination, audit, and reports to stockholders.

(a) As soon as practicable after taking possession of a Farm Credit System institution the conservator shall, as may be directed by the Farm Credit Administration, make an inventory of the assets and liabilities of the institution as of the date possession was taken. Such inventory shall include the scheduling of the book value and fair market value of the institution's assets and the book value of the institution's liabilities and any security therefrom. The inventory must be in a form acceptable to the Farm Credit Administration and contain such other information as the Farm Credit Administration may require. One copy of the inventory shall be filed with the Farm Credit Administration.

(b) The institution in conservatorship shall be examined by the Farm Credit Administration on an annual basis. The institution shall also be audited by the Farm Credit Administration or at the discretion of the Farm Credit Administration by an independent certified public accountant at such times as the Farm Credit Administration may determine. The cost of such examination and audit, as determined by the Farm Credit Administration, shall be paid from the assets of the institution in conservatorship unless otherwise ordered by the Farm Credit Administration.

(c) Each institution in conservatorship shall prepare and file with the Farm Credit Administration financial reports in accordance with the requirements of Part 621 of this chapter. The conservator of the institution shall provide the certification required in § 621.12 of this chapter.

(d) Each institution in conservatorship shall prepare and issue published financial reports in accordance with provisions of Part 620 of this chapter, provided that the certifications and signatures of the board of directors or management provided for in §§ 620.2(e), 620.3(m)(3), 620.10(d), and 620.20(e) and (f) shall be provided by the conservator of the institution.

§ 611.1183 Final discharge and release of conservators.

(a) *Final report.* At such time as the conservator shall be relieved of the conservatorship duties, the conservator shall file with the Farm Credit Administration a detailed report in a form satisfactory to the Farm Credit Administration.

(b) *Discharge.* At such time as the conservator shall be relieved of the conservatorship duties, the Chairman may direct an examination of the institution and/or an audit of the books and records of the institution in connection with the final report of the conservator. The accounts of the conservator shall be approved or disapproved by the Farm Credit Administration and, if approved, the conservator shall thereupon be completely and finally released.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration.

[FR Doc. 20544 Filed 9-11-86; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

[T. D. 86-174]

Customs Regulations Amendment Concerning Access To Customs Security Areas at Airports

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to require the use and display of a Customs approved identification card, strip, or seal on existing identification cards worn by employees at airports accommodating international air commerce. The changes are necessitated by recent terrorist incidents at foreign airports, and in an effort to prevent similar incidents from occurring at U.S. airports accommodating international arrivals and departures. All Federal, and uniformed State and local law enforcement personnel are excepted from the requirement. The additional identification is required for all non-exempt persons located at, operating out of, or employed by, affected airports, who require access to Customs security areas in order to perform functions associated with their employment. The amendment also requires that an authorized official of the employer attest, in writing, that a background check of employment history and references has been conducted on their affected employees.

EFFECTIVE DATE: October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Operational Aspects: Charles P. Bartoldus (202-566-2140). Legal Aspects: Ellen McClain (202-566-2482).

SUPPLEMENTARY INFORMATION:

Background

Various provisions of the Tariff Act of 1930, as amended (19 U.S.C. 1202 *et seq.*), which are made applicable to aircraft by 19 U.S.C. 1644 (49 U.S.C. App. 1509), and § 6.10, Customs Regulations (19 CFR 6.10), provide the statutory authority for Customs officers to control the entry and clearance of aircraft arriving in the U.S. from foreign countries and the inspection of the crew, passengers, baggage, stores, and cargo carried aboard those aircraft. Section 1109 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1509), authorizes the Secretary of the Treasury to designate airports as ports of entry for civil air navigation. Section 582, Tariff Act of 1930, as amended (19

U.S.C. 1582), authorizes the Secretary of the Treasury to prescribe regulations for the detention and search of persons and baggage. These regulations are set forth in Parts 6 and 162, Customs Regulations (19 CFR Parts 6 and 162). Implicit in the search and inspection authority and the right to designate airports is the right to maintain a controlled and secure Customs area which facilitates and insures the integrity of the authorized search and inspection.

Customs found it necessary to improve integrity and security in authorized inspection areas, due in large measure to the recent sharp increases in threats to airport security posed by terrorist organizations. Existing Part 6, Customs Regulations, was inadequate for controlling access to the Customs security areas to the extent necessary. The arrival of an aircraft from abroad necessitates the services of numerous persons representing various specialties, such as ground crews, refueling personnel, baggage handlers, and food service personnel, among others. While all of these persons may have legitimate business associated with the arrival of an international flight, Customs needed a method by which access to the aircraft and inspection areas could be restricted, as well as some assurance that the servcie personnel themselves had been found trustworthy by their employers. While the Federal Aviation Administration (FAA) has general responsibility for security at airports, Customs determined that it was necessary to provide Customs with the needed authority and procedures to achieve these goals at the areas under the Customs jurisdiction.

Accordingly, Customs amended Part 6, Customs Regulations, on an interim basis by publication of T.D. 86–12 in the Federal Register on February 3, 1986 (51 FR 4161). The purpose of the amendment was to establish an identification system for all employees whose duties require access to Customs security areas at airports handling international air commerce, with the exception of Federal, and uniformed State, and local law enforcement personnel. Because of terrorist incidents at foreign airports, threats of violence at U.S. airports, and in an effort to improve the security of these areas by restricting access to authorized employees, Customs required that affected employees apply for a Customs approved identification card, or a strip or seal to be affixed to existing identification cards once an authorized official of the employer attested that background checks of employment history of the affected employees had been conducted. Since March 5, 1986, when the interim regulations became effective, Customs has issued the identification card, strip or seal once satisfied that the presence of the employee would neither endanger the revenue nor threaten the security of the entire security area (which may include the arriving airplane, ramp area, cargo area, and Customs baggage and passenger inspection facilities).

The requirement for a background investigation of employees was only for employees hired after November 1, 1984. For all employees hired before that date, the authorized official of the employer needed only attest to the fact that the employee was employed before November 1, 1984, and was considered trustworthy.

Further, the interim amendment provided identification of a "Customs security area" within which the previously described procedures would be enforced. This area could include the deplaning and ramp areas, as defined by the district director of Customs, as well as the baggage and passenger inspection areas. These areas are posted, to the extent possible, once designated. In airports with areas dedicated only to international arrivals, the posted areas are restricted at all times. In airports in which international and domestic flights share arrival facilities, the restriction times are posted to the extent they are identifiable.

The February 3, 1986, Federal Register notice solicited public comments on the new requirements. The comments received have been taken into consideration in formulating the final rule and are discussed in this document.

Analysis of Comments

Fourteen comments were received in response to publication of the interim regulations. Several commenters, including associations representing the airline industry and airport operators, took exception to the November 1, 1984, cut-off date for conducting background investigation on persons requiring access to the Customs security area. Concern was expressed that the date should be consistent with the November 1, 1985, date which the FAA utilizes in administering related requirements. We believe that this comment has merit and have changed the date after which background checks must be conducted by employers to November 1, 1985.

Other commenters stated that the new requirements are merely duplicative of FAA security regulations. The FAA has the responsibility for overall security at U.S. airports. Customs has the responsibility to safely and efficiently process international passengers, baggage, and cargo. The new requirements merely enhance the security of high risk areas and, in that sense, act to enhance the FAA efforts. They are not duplicative of the FAA requirements and have been endorsed by that agency.

A point raised by several commenters was that the need for proceeding on an emergency interim basis was never adequately justified. At the time the regulations were prepared, we were unable to make specific references to threats received. Events surrounding the threats remain classified. However, it can be stated that specific threats were received that passengers arriving at U.S. airports, on foreign flights, would be the targets of terrorist actions. The terrorist events were to take place while passengers were being processed in or exiting from Customs areas. In coordinating security measures at several airports, it became apparent that immediate tighter controls on access to Customs areas were necessary. The interim amendment to the regulations was designed to meet these needs without undue and possibly dangerous delay.

One commenter asked for exception from the formal application process for law enforcement personnel. We have revised the regulations to reflect that law enforcement personnel need not make application nor submit to background checks for security area access.

Several commenters were concerned that the processing of part-time employees would be cumbersome. Customs representatives have discussed this with industry representatives and have determined that the concern was premature. Customs officers implementing the program are cognizant of the industry concern on this subject and are working locally to avoid overburdening the industry. Therefore, no change in the regulation is warranted on this subject.

One commenter stated that he had been informed that the new requirements apply only to large airports. This is not the case. The new requirements apply to all airports at which international flights arrive or depart.

One commenter urged severe penalties for violations of the new security requirements. At this time, Customs believes that existing penalty provisions are sufficient to administer these regulations.

After consideration of all the comments received, and following further review of the matter, it has been determined to adopt the interim

regulations with the minor modifications discussed and several editorial changes.

E.O. 12291 and Regulatory Flexibility Act

Because the amendment does not meet the criteria for a "major rule" within the meaning of section 1(b) of E.O. 12291, Customs has not prepared a regulatory impact analysis.

It is certified under section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations are subject to the Paperwork Reduction Act of 1930 (44 U.S.C. 3501). Accordingly, they were submitted to the Office of Management and Budget, approved, and assigned control number 1515-0152.

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, Customs Headquarters. However, personnel from other offices participated in its developments.

List of Subjects in 19 CFR Part 6

Air carriers, Air transportation, Aircraft, Airports.

Amendment to the Regulations

Part 6, Customs Regulations (19 CFR Part 6), is amended as set forth below:

PART 6—AIR COMMERCE REGULATIONS

1. The authority citation for Part 6 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen Hdnote 11), 1624, 1644, 49 U.S.C. App. 1474, 1509.

2. Part 6 is amended by revising § 6.12a, to read as follows:

§ 6.12a Access to Customs security areas.

(a) For the purposes of this section, the term "Customs security area" means the federal inspection services area (as provided for by § 6.12(e) of this part), designated for processing passengers, crew, their baggage and effects arriving from foreign countries, as well as the aircraft deplaning and ramp areas and other restricted areas designated by the district director of Customs. These areas will be posted as restricted to the extent possible, and are established for the purpose of prohibiting unauthorized entries or contact with persons or objects.

(b) With the exception of all Federal, and uniformed State and local law enforcement personnel, all persons located at, operating out of, or employed by any airport accommodating international air commerce, or its tenants or contractors, including air carriers, who have unescorted access to the Customs security areas must openly display or produce upon demand, a Customs approved identification card, or strip or seal to be issued and affixed by Customs to existing airport identification cards. The approved identification card, strip or seal, shall be in the possession of the person in whose name it is issued at all times when the person is in the Customs security areas.

(c) An application for an approved identification card, strip or seal as required by this section, shall be filed by the applicant with the district director on Customs Form 3078. This requirement applies to all employees, regardless of the length of their employment. For employees hired on or after November 1, 1985, an authorized official of the employer shall attest in writing that a background check has been conducted on the applicant, to the extent allowable by law. The background check shall include, at a minimum, references and employment history, to the extent necessary to verify representations made by the applicant relating to employment in the preceeding 5 years. For any employee hired before November 1, 1985, the authorized official of the employer need only attest to the fact that the employee was hired before that date. The authorized official of the employer shall attest that to the best of his knowledge, the applicant meets the conditions necessary to perform functions associated with employment in the Customs security area. The fingerprints of the applicant may be required on Standard Form 87 at the time of the filing of the approved application. Proof of citizenship or authorized residency, and a photograph may also be required. In addition, the application may be investigated by Customs and a report prepared concerning the character of the applicant. Records of background investigations conducted by employers must be retained and made available upon request by the district director for a period of 1 year following cessation of employment by affected employees.

(d) Law enforcement officers and other Federal, State, or local officials requiring access to the Customs security area need only request from the district director the issuance of an approved identification card with strip or seal affixed thereto. They need not make application nor submit to background checks for security area access.

(e)(1) An approved identification card, strip, or seal shall not be issued to any person whose employment, if necessitating access to the Customs security areas will, in the judgment of the district director, endanger the revenue or the security of the areas. Grounds for denial of access shall include, but are not limited to:

(i) Any cause which would justify suspension or revocation of the identification card under the provisions of paragraph (j) of this section; or

(ii) Evidence of a pending or past investigation which establishes criminal, or dishonest conduct, or a verified record of such conduct.

(2)(i) The district director shall give written notification to any person whose application for access to the Customs security areas has been denied, fully stating the reasons for denial and setting forth specific appeal procedures. The employer shall be notified in writing that the applicant has been denied access to the area and that detailed reasons for denial have been furnished to the applicant. Specific reasons for denial shall not be furnished directly to the employer.

(ii) The denial will be final unless the applicant files with the district director a written notice of appeal. The applicant's written notice must be filed within 10 calendar days following receipt of the notice of denial. The notice of appeal shall be filed in duplicate, and shall set forth the response of the applicant to the statement of the district director. The district director shall render his decision on the appeal to the applicant within 30 calendar days.

(iii) If the district director denies the application on appeal, the applicant may file a further written notice of appeal to the Commissioner of Customs within 10 calendar days of receipt of the district director's decision on the appeal. The further notice of appeal shall be filed in duplicate, and shall set forth the response of the applicant to the district director's decision. The Commissioner or his designee shall review the appeal, and render his decision, in writing. This final decision shall be transmitted to the district director and served by him on the applicant.

(f) An employee may obtain a new identification card, strip, or seal from the district director in the following circumstances, without completing a new application:

(1) A change in employee name or address;

(2) A change in the name or ownership of his employing company;

(3) A change in employer or airport authority identification card format; or

(4) Loss or theft of the identification card, strip, or seal.

(g) The identification strip or seal shall be removed from employee identification cards by the district director when, for security reasons, it is necessary to change the nature of the identification.

(h) The loss or theft of an identification card, with strip or seal affixed, shall be promptly reported, in writing, by the employee to the district director, and may be replaced as provided in paragraph (f) of this section.

(i) If an approved identification card is presented by a person other than the one to whom it was issued, the identification strip or seal shall be removed from the identification card by the district director and destroyed.

(j)(1) An approved identification card, strip or seal may be removed from an employee by any Customs officer designated by the district director. In addition, the district director may revoke or suspend access to the Customs security area for any of the following reasons:

(i) The approved identification card, strip, or seal was obtained through fraud or the misstatement of a material fact;

(ii) The employee is convicted of a felony, or convicted of a misdemeanor involving theft, smuggling, or any theft-connected crime;

(iii) The employee permits the approved identification card to be used by any other person, or refuses to openly display or produce it upon the proper demand of a Customs officer;

(iv) The continuation of privileges would, in the judgment of the district director, endanger the revenue or security of the area;

(v) The employee refuses or neglects to obey any proper order of a Customs officer, or any Customs order, rule, or regulation; or

(vi) The employee no longer requires access to the Customs security area for an extended period of time at the airport of issuance. In this instance the employer shall notify the district director in writing, return the strip or seal, and give information regarding the disposition of the approved identification card which was issued to the employee who no longer requires access. If the employee returns to duties in the Customs security area at the airport within 1 year, a Customs Form 3078, as required by paragraph (d) of this section, need not be submitted.

(2) The district director shall suspend or revoke access to the Customs security area by giving notice of the proposed action in writing to the employee with a copy of the notice to the employer. The notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the privilege and shall be final and conclusive upon the employee unless he files with the district director a written notice of appeal as provided in paragraph (j)(3) of this section.

(3) The employee may file a written notice of appeal from the revocation or suspension within 10 calendar days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate, and shall set forth the response of the employee to the statement of the district director. The employee, in his notice of appeal, may request a hearing.

(4) If a hearing is requested, it shall be held before a hearing officer designated by the Commissioner or his designee within 30 calendar days following the request. The employee shall be notified of the time and place of the hearing at least 5 calendar days before the hearing.

(5) The employee may be represented by counsel at the revocation or suspension hearing. All evidence and testimony of witnesses in such proceeding, including substantiation of charges and the answer thereto, shall be presented with both parties having the right of cross-examination. A stenographic record of the proceedings shall be made and a copy furnished to the employee. At the conclusion of the proceedings or review of a written appeal, the hearing officer or the district director, as the case may be, shall promptly transmit all papers and the stenographic record of the hearing, if held, to the Commissioner of Customs or his designee, together with his recommendation for final action.

(6) Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the employee may submit to the Commissioner of Customs or his designee, in writing, additional views and arguments on the basis of the record.

(7) If neither the employee nor his attorney appear for a scheduled hearing, the hearing officer shall conclude the hearing and promptly transmit all papers with his recommendation to the Commissioner or his designee.

(8) The Commissioner or his designee shall render his decision, in writing, stating his reasons therefor, with respect to the action proposed by the hearing officer or the district director. The decision shall be transmitted to the district director and served by him on the employee.

(k) When an approved identification card, strip, or seal is required under paragraph (b) of this section, and the district director determines that the application for the identification card, strip, or seal cannot be administratively processed in a reasonable period of time, an employer may, upon written request, be issued a temporary identification for his employee. The employer must satisfy the district director that a hardship to his business would result pending issuance of an approved identification card, strip, or seal.

(1) The temporary identification shall be valid for a period of 60 days. The district director may renew the temporary identification for additional 30-day periods if he determines that the circumstances under which the temporary identification was originally issued continue to exist. The temporary identification shall be destroyed by the district director when the permanent approved identification card, strip, or seal is issued, or the privileges granted thereby are withdrawn.

(2) The provisions of this paragraph shall also apply to temporary employees and official visitors requiring access to the Customs security area. In the case of temporary employees, the identification shall be valid for a period of 30 days. In the case of official visitors, the temporary identification shall be valid for the day of issuance only. Temporary employee and official visitor identification are renewable for periods equal to their original period of validity.

(3) The temporary identification may be revoked and access to the Customs security area denied at any time if, in the judgment of the district director, continuation of the privileges granted thereby would endanger the revenue or if the holder of the temporary identification refuses or neglects to obey any proper order of a Customs officer, or any Customs order, rule, or regulation.

William von Raab,

Commissioner of Customs.

Approved: August 27, 1986.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 86-20580 Filed 9-11-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Name Change

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority

to reflect a title change. The title of the Chief, St. Louis Station Office is being changed to the Director, St. Louis Branch.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Marjorie J. Shandruk, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: This document changes references to the Chief, St. Louis Station Office to the Director, St. Louis Branch (April 16, 1986). FDA is revising the following sections under Part 5 in accordance with the name change. Under the following sections, the Chief, St. Louis Station Office is changed to the Director, St. Louis Branch: § 5.22 *Certification of true copies and use of the Department seal* (21 CFR 5.22), § 5.30 *Hearings* (21 CFR 5.30), § 5.36 *Certification following inspections* (21 CFR 5.36), § 5.37 *Issuance of reports of minor violations* (21 CFR 5.37), § 5.45 *Imports and exports* (21 CFR 5.45), § 5.47 *Detention of adulterated or misbranded medical devices* (21 CFR 5.47), § 5.63 *Detention of meat, poultry, eggs, and related products* (21 CFR 5.63), and § 5.89 *Notification of defects in, and repair or replacement of electronic products* (21 CFR 5.89).

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR Part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552; 7 U.S.C. 2217; 15 U.S.C. 638, 1451 et seq.; 21 U.S.C. 41 et seq., 61–63, 141 et seq., 301–392, 467f(b), 679(b), 801 et seq., 823(f), 1031 et seq.; 35 U.S.C. 156; 42 U.S.C. 219, 241, 242(a), 242a, 2421, 242o, 243, 262, 263, 263b through 263m, 264, 265, 300u et seq., 1395y and 1395y note, 3246b(b)(3), 4831(a), 10007, and 10008; Federal Caustic Poison Act (44 Stat. 1046); Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1241); Federal Advisory Committee Act (Pub. L. 92–463); E.O. 11490, 11921.

2. In § 5.22 by revising paragraph (a)(12)(iii) to read as follows:

§ 5.22 Certification of true copies and use of Department seal.

(a) * * *

(12) * * *

(iii) The Director, St. Louis Branch.

* * * * *

3. In § 5.30 by revising paragraphs (a)(7) and (c)(8) to read as follows:

§ 5.30 Hearings.

(a) * * *

(7) The Director, St. Louis Branch.

* * * * *

(c) * * *

(8) The Director, St. Louis Branch.

* * * * *

4. By revising § 5.36 to read as follows:

§ 5.36 Certification following inspections.

Regional Food and Drug Directors, District Directors, and the Director, St. Louis Branch, are authorized to issue certificates of sanitation under § 1240.20 of this chapter.

5. In § 5.37 by revising paragraph (a)(5)(iv) and the introductory text of paragraph (b)(4) to read as follows:

§ 5.37 Issuance of reports of minor violations.

(a) * * *

(5) * * *

(iv) The Director, St. Louis Branch.

(b) * * *

(4) Regional Food and Drug Directors, District Directors, and the Director, St. Louis Branch, when such functions relate to:

* * * * *

6. In § 5.45 by revising the introductory texts of paragraphs (a) and (b) and by revising paragraphs (c)(5), (d), and (e)(4) to read as follows:

§ 5.45 Imports and exports.

(a) The Regional Food and Drug Directors, District Directors, and the Director, St. Louis Branch, are authorized, under section 801 of the Federal Food, Drug, and Cosmetic Act (FFDCA), to perform the following functions or to designate officials to:

* * * * *

(b) The Director and Deputy Director, Center for Devices and Radiological Health (CDRH); the Director and Deputy Director, Office of Compliance, CDRH; Regional Food and Drug Directors; District Directors; and the Director, St. Louis Branch, are authorized, under section 360 of the Public Health Service Act (PHSA), to perform the following functions or to designate officials to:

* * * * *

(c) * * *

(5) The Director, St. Louis Branch.

(d) The Regional Food and Drug Directors, District Directors, and the Director, St. Louis Branch, are authorized to exercise all of the functions of the Commissioner of Food and Drugs under section 362 of the PHSA that refers to the prohibition of the introduction of foods, drugs, devices, cosmetics, and electronic products and other items or products regulated by the Food and Drug Administration into the United States when it is determined that it is required in the interest of public health, and such functions relate to the law enforcement functions of the Food and Drug Administration.

(e) * * *

(4) The Director, St. Louis Branch.

7. In § 5.47 by revising paragraph (d) to read as follows:

§ 5.47 Detention of adulterated or misbranded medical devices.

* * * * *

(d) The Director, St. Louis Branch.

8. By revising the introductory text of § 5.63 to read as follows:

§ 5.63 Detention of meat, poultry, eggs, and related products.

The Regional Food and Drug Directors, District Directors, and the Director, St. Louis Branch, are authorized to perform and to designate other officials to perform all of the functions of the Commissioner of Food and Drugs under:

* * * * *

9. In § 5.89 by revising the introductory text of paragraph (a) to read as follows:

§ 5.89 Notification of defects in, and repair or replacement of, electronic products.

(a) The Director and Deputy Director, Center for Devices and Radiological Health (CDRH), are authorized to perform all functions of the Commissioner of Food and Drugs relating to notification of defects in, noncompliance of, and repair or replacement of or refund for, electronic products under section 359 of the Public Health Service Act (the act) and under §§ 1003.11, 1003.22, 1003.31, 1004.2, 1004.3, 1004.4, and 1004.6 of this chapter; and Regional Food and Drug Directors, District Directors, and the Director, St. Louis Branch, are authorized to perform all such functions relating to:

* * * * *

Dated: September 5, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-20535 Filed 9-11-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 74

[Docket No. 85C-0327]

Confirmation of Effective Date for [Phthalocyaninato(2-)] Copper; Change in Organic Chloride Content Specification for the Color Additive for Coloring Sutures and Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of July 25, 1986, for the final rule that amended the color additive regulations by increasing the organic chloride content specification for the color additive [phthalocyaninato(2-)] copper used to color sutures and contact lenses. This action responded to a petition filed by Ethicon, Inc.

EFFECTIVE DATE: Effective date confirmed: July 25, 1986.

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

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 24, 1986 (51 FR 22928), FDA amended the color additive regulations by increasing the organic chloride content specification for the color additive [phthalocyaninato(2-)] copper used to color sutures and contact lenses.

FDA gave interested persons until July 24, 1986, to file objections or requests for a hearing. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA has concluded that the final rule published in the **Federal Register** of June 24, 1986, should be confirmed.

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371, 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the June 24, 1986, final rule. Accordingly, the amendments promulgated thereby became effective July 25, 1986.

Dated: September 5, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-20534 Filed 9-11-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 11

Accounting; Rescission of Regulation

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescission of regulation.

SUMMARY: This document rescinds FHWA's regulation regarding the collection of accrued unbilled cost information. This action is being taken because FHWA is now able to develop accrued unbilled cost information internally and no longer needs to collect the information from the States. This action eliminates a quarterly reporting requirement and a related semi-annual review requirement.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Max I. Inman, Office of Fiscal Services, (202) 366-0562, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 366-1383, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Title 31, United States Code, requires Federal agencies to maintain accounting records on an accrual basis. To satisfy this requirement, the FHWA issued a regulation (23 CFR Part 11) on July 19, 1974 (39 FR 26406) that required States to report accrued unbilled costs for all FHWA Federal-aid programs. The reports have been used to collect these costs for FHWA's accounting records.

The FHWA is now able to develop accrued cost information internally, and as a result, the reporting process is no longer necessary. For this reason, Part 11 is no longer operative and is, therefore, rescinded.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. Since this document merely rescinds an obsolete FHWA regulation, public comment is unnecessary. For this reason, the FHWA finds good cause to make the rescission final without prior notice and opportunity for comment and without a 30-day delay in effective date under the Administrative Procedure Act. For the same reason, notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Again, for the reasons stated above, the preparation of an economic evaluation is unnecessary, since the economic impact is minimal. Also, under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, the FHWA hereby amends Chapter I of Title 23, Code of Federal Regulations, by removing Part 11.

PART 11—ACCOUNTING [REMOVED]

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 11

Accounting, Grant programs—transportation, Highways and roads.

Authority: (23 U.S.C. 315; 49 CFR 1.48(b).

Issued on: September 8, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 86-20627 Filed 9-11-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1956

Certification of Completion of Developmental Steps for Connecticut Public Employee Only State Plan; Correction

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; correction.

SUMMMARY: In **Federal Register**, 51 FR 29917, published August 21, 1986, OSHA amended Subpart E of 29 CFR Part 1956 to reflect the Assistant Secretary's

certification of completion of developmental steps for Connecticut's Public Employee Only State Plan. Paragraph (g) was inadvertently omitted from the codification section. This notice will correct that error by adding paragraph (g). For the purpose of clarity, the codification section of the August 21, 1986, Federal Register notice is contained in this notice.

EFFECTIVE DATE: August 19, 1986.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3637, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523-8148.

List of Subjects in 29 CFR Part 1956

Intergovernmental relations, Law enforcement, Occupational safety and health.

Signed at Washington, DC, this 8th day of September 1986.

John A. Pendergrass,

Assistant Secretary of Labor.

PART 1956—[AMENDED]

In accordance with this certification, 29 CFR Part 1956 is hereby amended as follows:

1. The authority citation for Part 1956 continues to read as follows:

Authority: Secs. 8, 18, Occupational Safety and Health Act of 1970 (20 U.S.C. 657, 667); Secretary of Labor's Order No. 12-71, (36 FR 8754), 8-76 (41 FR 25059) or 9-83 (48 FR 35736), as applicable.

2. 29 CFR 1956.44 is amended to reflect successful completion of the developmental steps by adding new paragraph (g) as follows. The heading and paragraph (h) are republished.

§ 1956.44 Completion of developmental steps and certification.

* * * * *

(g) In accordance with 29 CFR 1956.10(g), a State is required to have a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan. The Connecticut Public Employee Only State plan provides for three (3) safety compliance officers and one (1) health compliance officer as set forth in the Connecticut Fiscal Year 1986 grant. This staffing level meets the "fully effective" benchmarks established for Connecticut for both safety and health.

(h) In accordance with § 1956.23 of this chapter, the Connecticut occupational safety and health public employee only plan was certified effective August 19, 1986 as having completed all developmental steps specified in the plan as approved October 2, 1978, on or before October 2, 1979. This certification attests to the structured completeness of the plan, but does not render judgment on adequacy of performance.

[FR Doc. 86-20514 Filed 9-11-86; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 3059-8]

Standards of Performance for New Stationary Sources; Additions of Quality Assurance and Quality Control Procedures to Methods 5A, 5D, 6A, 6B, and 20

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revisions and additions to Methods 5A, 5D, 6A, 6B, and 20 to add quality control (QC) and quality assurance (QA) procedures were proposed in the Federal Register on October 2, 1985 (50 FR 40280). This action promulgates these revisions and additions. The QC and QA procedural revisions and additions include field calibration checks of sample volume meters for Methods 5A and 5D, relocation of a temperature monitor for Method 5A, analytical audits for Methods 6A and 6B, and addition of the option to measure carbon dioxide (CO_2) and other procedural clarifications in Method 20.

The QC and QA revisions and additions incorporate changes made to other methods in 40 CFR Part 60 in earlier Federal Register notices (49 FR 26522 and 48 FR 55670). The intended effect is to provide procedures for verifying and improving the reliability of data produced by these test methods.

The additions to Method 20 to allow CO_2 measurements, in lieu of oxygen (O_2) measurements, include specifications for instrumental measurements and calculations for correcting pollutant measurements to specific O_2 conditions using CO_2 data. The intended effect of this procedural change is to increase the flexibility of the method.

EFFECTIVE DATE: September 12, 1986.

Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* A docket, number A-84-50, containing information considered by EPA in development of the promulgated standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Peter R. Westlin or Mr. Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2237.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

The amendments to Methods 5A and 5D incorporate QC procedures that allow the tester to check the calibration of the dry gas volume meter on the test site. An additional change to Method 5A specifies that the filter temperature sensor be located in the sample gas stream immediately downstream of the filter.

Amendments to Methods 6A and 6B specify the completion of QC analytical audits when the methods are used for compliance determinations. The audits are applied for each use of Method 6A and periodically for successive uses of Method 6B.

Amendments to Method 20 describe a procedure for substituting measurement of CO_2 for measurement of O_2. Some clarifications and minor corrections to Method 20 are also included.

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard. Rather, this rulemaking provides usable alternative procedures and valid QA and QC measures for several methods.

II. Public Participation

A public hearing was scheduled for October 23, 1985, at 10:00 a.m., but was not held because no one requested to speak. The public comment period was from October 2 to December 13, 1985. The comments have been carefully considered and, where determined to be

appropriate by the Administrator, changes have been made to the proposed rulemaking.

III. Significant Comments and Changes to the Proposed Rulemaking

Two comment letters were received. One was from the environmental department of a large industrial company and the second from a State regulatory agency. The major comments and the Agency's responses are summarized below.

The industrial commenter supported the revisions and agreed that the revisions were appropriate.

The State agency commenter directed comments toward the revisions proposed for Method 5A—Determination of Particulate Emissions from the Asphalt Processing and Asphalt Roofing Industry. The first comment concerned the availability of a sample probe cooling system capable of maintaining the filter exit sample stream temperature to the close tolerances specified in Method 5A when the sample gas stream is above 1200 °F.

The tolerance limits on the filter exit temperature are not within the scope of the proposed amendments. This issue was considered in the promulgation of Method 5A, and the availability and applicability of water-cooled probes were established at that time.

The second comment was that the temperature indicator required for the monitoring of filter exit temperature may be too expensive for a single source category. The commenter recommends use of the existing temperature monitoring system.

Temperature monitoring in Method 5 and, hence, Method 5A is a requirement that has long been part of the methods. The proposed revision does not add a requirement to monitor temperature but specifies a new location for this monitoring. The Agency estimates the cost for modifying a filter holder to accommodate a temperature monitor downstream of the filter to be less than $20.

The last comment was a recommendation to consider a condensation filtration technique in Method 5A as an alternative to the proposed filter temperature monitoring procedure. It is not within the scope of these revisions to consider alternatives to Method 5A. Additionally, the method is essentially a condensation-filtration procedure as written. Monitoring the filtration temperature within close tolerances is important in such procedures and the amendments address this concern directly.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review [section 307(d)(7)(A)].

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The revisions to these methods do not add any requirements to the testing of new sources, but, instead, provide QC procedures and alternative procedures that will add flexibility in the application of the methods. The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291. This regulation has been submitted to the Office of Management and Budget for E.O. 12291 review.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a regulatory flexibility analysis (RFA) in those instances where small business impacts are possible. Because these standards impose no adverse economic impacts, an RFA has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will have no economic impact on small entities because no additional testing costs will be incurred.

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 2, 1986.

A. James Barnes,

Acting Administrator.

PART 60—[AMENDED]

In Appendix A of 40 CFR Part 60, Methods 5A, 5D, 6A, 6B, and 20 are amended as follows:

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

Authority: Sec. 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. In Method 5A, by revising Section 2.1.4 as follows:

2.1.4 Filter Heating System. Any heating (or cooling) system capable of maintaining a sample gas temperature at the exit end of the filter holder during sampling at 42±10 °C (108±18 °F). Install a temperature gauge capable of measuring temperature within 3 °C (5.4 °F) at the exit side of the filter holder so that the sensing tip of the temperature gauge is in direct contact with the sample gas, and the sample gas temperature can be regulated and monitored during sampling. The temperature gauge shall comply with the calibration specifications defined in Section 5. The tester may use systems other than the one shown in APTD–0581.

3. In Method 5A, by adding a new Section 4.4 to Section 4 as follows:

4.4 Quality Control Procedures. A quality control (QC) check of the volume metering system at the field site is suggested before collecting the sample. Use the procedure defined in Method 5, Section 4.4.

4. In Method 5D, by adding Section 4.7 to Section 4 as follows:

4.7 Quality Control Procedures. A (QC) check of the volume metering system at the field site is suggested before collecting the sample. Use the procedure defined in Section 4.4 of Method 5.

5. In Method 6A, by adding Section 4.4 as follows:

4.4 Quality Assurance (QA) Audit Samples. Only when this method is used for compliance determinations, obtain an audit sample set as directed in Section 3.3.6 of Method 6. Analyze the audit samples, and report the results as directed in Section 4.4 of Method 6. Acceptance criteria for the audit results are the same as in Method 6.

6. In Method 6A, by revising Section 7.5 to Section 7 as follows:

7.5 Sample Analysis. Analysis of the peroxide solution is the same as described in Section 4.3. Only when making compliance determinations, conduct an audit of the SO_2 analysis procedure as described in Section 4.4.

7. In Method 6B, by adding Section 4.4 as follows:

4.4 Quality Assurance (QA) Audit Samples. Only when this method is used for compliance determinations, obtain an audit

sample set as directed in Section 3.3.6 of Method 6. Analyze the audit samples at least once for every 30 days of sample collection, and report the results as directed in Section 4.4 of Method 6. The analyst performing the sample analyses shall perform the audit analyses. If more than one analyst performed the sample analyses during the 30-day sampling period, each analyst shall perform the audit analyses and all audit results shall be reported. Acceptance criteria for the audit results are the same as in Method 6.

8. In Method 6B, by revising Section 7 as follows:

7. *Emission Rate Procedure.*

The emission rate procedure is the same as described in Method 6A, Section 7, except that the timer is needed and is operated as described in this method. Only when this method is used for compliance determinations, perform the QA audit analyses as described in Section 4.4.

9. In Method 20, by revising the title as follows:

Method 20—Determination of Nitrogen Oxides, Sulfur Dioxide, and Diluent Emissions from Stationary Gas Turbines

10. In Method 20, by revising Section 1.1 as follows:

1.1 Applicability. This method is applicable for the determination of nitrogen oxides (NO_x), sulfur dioxide (SO_2), and a diluent gas, either oxygen (O_2) or carbon dioxide (CO_2), emissions from stationary gas turbines. For the NO_x and diluent concentration determinations, this method includes: (1) measurement system design criteria; (2) analyzer performance specifications and performance test procedures; and (3) procedures for emission testing.

11. In Method 20, Section 1.2, by replacing "O_2" wherever it appears with "diluent."

12. In Method 20, by adding new Sections 2.1.4 and 2.1.5 as follows:

2.1.4 CO_2 Analyzer. That portion of the system that senses CO_2 and generates an output proportional to the gas concentration.

2.1.5 Data Recorder. That portion of the measurement system that provides a permanent record of the analyzer(s) output. The data recorder may include automatic data reduction capabilities.

13. In Method 20, Section 2.7, by replacing "continuous monitoring system" with "measurement system."

14. In Method 20, Sections 4.1 and 4.1.5, by replacing "O_2" wherever it appears with "diluent."

15. In Method 20, Section 3.3, by replacing "3" with "30."

16. In Method 20, Section 4.1.11, by replacing "Data Output" with "Data Recorder."

17. In Method 20, by revising Section 4.1.9 as follows:

4.1.9 Diluent Gas Analyzer. An analyzer to determine the percent O_2 or CO_2 concentration of the sample gas.

18. In Method 20, by revising Section 4.4 and adding new Sections 4.4.1 and 4.4.2 as follows:

4.4 Diluent Calibration Gases.

4.4.1 For O_2 calibration gases, use purified air at 20.9 percent O_2 as the high-level O_2 gas. Use a gas concentration between 11 and 15 percent O_2 in nitrogen for the mid-level gas, and use purified nitrogen for the zero gas.

4.4.2 For CO_2 calibration gases, use a gas concentration between 8 and 12 percent CO_2 in air for the high-level calibration gas. Use a gas concentration between 2 and 5 percent CO_2 in air for the mid-level calibration gas, and use purified air (<100 ppm CO_2) as the zero level calibration gas.

19. In Method 20, Section 5.1, by replacing "O_2" wherever it appears with "O_2 or CO_2."

20. In Method 20, Sections 5.2, 5.3, 5.3.2, and 5.4, by replacing "O_2" wherever it appears with "diluent."

21. In Method 20, Section 5.3.2, by removing the "±" symbol. The phrase shall be ". . . gases within 2 percent . . ."

22. In Method 20, by revising Section 6.1.2 as follows:

6.1.2 A preliminary O_2 or CO_2 traverse is made for the purpose of selecting sampling points of low O_2 or high CO_2 concentrations, as appropriate for the measurement system. Conduct this test at the turbine operating condition that is the lowest percentage of peak load operation included in the test program. Follow the procedure below, or use an alternative procedure subject to the approval of the Administrator.

23. In Method 20, Sections 6.1.2.2 and 6.1.2.3, by replacing "O_2" wherever it appears with "diluent."

24. In Method 20, by revising Section 6.1.2.4 as follows:

6.1.2.4 Selection of Emission Test Sampling Points. Select the eight sampling points at which the lowest O_2 concentrations or highest CO_2 concentrations were obtained. Sample at each of these selected points during each run at the different turbine load conditions. More than eight points may be used, if desired, providing that the points selected as described above are included.

25. In Method 20, Sections 6.2, 6.2.2, and 6.3, by replacing "O_2" wherever it appears with "diluent."

26. In Method 20, Figures 20-6 and 20-8, by replacing "Oxygen" and "O_2" wherever they appear with "Diluent."

27. In Method 20, by revising Section 7 as follows:

7. *Emission Calculations.*

7.1 Moisture Correction. Measurement data used in most of these calculations must be on a dry basis. If measurements must be corrected to dry conditions, use the following equation:

$$C_d = \frac{C_w}{1 - B_{ws}}$$

Eq. 20-1

where:

C_d = Pollutant or diluent concentration adjusted to dry conditions, ppm or percent.

C_w = Pollutant or diluent concentration measured under moist sample conditions, ppm or percent.

B_{ws} = Moisture content of sample gas as measured with Method 4, reference method, or other approved method, percent/100.

7.2 CO_2 Correction Factor. If pollutant concentrations are to be corrected to 15 percent O_2 and CO_2 concentration is measured in lieu of O_2 concentration measurement, a CO_2 correction factor is needed. Calculate the CO_2 correction factor as follows:

7.2.1. Calculate the fuel-specific F_o value for the fuel burned during the test using values obtained from Method 19, Section 5.2, and the following equation.

$$F_o = \frac{0.209\ F_c}{F_c} \qquad \text{Eq. 20-2}$$

where:

F_o = Fuel factor based on the ratio of oxygen volume to the ultimate CO_2 volume produced by the fuel at zero percent excess air, dimensionless.

0.209 = Fraction of air that is oxygen, percent/100.

F_d = Ratio of the volume of dry effluent gas to the gross calorific value of the fuel from Method 19, dsm^3/J ($dscf/10^6$ Btu).

F_c = Ratio of the volume of carbon dioxide produced to the gross calorific value of the fuel from Method 19, dsm^3/J ($dscf^6$ Btu).

7.2.2. Calculate the CO_2 correction factor for correcting measurement data to 15 percent oxygen, as follows:

$$X_{CO_2} = \frac{5.9}{F_o} \qquad \text{Eq. 20-3}$$

where:

X_{CO_2} = CO_2 Correction factor, percent.

5.9 = 20.9 percent O_2 − 15 percent O_2, the defined O_2 correction value, percent.

7.3 Correction of Pollutant Concentrations to 15 percent O_2. Calculate the NO_x and SO_2 gas concentrations adjusted to 15 percent O_2 using Equation 20-4 or 20-5, as appropriate. The correction to 15 percent O_2 is very sensitive to the accuracy of the O_2 or CO_2 concentration measurement. At the level of the analyzer drift specified in Section 3, the O_2 or CO_2 correction can exceed 5 percent at the concentration levels expected in gas turbine exhaust gases. Therefore, O_2 or CO_2 analyzer stability and careful calibration are necessary.

7.3.1 Correction of Pollutant Concentration Using O_2 Concentration. Calculate the O_2 corrected pollutant concentration, as follows:

$$C_{adj} = C_d \frac{5.9}{20.9 - \%O_2} \quad \text{Eq. 20–4}$$

where:

C_{adj} = Pollutant concentration corrected to 15 percent O_2 ppm.

C_d = Pollutant concentration measured, dry basis, ppm.

$\%O_2$ = Measured O_2 concentration dry basis, percent.

7.3.2 Correction of Pollutant Concentration Using CO_2 Concentration. Calculate the CO_2 corrected pollutant concentration, as follows:

$$C_{adj} = C_d \frac{X_{CO_2}}{\%CO_2} \quad \text{Eq. 20–5}$$

where:

$\%CO_2$ = Measured CO_2 concentration measured, dry basis, percent.

7.4 Average Adjusted NO_x Concentration. Calculate the average adjusted NO_x concentration by summing the adjusted values for each sample point and dividing by the number of points for each run.

7.5 NO_x and SO_2 Emission Rate Calculations. The emission rates for NO_x and SO_2 in units of pollutant mass per quantity of heat input can be calculated using the pollutant and diluent concentrations and fuel-specific F-factors based on the fuel combustion characteristics. The measured concentrations of pollutant in units of parts per million by volume (ppm) must be converted to mass per unit volume concentration units for these calculations. Use the following table for such conversions:

CONVERSION FACTORS FOR CONCENTRATION

From	To	Multiply by
g/sm^3	ng/sm^3	10^9
mg/sm^3	ng/sm^3	10^6
lb/scf	ng/sm^3	1.602×10^{11}
ppm (SO_2)	ng/sm^3	2.660×10^6
ppm (NO_x)	ng/sm^3	1.912×10^6
ppm (SO_2)	lb/scf	1.660×10^{-7}
ppm (NO_x)	lb/scf	1.194×10^{-7}

7.5.1 Calculation of Emission Rate Using Oxygen Correction. Both the O_2 concentration and the pollutant concentration must be on a dry basis. Calculate the pollutant emission rate, as follows:

$$E = C_d F_d \frac{20.9}{20.9 - \%O_2} \quad \text{Eq. 20–6}$$

where:

E = Mass emission rate of pollutant, ng/J (lb/10^6 Btu).

7.5.2 Calculation of Emission Rate Using Carbon Dioxide Correction. The CO_2 concentration and the pollutant concentration may be on either a dry basis or a wet basis, but both concentrations must be on the same basis for the calculations. Calculate the pollutant emission rate using Equation 20–7 or 20–8:

$$E = C_d F_c \frac{100}{\%CO_2} \quad \text{Eq. 20–7}$$

$$E = C_w F_c \frac{100}{\%CO_{2w}} \quad \text{Eq. 20–8}$$

where:

C_w = Pollutant concentration measured on a moist sample basis, ng/sm^3 (lb/scf).

$\%CO_{2w}$ = Measured CO_2 concentration measured on a moist sample basis, percent.

28. In Method 20, in Section 8, by changing designations 8.1 and 8.2 to 1. and 2., respectively, and by adding Citation 3 to Section 8 as follows:

3. Shigehara, R.T., R.M. Neulicht, and W.S. Smith. Validating Orsat Analysis Data from Fossil Fuel-Fired Units. Emission Measurement Branch, Emission Standards and Engineering Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. June 1975.

29. In Method 20, by replacing Figure 20–1 with new Figure 20–1 in Method 20.

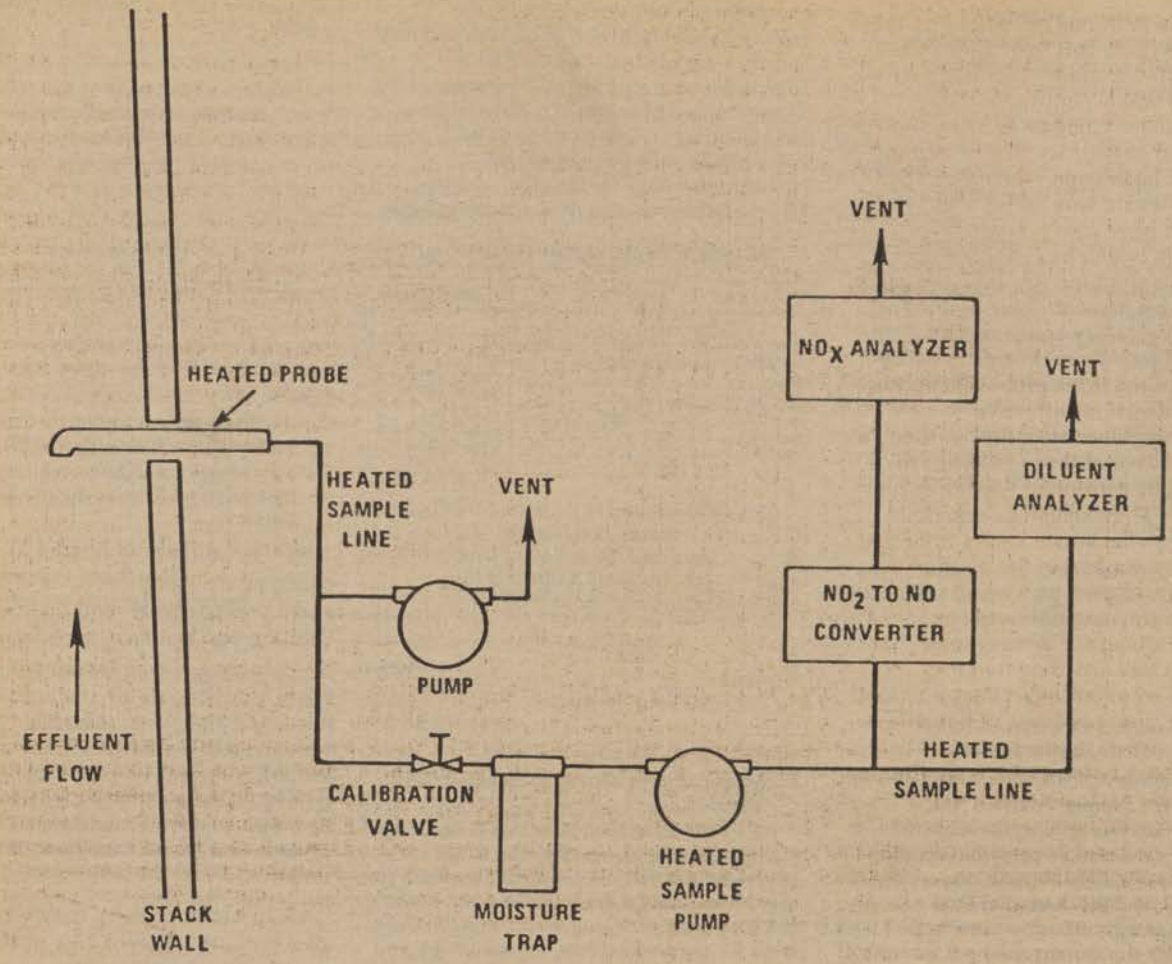


Figure 20-1. Measurement system design.

[FR Doc. 86-20254 Filed 9-11-86; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-3078-4]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting final exclusions for the solid wastes generated at two particular generating facilities from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: September 12, 1986.

ADDRESSES: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475-9327 or Kate Blow at (202) 382-4675 for appointments. The reference number for this docket is "F-86-CPEF-FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424-9346, or (202) 382-3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION: On July 30, 1986, EPA proposed to exclude specific wastes generated by three facilities, including: (1) Capitol Products Corporation, located in Harrisburg, Pennsylvania (see 51 FR 27217); and (2) Continental Can Company, located in Olympia, Washington (see 51 FR 27218).[1] These actions were taken in

[1] In the same **Federal Register** notice, the Agency also proposed to exclude the waste generated by the Whirlpool Corporation, located in Findlay, Ohio (see 51 FR 27220). This facility generates wastewater treatment sludges from electroplating operations (EPA Hazardous Waste No. F006). The Agency is currently re-evaluating its listing criteria for this particular wastestream, and therefore, will address the proposed decision on Whirlpool's petition in a future **Federal Register** notice.

response to petitions submitted by these companies (pursuant to 40 CFR 260.20 and 260.22) to exclude their wastes from hazardous waste control. In their petitions, these companies have argued that certain of their wastes were non-hazardous based upon the criteria for which the waste was listed. The petitioners have also provided information which has enabled the Agency to determine whether any other toxicants are present in the wastes at levels of regulatory concern. The purpose of today's actions is to make final two of the three proposals and to make our decisions effective immediately. More specifically, today's rule allows two of these facilities to manage their petitioned wastes as non-hazardous. The exclusions remain in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[2] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioners granted final exclusions in today's **Federal Register** have been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the wastes for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the waste to be hazardous. The petitioners have demonstrated through submission of raw materials data, EP toxicity test data for all EP toxic metals, and test data on the four hazardous waste characteristics that their wastes do not exhibit any of the hazardous waste characteristics, and do not contain any other toxicants at levels of regulatory concern.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[3] To date only one State (Georgia) has received approval for their delisting program. The final exclusions granted today, therefore, are issued under the Federal program. States, however, can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs, petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusions made final here involve the following petitioners: Capitol Products Corporation, Harrisburg, Pennsylvania; Continental Can Company, Olympia, Washington.

I. Capitol Products Corporation

A. Proposed Exclusion

Capitol Products Corporation (Capitol) has petitioned the Agency to exclude its wastewater treatment sludge (clarifier sludge) from EPA Hazardous Waste No. F019, based on the low concentration and immobilization of the listed consituents in the waste. Data submitted by Capitol substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Capitol indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 27217–27218, July 30, 1986, for a more detailed explanation of why EPA proposed to grant Capitol's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Capitol for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the clarifier sludge is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Capitol Products Corporation for its dewatered wastewater treatment sludge (clarifier sludge) resulting from the chemical conversion coating of aluminum, listed as EPA Hazardous Waste No. FO19, generated at its Harrisburg, Pennsylvania facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[4] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

II. Continental Can Company

A. Proposed Exclusion

Continental Can Company (Continental) has petitioned the Agency to exclude its dewatered wastewater treatment sludge (vacuum filtration sludge) from EPA Hazardous Waste No. FO19, based on the low concentration and immobilization of the listed constituents of concern in this waste. Data submitted by Continental substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Continental indicate that no other hazardous constituents are present in this waste, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 27218–27220, July 30, 1986, for a more detailed explanation of why EPA proposed to grant Continental's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Continental for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the vacuum filtration sludge is non-hazardous and as such should be excluded from hazardous

[2] The current exclusions apply only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new exclusion is granted.

[3] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendmemts of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

[4] The current exclusion applies only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new petition is granted.

waste control. The Agency, therefore, is granting a final exclusion to Continental Can Company for its dewatered wastewater treatment sludge (vacuum filtration sludge) resulting from the chemical conversion coating of aluminium, listed as EPA Hazardous Waste No. FO19, generated at its Olympia, Washington facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[5] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

III. Effective Date

This rule is effective immediately. Although Subtitle C regulations normally take effect six months after promulgation (RCRA section 3010(b)), the Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increase, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that this rule should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's lists of hazardous wastes, thereby enabling these facilities to treat their wastes as non-hazardous.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e., small businesses, small organizations, and small governmental jurisdictions). The Adminsitrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.*

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: September 4, 1986.

Marcia Williams,

Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestreams in alphabetical order to Table 1 as indicated:

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * *
Capitol Products Corp.	Harrisburg, PA.	Dewatered wastewater treatment slugdges (EPA Hazardous Waste No. FO19) generated from the chemical conversion coating of aluminum after September 12, 1986.
Continental Can Co.	Olympia, WA.	Dewatered wastewater treatment sludges (DPA Hazardous Waste No. FO19) generated from the chemical conversion coating of aluminum after September 12, 1986.
*	*	* * *

[FR Doc. 86–20584 Filed 9–11–86; 8:45 am]

BILLING CODE 6560–50–M

[5] See footnote 4.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Final Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final late-season frameworks from which States may select season dates, limits and other options for the 1986–87 migratory bird hunting season. The earliest of these seasons generally commences on or about October 1, 1986, and include most of those for waterfowl.

The Service annually prescribes hunting regulations frameworks to the States. The effects of this final rule are to facilitate the selection of hunting seasons by the States and to further the establishment of the late-season migratory bird hunting regulations for 1986–87. State selections will be published in the **Federal Register** as amendments to §§ 20.104 through 20.107 and § 20.109 of Title 50 CFR Part 20.

EFFECTIVE DATE: This rule takes effect on September 12, 1986.

ADDRESSES: Send State season selections to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240. Comments received on the proposed late-season frameworks are available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC. 20240. Telephone (202) 254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703–711), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

On March 21, 1986, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (51 FR 9854) proposals to amend 50 CFR Part 20, with comment periods ending June 19, July 14 and August 25, 1986, respectively, for the 1986–87 Alaska, Hawaii, Puerto Rico and Virgin Islands hunting seasons; other early hunting seasons; and the late hunting seasons frameworks. That document dealt with the establishment of hunting seasons, shooting hours, areas and limits for migratory game birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. A supplemental proposed rulemaking for both the early- and late-season frameworks appeared in the **Federal Register** dated June 6, 1986 (51 FR 20677).

On July 3, 1986, the Service published for public comment in the **Federal Register** (51 FR 24415) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early-season migratory bird hunting regulations. On July 25, 1986, the Service published in the **Federal Register** (51 FR 26712) a fourth document containing final frameworks for Alaska, Puerto Rico and the Virgin Islands. On August 13, 1986, the Service published in the **Federal Register** (51 FR 28946), a fifth document containing final frameworks for other early seasons for migratory bird hunting from which State wildlife conservation agency officials selected early-season hunting dates, hours, areas and limits for the 1986–87 season. On August 15, 1986 (51 FR 29274) a sixth document containing proposed frameworks for late season migratory bird hunting regulations was published. On August 28, 1986, the Service published in the **Federal Register** (51 FR 30646) a seventh document consisting of a final rule amending subpart K of Title 50 CFR Part 20 to set hunting seasons, hours, areas and limits for mourning doves, white-winged and white-tipped doves, band-tailed pigeons, rails, woodcock, common snipe, and common moorhen and purple gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in Florida, Iowa, Kentucky and Tennessee; Canada geese in September in portions of Michigan; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico and the Virgin Islands; and extended falconry seasons. This document is the eighth in the series and establishes final frameworks for late-season migratory bird hunting regulations for the 1986–87 season.

Migratory Bird Hunting on Indian Reservations

In the March 21, 1986, **Federal Register** (at 51 FR 9858 and 9860), the Service proposed to amend § 20.1 (Scope of regulations) of 50 CFR Part 20 by adding a paragraph to clarify the conditions under which a memorandum of understanding may be employed to reach agreement on migratory bird hunting regulations for members of Indian tribes that have reserved hunting rights on their reservations or on off-reservation trust lands. Following review of comments received, the Service has concluded that the guidelines published on September 3, 1985, (at 50 FR 35762) should provide appropriate guidance in reaching such agreement. Therefore, at this time, the Sevice defers amending 50 CFR Part 20 for this purpose. The Service intends, however, to continue consulting with interested tribes to reach mutual agreement on migratory bird hunting regulations for tribal members, and agreements recently were reached with the Mille Lacs and White Earth Bands of the Minnesota Chippewa Indian Tribe for sustenance regulations for the 1986 hunting season. The agreements permit a mid-September opening of the waterfowl season, and they allow some flexibility in bag limits, under the conditions spelled out in the guidelines. The Service believes that the harvest of waterfowl and other migratory game birds by tribal members will be the same as in past years and is pleased that it was possible to reach mutual agreement on sustenance hunting regulations with these two Chippewa Indian Bands.

Review of Public Comments and the Service's Response

Written Comments Received

In the **Federal Register** dated June 6, 1986, (at 51 FR 20677), the Service responded to comments received up to that time on proposed late season frameworks. Fifteen statements made at the public hearing on proposed late hunting season frameworks and 20 additional written comments were summarized and responded to in the **Federal Register** dated August 15, 1986 (at 51 FR 29274). Since then 81 written comments have been received. In several cases, more than one comment was received from the same respondent, and in some others views were offered on more than one regulatory subject. The new comments are summarized and responded to according to the numbered regulatory topics identified in the **Federal Register** dated March 21, 1986 (51 FR 9854).

1. Shooting Hours

Defenders of Wildlife expressed the hope that their concerns about "predawn" hunting hours will be more adequately addressed in the forthcoming supplemental environmental impact statement (SEIS) on the issuance of regulations for sport hunting migratory birds.

Response. The Service will review the shooting hours issue in the SEIS on sport hunting scheduled for development in 1987.

2. Frameworks for ducks in Conterminous United States—Outside Dates, Season Length and Bag Limits

(a) Defenders of Wildlife, by letter of August 25, 1986, expressed its suport of the Service's proposed 1986–87 duck hunting regulations frameworks which in essence continue the conservative duck harvest management strategy of 1985–86.

(b) A California hunter questioned the necessity of the additional restriction on mallard bag limits in California because mallard production there was reportedly excellent in 1986 and because California hunters shoot mainly California-produced mallards. He also noted that in the Klamath Basin where he must he would be unduly restricted by the 4-mallard limit because only mallards are available there and he therefore would be denied the opportunity of harvesting a fifth duck.

Response. The Service's information on breeding duck populations in California is provided by the California Department of Fish and Game (CDFG). CDFG reported that the 1986 breeding populations of total ducks and mallards, respectively, were 27% and 26% below those of 1985. California-produced mallards are important to the California harvest, with some regions of the State benefiting to a greater extent than others. However, information on distribution and derivation of harvests indicate that about half of California's mallard harvest is derived from birds coming from outside the State. While California-produced mallards may or may not benefit from these restrictive limits, that segment of the population coming from Prairie Canada which Californians shoot does warrant this additional protection. In those areas where one species of duck comprises a majority of the bag, species-specific regulations are apt to be the most effective in achieving their intended

results—reducing the mallard harvest in this particular situation.

(c) The California Waterfowl Association (CWA), the Waterfowl Habitat Owners Alliance, the Oregon Duck Hunters Association and 25 individuals from California, several of which were commenting on behalf of waterfowl hunting clubs, recommended that frameworks governing duck hunting regulations in the Pacific Flyway be the same as last year. CWA reasoned that the additional restrictions in numbers of mallards and pintails over last year is unwarranted because populations of the two species showed increases over last year and because the Pacific Flyway more than achieved the sought-for harvest reduction in 1985 when comparing it with 1983 instead of 1984. Many of those commenting also expressed concern that restrictive regulations may reduce the incentive of some private landowners to provide wintering habitat for waterfowl.

Response. The Service is cognizant of the restrictive measures voluntarily taken by some Pacific Flyway States during the 1984–85 season, with some of those restrictions being more substantive than others. The Service notes that there were reductions in harvests from 1983 to 1984 among most of the non-targeted species as well as in those States that did not take restrictive measures, suggesting that much of the reductions in harvests were attributable to the then second lowest fall flight into the Pacific Flyway. While there have been improvements in both breeding populations and the fall flight over 1985, those for 1986 are still the second lowest on record and those from southern Alberta, an area of considerable importance to the Pacific Flyway, are at the lowest level in our records. The Service recognizes the potential loss, due to restrictive regulations, of public support for waterfowl conservation, but the immediate needs of the resource must be considered first. Every effort has been made to provide opportunities for recreational use of the waterfowl resource to the extent compatible with sound management.

(d) In the Atlantic Flyway, the States of Maine, New Hampshire, Vermont, Massachusetts and Connecticut submitted comments that opposed the proposed restrictions on mallards for the New England States in 1986–87. These objections were based largely on the belief that the harvest of mallards in the New England States has little impact on western mallard populations; that mallards in the northeast are increasing and do not need protecting; and that restrictions on mallards could be detrimental to black ducks by either increasing harvest directly or by increasing rates of hybridization. They argued there is no biological justification for reducing mallard harvest in New England and asked that the Service exempt the six New England States from mallard daily bag restrictions.

Response. The Service acknowledged the concerns expressed by the Northestern States regarding mallard regulations during the 1985–86 season in the September 5, 1985, **Federal Register** (50 FR 36200). In view of the arguments, the Service established a Northeast Management Unit on an experimental basis but specifically requested that more information be provided in the coming year to better define the management objectives and boundaries of the Unit. This request was reiterated in the June 6, 1986, **Federal Register** (51 FR 20679) which further asked that a detailed proposal containing justification, management objectives and an evaluation plan be submitted to the Service prior to the late-season regulations meeting. In the absence of such a proposal or additional information on this subject, the Northeast Management Unit was not continued for 1986–87. Although the Unit was not specifically requested for the 1986–87 season, similar documentation would be necessary for the Service to exempt the six New England States from the mallard restrictions being applied to the Atlantic Flyway. The Service recognzies different mallard stocks in the Atlantic Flyway, but without better population and banding data, the impacts from a variety of species-specific regulations throughout the Flyway cannot be adequately evaluated. While an increase in the harvest of mallards in the New England States may have merit to reduce detrimental effects on black ducks and to reduce the number of nuisance "Park" mallards, a management plan with goals and objectives is needed. The Atlantic Flyway Council has acknowledged the need for a stronger data base and a management plan for mallards, especially in the Northeast. The issue is not solely protection of a few prairie-nesting mallards, but rather appropriate management of a complex resource. Any consideration of differntial species regulations within a flyway should proceed through a coordinated flyway plan, an experimentation phase, and evaluation prior to being considered for operational status.

(e) A letter from a Massachusetts biologist presented mallard distribution and derivation data from surveyed and unsurveyed areas, band recovery information and harvest results in support of special mallard regulations for the New England States. He indicated that different bag limits on wood ducks and Canada geese by region in the Flyway has set a precedent for independent bag limits for mallards in New England. He stated that since the New England States harvest few prairie mallards and are outside the principal migration corridor of mallards produced in eastern Ontario and western Quebec, mallard bag restrictions for the Northeast place unnecessary restrictions on hunters and can not be biologically justified. Further, he suggested that affording additional protection to mallards in New England is counter productive to efforts to increase black duck populations and can only exacerbate the problem of hybridization.

Response. The Service appreciates the information presented to justify separate mallard regulations in New England, but again emphasizes the need for a management plan or a proposal which specifically sets goals and objectives, and procedures to evaluate a particular mallard harvest strategy (see preceding comments above). Although considerable biological information has been analyzed by State and Federal biologists regarding the status of mallards in the Northeast, no formal proposal or plan has emerged. Further, the Service points out the fact that extensive documentation was a prerequisite before the establishment of special seasons on wood ducks and other waterfowl or before the institution of separate managment units in other Flyways. To establish different mallard regulations in the Northeast, separate from the remainder of the Flyway without a well designed plan would be inconsistent with normal requirements for special seasons and would preclude evaluation of the impacts. The impact of mallard restrictions, including only one hen in the bag, on black duck populations cannot be fully assessed. However, since the harvest on mallards in the Northeast is small and few complete mallard bags are reported, impacts to black ducks should be small.

(f) A letter from a Connecticut biologist objected to the proposed Flyway-wide mallard bag limit restriction. He argued that such restrictions were not warranted for the New England States, particularly since the total mallard harvest that occurs in New England from populations of concern is small. He stated that data showing mallard harvest by order in the daily bag suggests the difference in bag size from 5 to 3 results in the savings of only few mallards derived from the mid-

continent area. Also, he indicated that mallard populations are increasing in the Northeast, primarily due to local production and that mallard restrictions may encourage hunters to shift pressure to black ducks.

Response. The Service notes that the comments presented by the Connecticut biologist are similar to those received from Massachusetts and refers to the response given to the Massachusetts' biologist's comments.

(g) A letter from a wildlife biologist from Rhode Island objected to the proposed 1986–87 regulations frameworks for mallard bag limits in the New England States. He indicated that mallard populations in New England and eastern Canada are increasing, and the increasing numbers are causing additional pressure on the region's black duck populations through habitat competition and hybridization. He recommended the New England States be exempt from any restrictions on mallard harvest.

Response. The Service notes these comments are similar to those previously addressed and the Massachusetts response applies.

(h) A letter received from the Finger Lakes and Western New York Waterfowl Association expressed dissatisfaction and disagreement concerning mallard restrictions imposed on the Atlantic Flyway during the 1985–86 season and those proposed for 1986–87. They note that the percentage of mallard band recoveries from western reference areas during 1950–69 and 1975–84 in the Atlantic was 3.3% and 2.8%, respectively, whereas during the same years in the Mississippi Flyway the percentage of recoveries from western reference areas was 62.4% and 72.1%, respectively. Yet, regulations frameworks between the two Flyways are similar. Therefore, they maintain that the Atlantic Flyway's harvest has a minimal impact on prairie mallards and does not justify the imposition of mallard restrictions to the same extent as in other Flyways. Also, based on unweighted recovery data from western reference areas, they suggested that the high male to female recovery ratio in the Atlantic Flyway demonstrates that mallard hen restrictions are not justified. Further, they point out that mallard restrictions will serve to transfer pressure to black ducks as hunters are not permitted a four mallard bag. They concluded, based on their analysis and interpretation of the data available, that the Atlantic Flyway is being made to accept a disproportionate burden of the mallard harvest restrictions.

Response. The Service has long recognized that duck populations from the surveyed areas are not distributed equally among Flyways and States within Flyways. Also, the Service has long been aware that the Atlantic Flyway receives fewer mallards from the surveyed areas than other Flyways. Nevertheless, during the development of the 1985–86 duck hunting frameworks the Service asked all Flyways to achieve a 25% reduction in their harvest of ducks in general and in particular, mallards and pintails entering each Flyway. These restrictions were imposed on all Flyways since breeding stocks had declined to record low levels and these population segments, no matter how small, required protection and rebuilding. In the Atlantic Flyway, mallards, pintails, gadwalls, wigeons, etc. reached record low levels during the 1985 winter inventory. Thus, these restrictions were designed to protect population segments having migration and wintering affinities to each particular Flyway rather than to specifically restrict in the Flyway having the largest component of birds derived from the surveyed area. For example, imposing restrictions in the Mississippi Flyway while exempting the Atlantic Flyway from restrictions would have no influence on rebuilding populations important to Atlantic Flyway States.

Management has made great strides but we remain incapable of sorting out all distinctive waterfowl populations and monitoring the annual recruitment and mortality rates of these populations. In the absence of such capabilities, extensive documentation must be required before differential regulations can be designed for regions within a particular Flyway. In the case of the Atlantic Flyway, a considerable proportion of the mallard harvest is derived from unsurveyed areas. Therefore, given the low population status of many species in the Flyway, and without information to document breeding populations and annual productivity and better data to assess mortality factors from outside the surveyed areas, the Service believes a conservative harvest strategy is justified in the Atlantic Flyway.

The Service notes the information presented on sex ratios of recoveries from western reference areas, but without weighting these data and determining differential vulnerability, little meaningful information can be derived. However, hen restrictions are justified since it is the female component that is needed to rebuild population segments migrating to the Atlantic Flyway. The impacts of mallard restrictions on black ducks are reviewed in the response to the Massachusetts biologist.

(i) By letter dated May 29, 1986, Florida notified the Service of their intent to seek a reduction in the point value of ring-necked ducks from 35 to 20 points in the Atlantic Flyway. A proposal and supporting justification accompanied the letter. Subsequent correspondence from Florida dated July 7, July 24 and August 22, 1986, provided additional information or support for the change. The State maintains there is evidence that ring-necked ducks exhibit a long term population growth in both of the major reference areas contributing to the Atlantic Flyway, that harvest surveys suggest a stable or increasing population of ring-necked ducks and that apparent declines in ring-necked ducks based on winter counts are the result of changes in survey effort and are not evidence of real change in the population. Florida does not view the proposed point value change for ring-necked ducks as a liberalization but as a correction of an unwarranted point value change effected in 1985. Florida also indicated that all States operating under conventional bag limits may now take 4 ring-necked ducks per day instead of the 3 permitted under the point system option. Finally, Florida noted the absence of a Service response in the proposed late-season frameworks published August 15, 1986 (at 51 FR 29274).

Response. The Service inadvertently omitted the Florida ring-necked duck material from the proposed late season frameworks distributed for comment. The Service did, however, respond to Florida's initial letter and did seek Mississippi Flyway Council review of same. The matter was also discussed by the Service Regulations Committee and Flyway Consultants at the July 31, 1986 meeting. The Service initially indicated the proposed point value change would likely increase the harvest of ring-necked ducks should the point value change be effected in both the Mississippi and Atlantic Flyways. Florida's recommendation that the change apply only to the Atlantic Flyway is not feasible because the ring-necked ducks in question are common to the two eastern Flyways in terms of breeding areas and harvest. A second concern of the Service is the high band recovery rates typical of ringnecks. The full meaning of this is not clear but caution seems warranted. The Service notes the Atlantic Flyway Council supported Florida's request for a point value change but recommended ring-necked ducks be in a 25 point category. In contrast, the Mississippi Flyway Council recommended no change in the point value of the ring-necked duck

during the 1986–87 season. In a letter dated July 23, 1986, a representative of the Canadian Wildlife Service (CWS) noted that the source of many Florida ring-necked ducks was Ontario, that recent studies indicated the productivity of ringnecks in Ontario was decreasing, and suggested this was not a good time to consider measures that might increase harvest.

Further, the fact that four ringnecks may be taken under conventional regulations does not translate directly to a 4-bird point system bag. The effect of a potential 5-duck bag under the point system in contrast to 4 ducks per day under conventional bag limits is one complication. Another is the fact that most Mississippi Flyway States select the point system in contrast to the Atlantic Flyway situation.

The Service recognizes Florida's efforts in assembling information in support of the point value change for ring-necked ducks. Still, the Service does not support a reduced point value in the Atlantic Flyway only, and does not support a uniform reduced point value for ring-necked ducks because of the potential for an increased harvest. The Service believes more information is needed on the status and productivity of the ring-necked duck on the breeding grounds, the status of the species on the wintering grounds, and a better understanding of high band recovery rates before any liberalization should be considered. Because of these concerns, the frameworks in this final rule show no change in the point value of ring-necked ducks in 1986.

(j) An outdoor writer from Illinois supported the continuation this season of the restrictive frameworks established in 1985. He recommended that the Service seek further protection for the hen mallard in order to rebuild populations of the species.

Response. The frameworks for the 1986–87 duck seasons and bag limits are as restrictive as those of last season. The support expressed above for such regulations is appreciated. In all flyways, not more than one hen mallard may be included in the daily bag. Only a closure on hen mallards would be more restrictive and the Service believes the one-hen daily limit is the most practical approach to providing adequate protection for hen mallards.

(k) Letters have been received from 25 Congressional Representatives of various States in the Atlantic Flyway requesting that the Service provide an extra hunting day for each day lost to those States in the Flyway that have a ban on Sunday hunting.

Response. It is noted that the rest-days that result because of no Sunday hunting do not represent a reduced harvest of waterfowl. In fact, rest-days are a well recognized harvest management technique and many gunning clubs, private properties, and State-managed areas regularly institute rest-days and half-day shooting to hold birds and prolong and increase their harvest opportunities. Under these circumstances it does not appear that States that ban Sunday hunting are at a disadvantage in terms of waterfowl harvest. The Service has addressed this issue previously and continues to believe that the loss of hunting opportunity because of a State restriction is a matter for local resolution.

(l) By letter dated August 6, 1986, a Congressional Representative from Georgia requested the Service consider the resolution of the Georgia Board of Natural Resources calling for an extension of the 1986–87 waterfowl season framework closing date to January 31, 1987.

Response. The Service noted the Board's resolution and responded to it in the August 15, 1986, **Federal Register** (51 FR 29274).

(m) An outdoor writer from Florida has requested a later framework closing date for duck hunting in Florida than the 1985–86 framework closing date of January 13, 1986.

Response. The frameworks of this final rule provide for a closing date for duck hunting in Florida no later than January 18, 1987.

(n) The Chairman of the Massachusetts Fisheries and Wildlife Board, by letter dated August 18, 1986, noted it appeared that the Service predetermined what the waterfowl frameworks would be prior to Council deliberations. He cited past examples of Massachusetts wildlife resource responsibility. He noted waterfowl frameworks were more restrictive than a year ago and suggested that the Service needs to be more responsive to Council and State recommendations.

Response. The Service presented a report on the current status of waterfowl in 1986 at the July 25, 1986, meeting in Denver. The Service did note an improvement in fall flights compared to 1985 but cautioned that the flight expected in 1986 would be lower than any year other than 1985. The Service advocated a harvest strategy for the 1986–87 season that would maintain the reduced harvest rate effected on mallards and all ducks in 1985. The frameworks established resulted from a general acceptance of this harvest strategy by the four flyway Councils and were not the result of any predetermined frameworks developed by the Service. The waterfowl frameworks in the Atlantic Flyway as a whole are similar to last year but are more restrictive on mallards in the former Northeast Unit. This is unfortunate but, as discussed earlier in the response to item 2.(d), is due to the absence of an agreed upon management plan for mallards in the Atlantic Flyway. The Service again urges the Atlantic Flyway to develop such a plan. Finally, the Service acknowledges Massachusetts has developed a record of responsible wildlife management. It is the Service's intent to be as responsive as possible to Council and State recommendatidons but notes that resource responsibilities and concerns with many national and flyway problems does place limits on our actions.

3. American Black Ducks

(a) Massachusetts has requested the option of continuing with a 2 black duck daily bag limit in the Coastal Zone. They argue that by restricting the frameworks to 1 black duck daily the Service will abrogate their previous harvest reduction agreement and the State must terminate their 10-day closure to maintain reasonable harvest opportunity in their Coastal Zone. They assert that opportunities to hunt black ducks will increase by 29% by adding extra days. They fear that the additional hunting opportunities will offset the harvest reduction expected by reducing the bag and cause the overall harvest of black ducks to increase.

Response. The 1985–86 frameworks eliminated the black duck option for all areas of the Atlantic Flyway, except for the Northeast Management Unit. The 1986–87 regulatory frameworks are designed to achieve greater uniformity among States in the Atlantic and Mississippi Flyways by permitting the taking of only 1 black duck daily. Most States have generally met or exceeded the goal of reducing harvest by 25% from the 1977–81 average level over the past three years. States are asked to continue necessary season length and other restrictions to insure this goal is met in the coming hunting season. Since the 1986–87 frameworks no longer allows for different regulatory options in the New England States, the Service does not support a 2-bird daily bag on black ducks. However, in spite of these regulatory changes, the Service expects States to meet their harvest reduction responsibilities for black ducks. The effectiveness of the 1986–87 regulations will be assessed following the hunting season and any necessary changes incorporated in future regulations.

(b) By letter dated August 18, 1986, the Chairman of the Massachusetts Fisheries and Wildlife Board stated his belief that the one-black duck limit was overly restrictive in Massachusetts and limited the State's management flexibility.

Response. See preceding response.

(c) The Humane Society of the United States (HSUS) commented that the population status of black ducks continues to deteriorate in spite of efforts to reduce the harvest. HSUS claims that the 25% harvest reduction program has failed to make measurable progress in either halting the population decline or significantly reducing the kill rate. They urge the Service to impose additional restrictions this year by closing the season on black ducks.

Response. With respect to the black duck harvest reduction program, the Service disagrees with the assertion that the program has failed to make measurable progress towards halting the population decline of black ducks. Results to date show winter populations have stabilized in the last three years and that the harvest rates have been reduced. Progress towards our goals has been achieved and can be measured. Three years of a five-year program have been completed. The Service proposes to continue with the current harvest reduction program and to evaluate the results annually. Additional restrictions will be developed as necessary in subsequent years.

(d) The Defenders of Wildlife expressed concern that black duck populations have not responded to the harvest reduction program and asked the Service to take a more responsive and aggressive stand to protect the species.

Response. See the Service's response to similar comments submitted by The Humane Society of the United States.

(e) An outdoor writer from Illinois encouraged the Service to seek further regulatory protection for black ducks.

Response. As stated above, the Service believes progress has been made towards halting the population decline of black ducks, and proposes to continue with the current harvest reduction program and evaluate its results before imposing additional restrictions.

12. Canvasback and Redhead Ducks

(a) North Carolina, by letter dated August 6, 1986, requested that if a canvasback season is offered in the Atlantic Flyway, the season frameworks for North Carolina be changed to include the entire State, and the season length be reduced from 11 days to 6 days.

Response. The Service gave notice in the August 15, 1986, **Federal Register** (51 FR 29274) that it proposed to not open the hunting season on canvasbacks in the Atlantic, Mississippi and Central Flyways in 1986 because the Eastern Population is below the minimum 3 year average breeding population level identified in the 1983 environmental assessment on canvasback hunting. This is the second consecutive year the population has been below the minimum. The canvasback hunting closure is included in the frameworks of this final rule.

(b) In commenting on the proposed 1986–87 waterfowl hunting regulations frameworks (August 15, 1986, **Federal Register**, 51 FR 29274), the National Wildlife Federation and Defenders of Wildlife expressed their support of the canvasback hunting closure in the Atlantic, Mississippi and Central Flyways.

13. Duck Zones

(a) By letter dated July 31, 1986, Massachusetts submitted an evaluation of its duck zoning experiment and requested the zones be designated operational.

Response. In the March 2 and June 6, 1986, **Federal Register** documents (51 FR 9854 and 20677, respectively) the Service announced its belief that there should be no new duck hunting zones, or modification of existing zones, until the cumulative effects of such zones can be evaluated. Therefore, the Massachusetts zones will continue to be considered experimental and will be evaluated based on the State's previously collected data.

(b) Michigan, by letter dated August 6, 1986, submitted additional information in support of its request for a duck zone boundary change in the Lower Peninsula. The State indicated the change will satisfy their long-range duck harvest management strategy, and the boundary would not be changed in future years.

Response. In the August 15, 1986, **Federal Register** (51 FR 29274) the Service indicated it was proposing to retain the 1985 duck zone structure in Michigan because the boundary change requested by the State and endorsed by the Upper Region Regulations Committee of the Mississippi Flyway Council was viewed as a major change. The Service has reviewed the supporting harvest information provided by the State and has considered the similarity of the requested boundary to that which was in place before the current zone structure. On the basis of this information, the frameworks of this final rule reflect the Service's endorsement of Michigan's request.

14. Frameworks for Geese and Brant in the Conterminous United States—Outside Dates, Season Length and Bag Limits

(a) By letters received August 4 and August 25, 1986, Massachusetts modified its earlier request for changes in the Canada goose hunting season frameworks (see June 6, 1986, **Federal Register**, 51 FR 20677) by limiting its request for a 90-day season to only a portion of the Coastal Zone and by withdrawing its request for bag limit liberalizations. The August letter included additional supporting information for the State's request. By letter dated August 18, 1986, the Chairman of the Massachusetts Fisheries and Wildlife Board indicated the denial of a 90-day Canada goose season in a portion of southeast Massachusetts would exacerbate the nuisance goose problem there.

Response. In the August 15, 1986, **Federal Register** (51 FR 29274) the Service noted the Atlantic Flyway Council's endorsement of Massachusetts' modified request, but indicated that the State's supporting justifications for the frameworks changes are not adequate to alleviate concerns regarding the potential impact of such changes on migrant Canada geese. The Service stated that prior to submission of another proposal, Massachusetts needs to collect data on the population numbers and racial composition of Canada geese for the specific area and time-span during which the requested season would occur. The additional information provided in the State's August 25 letter has been reviewed and the Service continues to believe more detailed information on the total number of geese present, the number with collars, time periods and locations are needed to justify the framework change.

(b) By letter received August 4, 1986, Connecticut requested changes in the State's Canada goose hunting season frameworks for its South Zone.

Response. The Service concurred with the Atlantic Flyway Council's endorsement of Connecticut's request in the August 15, 1986, **Federal Register** (51 FR 29274). The frameworks contained in this final rule reflect the changes requested.

(c) By letter dated August 5, 1986, Illinois submitted additional information in support of its request for special Canada goose hunting seasons in northeastern Illinois in late September

and late December to control local giant Canada geese.

Response. In light of the new information, the Service believes an experimental 6-consecutive-day Canada goose season in the nine northeastern-most counties of Illinois in late September is justified and regulatory provisions for such a season are included in this final rule. The limited information provided by the State does not support a season in late December. Illinois must collect additional information this fall and winter before a judgment can be made regarding the December season.

(d) By letter received August 5, 1986, Arkansas provided information on the reasons and biological justification for its request that the framework closing date for snow and white-fronted goose hunting in the State be extended from January 20 to January 31.

Response. The Service addressed this matter in the proposed late-season frameworks published in the August 15, 1986, **Federal Register** (51 FR 29274). The frameworks of this final rule reflect an extension of the snow goose hunting season in Arkansas to January 31, but the framework closing date for hunting white-fronted geese in the State continues to be January 20.

(e) In commenting on the proposed 1986–87 waterfowl hunting regulations frameworks (August 15, 1986, **Federal Register**, 51 FR 29274) the National Wildlife Federation expressed its pleasure with the regulations regarding goose harvest in the Pacific Flyway, particularly as they relate to enhancing the recovery of cackling Canada geese, Pacific white-fronted geese, emperor geese and black brant.

15. Tundra Swan

In commenting on the proposed waterfowl hunting regulations frameworks (August 15, 1986, **Federal Register**, 51 FR 29274), Defenders of Wildlife expressed its support of the Service's proposal to not expand experimental tundra swan hunting in the Atlantic Flyway nor designate the North Carolina experimental hunt operational prior to completion and evaluation of the experiment.

Nontoxic Shot Regulations

In the January 6, 1986, **Federal Register** (51 FR 409), the Service published a proposed rule describing areas in which lead shot would be prohibited for waterfowl and coot hunting in the 1986–87 hunting seasons. Appendix O of the recently published Final Supplemental Environmental Impact Statement on the Use of Lead Shot for Hunting Migratory Birds in the United States contains a preliminary final rule addressing the 1986–87 nontoxic shot zones. Notice of the Record of Decision on the Final Supplemental Environmental Impact Statement was published in the August 20, 1986, **Federal Register** (51 FR 29673). The final rule describing areas where nontoxic shot is required for waterfowl and coot hunting in the 1986–87 hunting seasons was published in the **Federal Register** on September 3, 1986, 51 FR 31429.

Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council of Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). An environmental assessment addressing this rulemaking and a finding of no significant impact was signed on September 5, 1986. In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of the environmental assessments are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and shall] "insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or adverse modification of [critical] habitat . . ." The Service therefore initiated section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 23, 1986, the Chief, Office of Endangered Species (OES), gave a biological opinion that the proposed action was not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior, Washington, DC.

Regulatory Flexibility Act, Executive Order 12291 and the Paperwork Reduction Act

In the **Federal Register** dated March 21, 1986 (at 51 FR 9859), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240. These final regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act.

Memorandum of Law

The Service published its Memorandum of Law, required by Section 4 of Executive Order 12291, in the **Federal Register** dated July 25, 1986 (at 51 FR 26712).

Authorship

The primary author of this final rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by it nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed late hunting season rulemakings were published on March 21, June 6, and August 15, 1986, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the close of

each period time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select season dates, shooting hours and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures that implement their decisions.

Therefore, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703–711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of season and option selections from State officials, the Service will publish in the **Federal Register** final rulemaking amending 50 CFR Part 20 (§§ 20.104 through 20.107 and § 20.109) to reflect seasons, limits and shooting hours for the contiguous United States for the 1986–87 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1986–87 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended.

Final Regulations Frameworks for 1986–87 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, shooting hours, bag and possession limits and outside dates within which States may select seasons for hunting waterfowl and coots. Frameworks are summarized below.

General

Split Season: States in all Flyways may split their season for ducks, geese or brant into two segments. States in the Atlantic and Central Flyways may, in lieu of zoning, split their season for ducks or geese into three segments. Exceptions are noted in appropriate sections.

Shooting Hours: From one-half hour before sunrise to sunset daily, for all species and seasons, including falconry seasons.

Extra Teal: States in the Mississippi and Central Flyways selecting neither a teal or early duck season in September nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. States in the Atlantic Flyway (except Florida) not selecting the point system may select an extra teal limit of no more than 2 blue-winged teal or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession for 9 consecutive days during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

Special Scaup-only Season: States in the Atlantic, Mississippi and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 4, 1986, and January 31, 1987, all dates are inclusive.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon by the State and the Service prior to August 31, 1986.

4. These areas must be described and delineated in State hunting regulations.

or

Extra Scaup: As an alternative, States in the Atlantic, Mississippi and Central Flyways, except those selecting the point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Point System: Selection of the point system for any State entirely within a flyway must be on a statewide basis, *except* if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option, and Massachusetts, Pennsylvania and Vermont may not select the point system pending completion of zoning studies.

Deferred Season Selections: States that did not select rail, woodcock, snipe, sandhill cranes, common moorhens and purple gallinules and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

Exception: Since 1978, the Service has not been able to implement or enforce nontoxic shot zones in a State without approval of the appropriate State authorities. This restriction on use of funds by the Service has been contained in the Interior Department's Appropriations Act each year since 1978 (Pub. L. 98–473, Sec. 305). As a consequence of this restriction the Service can only propose additions and deletions to the designated nontoxic shot zones for waterfowl and coot hunting with the approval of State authorities. If States do not approve nontoxic shot zones when current Service guidelines and criteria indicate such zones are necessary to protect migratory birds, the Secretary of the Interior, acting through the Service, will not open those areas to waterfowl and coot hunting (January 6, 1986, **Federal Register**, 51 FR 409; June 27, 1986, **Federal Register**, 51 FR 23444). This action is pursuant to the Secretary's/Service's responsibilities under the Migratory Bird Treaty Act and, in the case of zones proposed for bald eagle protection, the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884).

Atlantic Flyway

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and West Virginia.

Ducks, Coots and Mergansers

Hunting Seasons and Duck Limits:

Outside Dates: Between October 4, 1986, and January 18, 1987.

Hunting Season: Not more than 40 days.

Duck Limits: The daily bag limit of ducks is 4 and may include no more than 3 mallards (only 1 may be a hen), 2 pintails, 2 wood ducks, 1 black duck and 1 fulvous tree duck. The possession limit is 8, including no more than 6 mallards, (no more than 2 of which may be a female), 2 black ducks, 4 pintails, 4 wood ducks, and 2 fulvous tree ducks (except as noted below). The limit of redheads is 2 daily and 4 in possession.

The season is closed to the taking of canvasbacks.

Point System Options: As an alternative to conventional bag limits for ducks, a 40-day season with a point-system bag limit may be selected by Atlantic Flyway States during the framework dates prescribed. Point values for species and sexes taken are as follows: in Florida only, the fulvous tree duck counts 100 points each; the female mallard, black duck, and mottled duck (except South Carolina) count 100 points each. Wood duck (except in Virginia, North Carolina, South Carolina and Georgia during the early wood duck season option), redhead and hooded merganser count 70 points each; scaup, blue-winged teal, green-winged teal, sea ducks, wigeon, shoveler, gadwall, and mergansers (except hooded) count 20 points each; the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina and Georgia counts 25 points each; the male mallard, pintail, ring-necked duck, goldeneye, bufflehead and all other ducks count 35 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in two days.

Canvasbacks: All areas of the Flyway are closed to canvasback hunting.

Merganser Limits: Throughout the Flyway the daily bag limit of mergansers is 5, only 1 of which maybe a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: Throughout the Flyway daily bag and possession limits of coots are 15 and 30, respectively.

Early Wood Duck Season Option: Virginia, North Carolina, South Carolina and Georgia may split their regular hunting season so that a hunting season not to exceed 9 consecutive days occurs between October 4 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks. Under the point system, wood ducks shall be 25 points. For other ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. For those States using conventional regulations, the extra teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits of wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

Restrictions on Wood Ducks: Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively.

Restriction on Mottled Ducks: The season is closed to the taking of mottled ducks in South Carolina.

Special Scaup and Goldeneye Season: In lieu of a special scaup season, Vermont may, for the Lake Champlain Zone, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneye or 3 in the aggregate, and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

Zoning

New York: New York may, for *Long Island Zone,* select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain zone) may be divided into three zones (West, North, South) for the purpose of setting separate duck, coot and merganser seasons. Only conventional regulations may be selected. A 2-segment split season may be selected in each zone. Teal and scaup bonus options shall be applicable, but the 16-day special scaup season will not be allowed.

The *West Zone* is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The *North* and *South Zones* are bordered on the west by the boundary described above and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton, then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Saratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

Connecticut may be divided into two zones as follows:

a. *North Zone*—That portion of the State north of Interstate 95.

b. *South Zone*—That portion of the State south of Interstate 95.

Maine may be divided into two zones as follows:

a. *North Zone*—Game Management Zones 1 through 5.

b. *South Zone*—Game Management Zones 6 through 8.

New Hampshire

Coastal Zone—That portion of the State east of a boundary formed by State Highway 4 beginning at the Maine-New Hampshire line in Rollinsford west to the city of Dover, south to the intersection of State Highway 108, south along State Highway 108 through Madbury, Durham and Newmarket to the junction of State Highway 85 in Newfields, south to State Highway 101 in Exeter, east to State Highway 51 (Exeter-Hampton Expressway), east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south along Interstate 95 to the Massachusetts line.

Inland Zone—That portion of the State north and west of the above boundary.

West Virginia may be divided into two zones as follows:

a. *Allegheny Mountain Upland Zone*—The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50; follows U.S. Route 50 to the intersection with State Route 93; follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg; follows State Route 28 south to Minnehaha Springs; then follows State Route 39 west to U.S. Route 219; and follows U.S. Route 219 south to the intersection of Interstate 64. The southern boundary follows I-64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows: Route 19 north to the intersection of I-79, and follows I-79 north to the intersection of U.S. Route 48. The northern boundary follows U.S. Route 48 east to the Maryland State line and the State line to the point of beginning.

b. Remainder of the State—That portion outside the above boundaries.

Zoning Experiments

Vermont will continue a Lake Champlain Zone in 1986. The Lake Champlain Zone of New York must follow the waterfowl season, daily bag and possession limits, and shooting hours selected by Vermont. *Massachusetts, New Jersey,* and *Pennsylvania,* may continue zoning experiments now in progress as shown in the sections that follow. *Massachusetts* and *New Jersey* may be divided into three zones, *Pennsylvania* into four zones and *Vermont* into two zones all on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Only conventional regulations may be selected in Massachusetts, Pennsylvania and Vermont. A two-segment split season without penalty may be selected. The basic daily bag limit of ducks in each zone and the restrictions applicable to the regular season for the Flyway also apply. Teal and scaup bonus bird options, and the 16-day special season scaup shall be allowed.

Zone Definitions

Massachusetts

Western Zone—That portion of the State west of a line extending from the Vermont line at Interstate 91, south to Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202, south on Route 202 to the Connecticut line.

Central Zone—That portion of the State east of the Western Zone and west of a line extending from the New Hampshire line at Interstate 95 south to Route 1, south on Route 1 to I–93, south on I–93 to Route 3, south on Route 3 to Route 6, west on Route 6 to Route 28, west on Route 28 to I–195, west to the Rhode Island line. *EXCEPT* the waters, and the lands 150 yards along the high-water mark, of the Assonit River to the Route 24 bridge, and the Taunton River to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone—That portion of the State east and south of the Central Zone.

New Jersey

Coastal Zone—That portion of New Jersey seaward of a continuous line beginning at the New York State boundary line in Raritan Bay; then west along the New York boundary line to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware boundary in Delaware Bay.

North Zone—That portion of New Jersey west of the Coastal Zone and north of a boundary formed by Route 70 beginning at the Garden State Parkway west to the New Jersey Turnpike, north on the turnpike to Route 206, north on Route 206 to Route 1, Trenton, west on Route 1 to the Pennsylvania State boundary in the Delaware River.

South Zone—That portion of New Jersey not within the North Zone or the Coastal Zone.

Pennsylvania

Lake Erie Zone—The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

North Zone—That portion of the State north of I–80 from the New Jersey State line west to the junction of State Route 147; then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I–80, then west on I–80 to its junction with the Allegheny River, and then north along but not including the Allegheny River to the New York border.

Northwest Zone—That portion of the State bounded on the north by the Lake Erie Zone and the New York line, on the east by and including the Allegheny River, on the south by Interstate Highway I–80, and on the west by the Ohio line.

South Zone—The remaining portion of the State.

Vermont

Lake Champlain Zone—Includes the United States portion of Lake Champlain and those portions of New York and Vermont which includes that part of New York lying east and north of boundary running south from the Canadian border along New York Route 9B to New York Route 9 south of Champlain, New York; New York Route 9 to New York Route 22 south of Keeseville; along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22; along New York Route 22 to U.S. Highway 4 at Whitehall; and along U.S. Highway 4 to the Vermont border. From the New York border at U.S. Highway 4, along U.S. Highway 4 to Vermont Route 22A at Fair Haven; Route 22A to U.S. Highway 7 at Vergennes; U.S. Highway 7 to the Canadian border.

Interior Vermont Zone—The remaining portion of the State.

Sea Ducks: The daily bag and possession limit for sea ducks in special sea duck areas is in addition to the limits applying to other ducks during the regular duck season. In all areas outside of special sea duck areas, sea ducks are included in the regular duck season conventional or point system daily bag and possession limits.

Canada Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1986, and January 20, 1987, Maine, New Hampshire, Vermont, Massachusetts, Pennsylvania, West Virginia, Maryland and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. HIghway 17) may select 70-day seasons for Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. In New York (including Long Island), Rhode Island, Connecticut (North Zone only), New Jersey, Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on I–81 to Route 443, east on 443 to Leighton, then east via 208 to Stroudsburg, then east on I–80 to the New Jersey line, the Canada goose season length may be 90 days with the closing framework date extended to January 31, 1987. In addition, that portion of the Susquehanna River from Harrisburg north to the confluence of the west and north branches at Northumberland, including a 25-yard zone of land adjacent to the waters of the river, is included in the 90-day zone. The daily bag limit within this area (except New York, Rhode Island, and Connecticut) will be 4 birds with the possession limit of 8 birds. The daily bag and possession limits in New York, Rhode Island, and Connecticut (North Zone) will be 3 and 6, respectively. In the South Zone of Connecticut (that portion south of Interstate 95) the Canada goose season length may be 90 days with the closing framework date extended to February 5, 1987. The daily bag limit and possession limit will be 3 and 6, respectively, before January 15 and 5 and 10, respectively from January 15 to February 5, 1987. This season in the South Zone of Connecticut is experimental. Those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select a 50-day season for Canada geese within the October 1, 1986, to January 20, 1987, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. North Carolina and South Carolina may select a 43-day season for Canada geese within a

December 20, 1986, to January 31, 1987, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively. In South Carolina the season on Canada geese is closed in the counties of Abbeville, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Cherokee, Chester, Colleton, Edgefield, Fairfield, Greenwood, Hampton, Kershaw, Lancaster, Laurens, Lee, McCormick, Newberry, Oconee, Pickens, Richland, Saluda, Spartanburg, Sumter, Union and York.

Closures on Canada geese: The season for Canada geese is closed in Florida and Georgia.

Snow Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1986, and January 31, 1987, States in the Atlantic Flyway may select a 90-day season for snow geese (including blue geese); the daily bag and possession limits are 4 and 8, respectively.

Atlantic Brant

Outside Dates, Season Lengths, and Limits: Between October 1, 1986, and January 20, 1987, States in the Atlantic Flyway may select a 30-day season for Atlantic brant; the daily bag and possession limits are 2 and 4 brant, respectively.

Tundra Swans

In North Carolina an experimental season for tundra swans may be selected subject to the following conditions: (a) The season may be 90 days and must run concurrently with the snow goose season; (b) the State agency must issue and obtain harvest and hunting participation data; and (c) no more than 6,000 permits may be issued, authorizing each permittee to take 1 tundra swan.

Mississippi Flyway

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee and Wisconsin.

Ducks Coots, and Mergansers

Outside Dates: Between October 4, 1986, and January 18, 1987, in all States.

Hunting Season: Not more than 40 days.

Canvasbacks: The season on canvasbacks is closed.

Limits: The daily bag limit of ducks is 4, and may include no more than 2 mallards (no more than 1 of which may be a female), 1 black duck, 2 wood ducks (except as noted below), 2 pintails, and 1 redhead. The possession limit is 8, including no more than 4 mallards (no more than 2 of which may be females), 2 black ducks, 4 wood ducks (except as noted below), 4 pintails, and 2 redheads.

Merganser Limits: The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag and possession limits of coots are 15 and 30, respectively.

Point-System Option: As an alternative to conventional bag limits for ducks, a 40-day season with point-system bag and possession limits may be selected within the framework dates prescribed. Point values for species and sexes taken are as follows: the female mallard and black duck count 100 points each; the redhead, wood duck (except as noted below) and hooded merganser count 70 points each; the blue-winged teal, cinnamon teal, wigeon, gadwall, shoveler, scaup, green-winged teal and mergansers (except hooded merganser) count 20 points each; the male mallard, pintail, and all other species of ducks count 35 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds that legally could have been taken in 2 days.

Coot Limits—Point System: Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Early Wood Duck Season Option: Arkansas, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 4 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system the point value of wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point-system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

Western Louisiana: In that portion of Louisiana west of boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Bossier City; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season for ducks, coots and mergansers may extend 5 additional days. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

Pymatuning Reservoir Area, Ohio: The waterfowl seasons, limits and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Zoning: *Alabama, Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, Tennessee,* and *Wisconsin* may select hunting seasons for ducks, coots and mergansers by zones described as follows:

Alabama: South Zone—Mobile and Baldwin Counties. North Zone—The remainder of Alabama. The season in the South Zone may be split.

Illinois: North Zone—That portion of the State north of a line running east from the Iowa border along Illinois Highway 92 to I–280, east along I–280 to I–80, then east along I–80 to the Indiana border. Central Zone—That portion of the State between the North and South Zone boundaries. South Zone—That portion of the State south of a line running east from the Missouri border along the Monroe-Randolph County line to County Highway 856, south along County Highway 856 to Illinois Highway 155, east along Illinois Highway 155 to Illinois Highway 3, north along Illinois Highway 3 to Illinois Highway 159, north along Illinois Highway 159 to Illinois Highway 161, east along Illinois Highway 161 to Illinois Highway 4, north along Illinois Highway 4 to I–70, then east along I–70 to the Indiana border.

Indiana: North Zone: That portion of the State north of a line extending east from the Illinois border along State Highway 18 to U.S. Highway 31, then north along U.S. 31 to U.S. Highway 24, then east along U.S. 24 to Huntington,

then southeast along U.S. Highway 224 to the Ohio border. Ohio River Zone: That portion of Indiana south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, then east along State Highway 62 to State Highway 56, then east along State Highway 56 to Vevay, then on State Highway 156 along the Ohio River to North Landing, then north along State Highway 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border. South Zone: That portion of the State between the North and Ohio River Zone boundaries. The season in each zone may be split into two segments.

Iowa: North Zone—That portion of Iowa north of Interstate 80. South Zone—the remainder of the State.

Michigan: North Zone—The Upper Peninsula. South Zone—That portion of the State south of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and east and south along the south shore of Stony Creek to Webster Road, east and south on Webster Road to Stony Lake Road, east on Stony Lake and Garfield Roads to M–20, east on M–20 to U.S.–10-B.R. in the city of Midland, east on U.S.–10-B.R. to U.S.–10, east on U.S.–10 and M–25 to the Saginaw River, downstream along the thread of the Saginaw River to Saginaw Bay, then on a northeasterly line, passing one-half mile north of the Corps of Engineers confined disposal island offshore of the Carn powerplant, to a point one mile north of the Charity Islands, then continuing northeasterly to the Ontario border in Lake Huron. Middle Zone—The remainder of the State. Michigan may split its season in each zone into two segments.

Missouri: North Zone—That portion of Missouri north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. 65 to State Highway 32, east along State Highway 32 to State to State Highway 72, east along State Highway 72 to State Highway 21, south along State Highway 21 to U.S. Highway 60, east along U.S. 60 to State Highway 51, south along State Highway 51 to State Highway 53, south along State Highway 53 to U.S. Highway 62, east along U.S. 62 to I–55, north along I–55 to State Highway 34, then east along State Highway 34 to the Illionis border. South Zone—The remainder of Missouri. Missouri may split its season in each zone into two segments.

Ohio: The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingam, Guernsey, Harrison and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. Ohio River Zone—The counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia and Meigs. South Zone—That portion of the State between the North and Ohio River Zone boundaries. Ohio may split its season in each zone into two segments.

Tennessee: Reelfoot Zone—Lake and Obion Counties, or a designated portion of that area. State Zone—The remainder of Tennessee. Seasons may be split into two segments in each zone.

Wisconsin: North Zone—That portion of the State north of a line extending northerly from the Minnesota border along the center line of the Chippewa River to State Highway 35, east along State Highway 35 to State Highway 25, north along State Highway 25 to U.S. Highway 10, east along U.S. Highway 10 to its junction with the Manitowoc Harbor in the city of Manitowoc, then easterly to the eastern State boundary in Lake Michigan. South Zone—The remainder of Wisconsin. The season in the South Zone may be split into two segments.

Within each State: (1) the same bag limit option must be selected for all zones; and (2) if a special scaup season is selected for a zone, it shall be outside the regular season in that zone.

Geese

Definition: For the purpose of hunting regulations listed below, the term "geese" also includes brant.

Outside Dates, Season Lengths and Limits: Between October 4, 1986 (October 1 in Wisconsin) and January 20, 1987, States may select 70-day seasons for geese, with a daily bag limit of 5 geese, to include no more than 2 white-fronted geese. The possession limit is 10 geese, to include no more than 4 white-fronted geese. Regulations for Canada geese and exceptions to the above general provisions are shown below by State.

Outside Dates and Limits on Snow and White-fronted Geese in Arkansas and Louisiana: Between October 4, 1986, and January 31, 1987, Arkansas may hold a 70-day season on snow (including blue) geese. Between October 4, 1986, and February 14, 1987, Louisiana may hold 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons. Daily bag and possession limits are as described above.

Minnesota. In the: (a) Lac Qui Parle Zone (described in State Regulations)—the season for Canada geese closes after 50 days or when 4,500 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose and the possession limit is 2.

(b) Southeastern Zone (described in State regulations)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Remainder of the State—the season for Canada geese may extend for 50 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

Iowa: The season may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4. The season for geese in the Southwest Goose Zone (that portion of the State bounded by U.S. Highways 92 and 71) may be held at a different time that the season in the remainder of the State.

Missouri. In the: (a) Swan Lake Zone (described in State regulations)—the season for Canada geese closes after 70 days or when 16,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Southeast Zone (east of U.S. Highway 67 and south of Crystal City)—A 50-day season on Canada geese may be selected between December 1, 1986, and January 20, 1987, with a daily bag limit of 1 Canada goose and a possession limit of 2.

(c) Remainder of the State—the season for Canada geese may extend for 50 days in the respective duck hunting zones. The daily bag limit is 1 Canada goose, and the possession limit is 2.

Wisconsin: The total harvest of Canada geese in the State will be limited to 45,000 birds. In the:

(a) Horicon—Central Zone (Columbia, Dodge, Fond Du Lac, Green Lake, Marquette and Winnebago Counties, and the northwest portion of Washington County north of State Highway 33 and west of U.S. Highway 45)—the harvest of Canada geese is limited to 30,000 birds, with 2,000 birds allocated to the Theresa Subzone. The season may not exceed 50 days. In the Theresa Subzone (described in State regulations), the daily bag limit is 1 Canada goose per permittee through October 5 and 1 Canada goose per permittee per day thereafter, up to a season limit of 4. In the remainder of the Horicon-Central Zone, the season limit may not exceed 2 Canada geese per permittee, and the issuance of permits and tags may not exceed 37,000 permits with 1 tag each and 3,000 permits with 2 tags each.

(b) Mississippi River Zone (that portion of the State west of the

Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin and Pierce Counties)—the season for Canada geese may extend for 70 days. Limits are 1 Canada goose daily and 2 in possession through November 24, and 2 daily and 4 in possession thereafter.

(c) Northeast Goose Zone (that portion of the North Duck Zone which includes the Counties of Vilas, Oneida, Lincoln, Marathon, a portion of Wood County, and all counties or portions of counties eastward). The season for Canada geese may not exceed 12 days. The daily bag limit is 1 Canada goose and the possession limit is 2. In Brown County, a special late season to control local populations of giant Canada geese may be held during December 1–31. The daily bag and possession limits during this special season are 2 and 4 birds, respectively.

(d) Southeast Goose Zone (that portion of the South Duck Zone which includes part of Wood County, Janeau, Sauk, Dane and Green Counties and all counties or portions of counties eastward)—in that portion of the Southeast Zone outside the Horicon-Central tag zone, the season may not exceed 12 days. The daily bag limit is 1 Canada goose and the possession limit is 2. In the Rock Prairie Zone (described in State regulations), a special late season to harvest giant Canada geese may be held between November 8 and December 7. During the late season, the daily bag limit is 1 Canada goose and the possession limit is 2.

(e) Northwest Goose Zone (that portion of the North Duck Zone west of the Northeast Goose Zone)—the season for Canada geese may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

(f) Southwest Goose Zone (that portion of the South Duck Zone west of the Southeast Goose Zone)—the season for Canada geese may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

In that portion of Wisconsin outside the Horicon-Central Zone, the progress of the Canada goose harvest must be monitored, and the season closed if necessary, to insure that the harvest does not exceed 15,000 birds.

Illinois: The total harvest of Canada geese in the State will be limited to 48,000 birds. In the: (a) Southern Illinois Quota Zone (described in State regulations)—The season for Canada geese will close after 50 days or when 24,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Rend Lake Quota Zone (Franklin and Jefferson Counties)—The season for Canada geese will close after 50 days or when 7,200 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose and the possession limit is 4.

(c) Tri-County Area (all of Knox County; the townships of Buckhart, Canton, Cass, Deerfield, Fairview, Farmington, Joshua, Orion, Putnam and that portion of Banner Township bounded on the north by Illinois Route 9 and on the east by U.S. 24 in Fulton County; the township of Alba, Annawan, Atkinson and Cornwall in Henry County)—The season for Canada geese may not exceed 25 days. The daily bag limit is 1 Canada goose and the possession limit is 4.

(d) Remainder of State—Seasons for Canada geese up to 40 days may be selected by zones established for duck hunting seasons, except that in the South Zone the season will close no later than December 15. The daily bag limit is 1 Canada goose and the possession limit is 4.

(e) McHenry, Lake, Kane, DuPage, Cook, Kendall, Grundy, Will and Kankakee Counties—An early Canada goose season of 6-consecutive-days may be held between September 22 and September 30, 1986. The daily bag limit is 2 Canada geese and the possession limit is 4.

Michigan: The total harvest of Canada geese in the State will be limited to 53,000 birds. In the: (a) North Zone—In the counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, and Ontonagon, the framework opening date for geese is September 26. In the remainder of the North Zone, the framework opening date is October 4. Throughout the North Zone, the season for Canada geese may extend for 20 days, except at Seney Goose Management Area, where the season will close after 50 days or when 500 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose and the possession limit is 2, except at Seney Goose Management Area, where the daily bag and possession limits are 2 and 4, respectively.

(b) Middle Zone—the season for Canada geese may extend for 30 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

(c) South Zone: (1) Allegan County Zone (that portion of Allegan County west of U.S. Highway 131)—the season for Canada geese will close after 50 days or when 3,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(2) Muskegon Wastewater Zone (described in State regulations)—the season for Canada geese will close after 50 days or when 500 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(3) Saginaw County Goose Management Area—the season for Canada geese will close after 50 days or when 5,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(4) Remainder of South Zone: (i) East of U.S. Highways 27 and 127—the season for Canada geese may extend for 40 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(ii) West of U.S. Highways 27 and 127—the season for Canada geese may extend for 30 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

(d) Southern Michigan Goose Management Area (described in State regulations)—A late Canada goose season of up to 46 days may be held between January 1, 1987, and February 15, 1987. The daily bag limit is 2 Canada geese and the possession limit is 4.

Ohio: The daily bag limit is 2 Canada geese and the possession limit is 4, except that in the counties of Ashtabula, Trumbull, Marion, Wyandot, Lucas, Ottawa, Erie, Sandusky, Mercer and Auglaize, the daily bag limit is 1 Canada goose and the possession limit is 2.

Indiana: The total harvest of Canada geese in the State will be limited to 15,000 birds. In: (a) Posey County—The season for Canada geese will close after 50 days or when 4,400 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Kentucky: In the: (a) West Kentucky Zone (that portion of the State west of a line beginning at the Kentucky-Tennessee border at Fulton, Kentucky, extending northerly along the Purchase Parkway to I–24, east on I–24 to U.S. 641; northerly on U.S. 641 to U.S. 60; northeasterly on U.S. 60 to U.S. 41; and then northerly on U.S. 41 to the Kentucky-Indiana border)—The season for Canada geese may extend for 50 days, and the harvest will be limited to 15,000 birds. Of the 15,000-bird quota, 9,500 birds will be allocated to the Ballard Subzone and 3,000 birds will be allocated to the Henderson-Union Subzone (both subzones described in State regulations). If the quota in either

subzone is reached prior to completion of the 50-day season, the season in that subzone will be closed. If this occurs, the season in those counties and portions of counties outside of, but associated with, the respective subzone (listed in State regulations) may continue for an additional 7 days, not to exceed a total of 50 days. The daily bag limit is 2 Canada geese and the possession limit is 4. The season may extend to January 31, 1987.

(b) Remainder of the State—The season may extend for 70 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Tennessee: In the: (a) Northwest Zone (Lake, Obion, and Weakley Counties, and those portions of Gibson and Dyer Counties not included in the Southwest Zone)—The season may extend for 50 days, and the harvest of Canada geese will be limited to 6,500 birds. Of the 6,500-bird quota, 4,500 birds will be allocated to the Reelfoot Subzone (described in State regulations). If the quota in the Reelfoot Subzone is reached prior to completion of the 50-day season, the season in the subzone will be closed. If this occurs, the season in the remainder of the Northwest Zone may continue for an additional 7 days, not to exceed a total of 50 days. The daily bag limit is 2 Canada geese and the possession limit is 4. The season may extend to January 31, 1987.

(b) Southwest Zone (that portion of the State bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45)—The season for Canada geese may extend for 15 days, with a framework closing date of January 31, 1987. The daily bag limit is 1 Canada goose and the possession limit is 2.

(c) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 1 Canada goose and the possession limit is 2, except in that portion west of State Highway 13, where the daily bag and possession limits are 2 and 4, respectively.

Arkansas and Louisiana: The season for Canada geese is closed.

Mississippi: In the: (a) Sardis Zone (described in State regulations)—The season for Canada geese may extend for 30 days, 10 days of which must occur before December 15, 1986. The daily bag limit is 1 Canada goose and possession limit is 2.

(b) Remainder of the State—The season for Canada geese may not exceed 15 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

In both areas, the framework closing date is January 31, 1987.

Alabama: In Alabama, the daily bag limit is 2 Canada geese and the possession limit is 4.

Missouri, Illinois, Indiana, Kentucky and Tennessee Quota Zone Closures: When it has been determined that the quota of Canada geese allotted to the Southern Illinois Quota Zone, the Rend Lake Quota Zone in Illinois, the Swan Lake Zone in Missouri, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky and the Reelfoot Subzone in Tennessee will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not in excess of 48 hours) as they deem necessary.

Shipping Restriction: In Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton and Carlisle, geese may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall posses or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

Central Flyway

The Central Flyway includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the entire Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas and Wyoming (east of the Continental Divide).

Ducks (Including Mergansers) and Coots

Outside Dates: October 4, 1986, through January 18, 1987.

Canvasbacks: There will be no open season on canvasbacks in the Central Flyway.

Hunting Season: Seasons in the Low Plains Unit may include no more than 51 days. Seasons in the High Plains Mallard Management Unit may include no more than 67 days, provided that the last 16 days may start no earlier than December 13, 1986. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridan, shall be described in State regulations.

States may split their seasons into 2 or, in lieu of zoning, 3 segments.

Daily Bag and Possession Limits: Conventional limits are 4 ducks daily, including no more than 3 mallards of which no more than 1 may be a female, 3 pintails, 1 redhead, 1 hooded merganser and 2 wood ducks; and 8 in possession, including no more than 6 mallards of which no more than 1 may be a female, 6 pintails, 2 redheads, 2 hooded mergansers and 4 wood ducks.

As an alternative, States may select point system bag and possession limits. Under this system, the daily limit is reached when the point values of the last duck taken and other ducks already taken during that day total 100 or more points. The value of each female mallard, black duck, and mottled duck is 100 points; each wood duck, redhead and hooded merganser, and in Texas only, each black bellied whistling duck and fulvous whistling duck, is 70 points; each blue-winged teal, green-winged teal, cinnamon teal, scaup, gadwall, wigeon, shoveler, and merganser (except the hooded merganser) is 20 points; and of each duck of other species and sexes is 35 points. The possession limit is the equivalent of two daily limits.

Daily bag and possession limits for coots are 15 and 30, respectively.

Zoning: Duck and coot hunting seasons may be selected independently in existing zones as described in the following States:

Montana (Central Flyway portion):

Experimental Zone 1. The counties of Bighorn, Blaine, Carbon, Daniels, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland and Yellowstone.

Experimental Zone 2. The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure and Wibaux.

Nebraska (Low Plains portion):

Zone 1. Keya Paha County east of U.S. Highway 183 and all of Boyd County including the adjacent waters of the Niobrara River.

Zone 2. The area bounded by designated highways and political boundaries starting of U.S. 73 at the State Line near Falls City; north to N–67; north through Nemaha to U.S. 73–75; north to U.S. 34; west to the Alvo Road; north to U.S. 6; northeast to N–63; north and west to U.S. 77; north to N–92; west to U.S. 81; south to N–66; west to N–14; south to I–80; west to U.S. 34; west to N–10; south to the State Line; west to U.S. 283; north to N–23; west to N–47; north

to U.S. 30; east to N–14; north to N–52; northwesterly to N–91; west to U.S. 281; north to Wheeler County and including all of Wheeler and Garfield Counties and Loup County east of U.S. 183; east on N–70 from Wheeler County to N–14; south to N–39; southeast to N–22; east to U.S. 81; southeast to U.S. 30; east to U.S. 73; north to N–51; east to the State Line; and south and west along the State Line to the point of beginning.

Zone 3. The area, excluding Zone 1, north of Zone 2.

Zone 4. The area south of Zone 2.

New Mexico

Experimental Zone 1. The Central Flyway portion of New Mexico north of Interstate Highway 40 and U.S. Highway 54.

Experimental Zone 2. The remainder of the Central Flyway portion of New Mexico.

Oklahoma

Zone 1. That portion of northwestern Oklahoma, except the Panhandle, bounded by the following highways: starting at the Texas-Oklahoma border, OK 33 to OK 47, OK 47 to U.S. 183, U.S. 183 to I–40, I–40 to U.S. 177, U.S. 177 to OK 33, OK 33 to I–35, I–35 to U.S. 60, U.S. 60 to U.S. 64, U.S. 64 to OK 132, and OK 132 to the Oklahoma-Kansas state line.

Zone 2. The remainder of the Low Plains.

South Dakota (Low Plains portion):

South Zone. Bon Homme County south of S.D. Highway 50; Charles Mix County south and west of a line formed by S.D. Highway 50 from Douglas County to Geddes, Highways CFAS 6198 and FAS 3207 to Lake Andes, and S.D. Highway 50 to Bon Homme County; Gregory County; and Yankton County west of U.S. Highway 81.

North Zone. The remainder of the Low Plains.

Wyoming (Central Flyway portion):

Zone 1. Sheridan, Johnson, Natrona, Campbell, Crook, Weston, Converse and Niobrara Counties.

Zone 2. Platte, Goshen and Laramie Counties.

Zone 3. Carbon and Albany Counties.

Zone 4. Park, Big Horn, Hot Springs, Washakie and Fremont Counties.

Geese

Definitions: In the Central Flyway, "geese" includes all species of geese and brant, "dark geese" includes Canada and white-fronted geese and black brant, and "light geese" includes all others.

Outside Dates: October 4, 1986, through January 18, 1987, for dark geese and October 4, 1986, through February 15, 1987 (February 28, 1987, in New Mexico), for light geese.

Possession Limits: Goose possession limits are twice the daily bag limits (see exception for light geese in the Rio Grande Valley Unit of New Mexico).

Hunting Seasons: Seasons in States, and independently in described goose management units within States, may be as follows:

Colorado: No more than 93 days with a daily limit of 5 geese that may include no more than 2 dark geese.

Kansas: For dark geese, no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 30 and no more than 1 Canada goose and 1 white-fronted goose during the remainder of the season.

For Light Goose Unit 1 (that area east of U.S. 75 and north of I–70), no more than 86 days with a daily limit of 5.

For Light Goose Unit 2 (the remainder of Kansas), no more than 86 days with a daily limit of 5.

Montana: No more than 93 days with daily limits of 2 geese in Sheridan County and 3 geese in the remainder of the Central Flyway.

Nebraska: For Dark goose Unit 1 (Boyd, Cedar west of U.S. 81, Keya Paha east of U.S. 183, and Knox Counties), no more than 79 days with daily limits of 1 Canada goose and 1 white-fronted goose through November 14 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For Dark Goose Unit 2 (the remainder of the State east of the following highways starting at the South Dakota line; U.S. 183 to NE 2, NE 2 to U.S. 281, and U.S. 281 to Kansas), no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 23 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For Dark Goose Unit 3 (that part of the State west of Units 1 and 2), no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 23 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For light geese, no more than 86 days with a daily limit of 5.

New Mexico: For dark geese, no more than 93 days with a daily limit of 2.

For light geese in the Rio Grande Valley Unit (the Central Flyway portion of New Mexico west of highways starting at the Texas line north of El Paso: U.S. 54 to U.S. 60, U.S. 60 to U.S. 285, and U.S. 285 to the Colorado line), no more than 107 days with a daily limit of 5 and a possession limit of 20.

For light geese in the remainder of the Central Flyway portion of New Mexico, no more than 93 days with a daily limit of 5.

North Dakota: For dark geese, no more than 72 days with daily limits of 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese through November 2 and no more than 2 dark geese during the remainder of the season.

For light geese, no more than 86 days with a daily limit of 5.

Oklahoma: For Dark Goose Unit 1 (that portion of western and southern Oklahoma bounded by the following highways: starting at the Kansas-Oklahoma line, U.S. 77 to U.S. 177, U.S. 177 to OK 33 to U.S. 75, U.S. 75 to Indian Nation Turnpike, Indian Nation Turnpike to U.S. 271, and U.S. 271 to the Oklahoma-Texas line), no more than 72 days with a daily limit of 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

For Dark Goose Unit 2 (the remainder of Oklahoma), no more than 72 days with a daily limit of 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 86 days with a daily limit of 5.

South Dakota: For dark geese in the Missouri River Unit (the Counties of Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson east of SD highway 65, Dewey, Gregory, Haakon north of Kirley Road and east of Plum Creek, Hughes, Hyde, Lyman north of Interstate 90 and east of U.S. Highway 83, Potter, Stanley, Sully, Tripp east of U.S. Highway 183, Walworth, and Yankton west of U.S. Highway 81), no more than 79 days with daily limits of 1 Canada goose and 1 white-fronted goose through November 14 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For dark geese in the remainder of the State, no more than 72 days with a daily limit of 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 86 days with a daily limit of 5.

Texas: West of U.S. 81, no more than 93 days with a daily limit of 5 geese which may include no more than 2 dark geese.

For dark geese east of U.S. 81, no more than 72 days with a daily limit of 1 Canada goose and 1 white-fronted goose.

For light geese east of U.S. 81, no more than 86 days with a daily limit of 5.

Wyoming: For geese in each of 4 Units that coincide with management zones for ducks, no more than 93 days with daily limits of 2.

Tundra Swans

The following States may issue permits authorizing each permittee to take no more than one tundra swan, subject to guidelines in a current, approved management plan and general conditions that each State determine hunter participation and harvest, and specified conditions as follows:

Montana (Central Flyway portion): no more than 500 permits with the season dates concurrent with the season for taking geese.

North Dakota: no more than 1,000 permits with the season dates concurrent with the season for taking ducks.

South Dakota: no more than 500 permits with the season dates concurrent with the season for taking ducks.

Sandhill Cranes

Experimental Season in New Mexico

Two experimental seasons, not to exceed 8 days each, may be selected during the period October 10–31, 1986, in the Middle Rio Grande Valley Crane Hunt Area bounded by the south boundary of Isleta Pueblo; on the west by Interstate 25 and including all of Sevilleta and Bosque del Apache National Wildife Refuges; on the east by a dirt road from the northeast corner of Bosque del Apache NWR to the western boundary of the White Sands Missile Range Extension Co-Use (WSMREC) area, by the western WSMREC boundary and the eastern boundary of the Sevilleta NWR to U.S. Highway 60, U.S. 60 to NM Highway 47, and NM 47 to the south boundary of Isleta Pueblo; under the following conditions:

1. Not more than 365 special permits, provided by the State, may be issued for each season. Successful applicants for permits must possess valid Bosque del Apache NWR Hunt Cards or pass a hunter qualification course to be eligible to participate.

2. The bag limit shall be 3 cranes per season.

3. Shooting hours shall be sunrise to sunset and non-toxic shot is required.

4. All provisions of an Operational Hunt Plan, subject to review by the U.S. Fish and Wildlife Service Region 2 and the Central and Pacific Flyway Councils, must be in effect to assure protection of whooping cranes that might occur in the hunting area.

Pacific Flyway

The Pacific Flyway includes Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington and Wyoming (west of the Continental Divide including the Great Divide Basin).

Ducks, Coots, Common Moorhens, and Common Snipe

Outside Dates: Between October 4, 1986, and January 11, 1987.

Hunting Seasons

Seasons may be split into two segments. Concurrent 79-day seasons on ducks (including mergansers), coots, common moorhens (gallinules) and common snipe may be selected except as subsequently noted. In the Oregon counties of Morrow and Umatilla and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County, the seasons may be an additional 7 days.

Duck Limits: The basic daily bag limit is 5 ducks, including no more than 4 mallards but only 1 female mallard, 4 pintails but only 1 female pintail, and either 2 canvasbacks or 2 redheads or 1 of each. The possession limit is twice the daily bag limit.

Coot and Common Moorhen (Gallinule) Limits: The daily bag and possession limit of coots and common moorhens is 25 singly or in the aggregate.

Common Snipe Limits: The daily bag and possession limit of common snipe is 8 and 16, respectively.

California—Waterfowl Zones: Season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona. Season dates for the Northeastern and Southern Zones of California may differ from those in the remainder of the State.

Idaho—Duck Zones: Duck season dates for Zone 1 and Zone 2 may differ. Zone 1 includes all lands and waters within the Fort Hall Indian Reservation, Bannock County, Bingham County except that portion within the Blackfoot Reservoir drainage, and Power County east of State Highway 37 and State Highway 39. Zone 2 includes the remainder of the State.

Nevada—Clark County Waterfowl Zone: Season dates for Clark County may differ from those in the remainder of Nevada.

Colorado, Montana, New Mexico and Wyoming—Common Snipe: For States partially within the Flyway a 93-day season for common snipe may be selected to occur between Setember 1, 1986, and Februrary 28, 1987, and need not be concurrent with the duck season.

Geese (Including Brant)

Outside dates, season lengths and limits on geese (including brant): Seasons may be split into two segments. Between October 4, 1986, and January 18, 1987, a 93-day season on geese (except brant in Washington, Oregon and California) may be selected, except as subsequently noted. The basic daily bag and possession limit is 6, provided that the daily bag limit includes no more than 3 white geese (snow, including blue, and Ross' geese) and 3 dark geese (all other species of geese). The basic daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively. Between October 18 and November 30, 1986, Washington, Oregon and California may select an open season for brant with daily bag and possession limits of 2 and 4 brant, respectively.

Aleutian Canada goose closure: There will be no open season on Aleutian Canada geese. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

California, Oregon, and Washington—Cackling Canada goose closure: There will be no open season on the cackling Canada geese in California, Oregon and Washington.

California—Canada goose and dark goose closures: Three areas in California, described as follows, are restricted in the hunting of certain geese:

(1) In the counties of Del Norte and Humboldt there will be no open season for Canada geese.

(2) In the Sacramento Valley in that area bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in

Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, there will be no open season for Canada geese. In this area, the season on dark geese must end on or before November 30, 1986.

(3) In the San Joaquin Valley in that area bounded by a line beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate Highway 5; then southerly on Interstate Highway 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly on State Highway 99 to the point of beginning; the hunting season for Canada geese will close no later than November 23.

California (Northeastern Zone)—geese: In the Northeastern Zone of California the season may be from October 11 to January 11, except that white-fronted geese may be taken only during October 11 to November 2. Limits will be 3 geese per day and 6 in possession, of which not more than 1 white-fronted goose or 2 Canada geese shall be in the daily limit and not more than 2 white-fronted geese and 4 Canada geese shall be in possession.

California (Balance of the State Zone)—geese: In the Balance of the State Zone the season may be from November 1 through January 18, except that white-fronted geese may be taken only during November 1 to January 4. Limits shall be 3 geese per day and in possession, of which not more than 1 may be a dark goose. The dark goose limits may be expanded to 2 provided that they are Canada geese (except Aleutian and cackling Canada geese for which the season is closed).

Western Oregon: In those portions of Coos and Curry Counties lying west of U.S. Highway 101 and that portion of Western Oregon north and west of a line formed by State Highway 126 and Interstate Highway 5, except for designated areas, there shall be no open season on Canada geese. In the remainder of Western Oregon, the season and limits shall be the same as those for the Pacific Flyway, except the seasons in the designated area must end upon attainment of their individual quotas which collectively equal 210 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possessing a State-issued permit authorizing them to do so.

Oregon (Lake and Klamath Counties)—geese: In the Oregon counties of Lake and Klamath the season on white-fronted geese will not open until two weeks after the opening date of the general goose season.

Washington and Oregon (Columbia Basin Portions)—geese: In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco, the goose season may be an additional 7 days.

Western Washington: In the Washington counties of Island, Skagit, Snohomish, and Whatcom, the season for snow geese may not extend beyond January 1, 1987. In Clark, Cowlitz, Wahkiakum, and Pacific Counties, except for areas to be designated by the State, there shall be no open season on Canada geese. For designated areas the seasons must end upon attainment of individual quotas which collectively will equal 90 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possessing a State-issued permit authorizing them to do so.

Idaho, Oregon, and Montana—Pacific Population of Canada geese: In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater, and Idaho Counties); in the Oregon counties of Baker and Malheur; and in Montana (Pacific Flyway portion west of the Continental Divide), the daily bag and possession limits are 2 Canada geese and the season for Canada geese may not extend beyond January 4, 1987.

Montana and Wyoming—Rocky Mountain Population of Canada geese: In Montana (Pacific Flyway portion east of the Continental Divide) and Wyoming the season may not extend beyond January 4, 1987. In Lincoln, Sweetwater, and Sublette Counties, Wyoming, the combined special sandhill crane-Canada goose seasons and the regular goose season shall not exceed 93 days.

Idaho, Colorado, and Utah: In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to Montana border; in Colorado; and in Utah, except Washington County, the daily bag and possession limits are 2 and 4 Canada geese, respectively, and the season for Canada geese may be no more than 86 days and may not extend beyond January 4, 1987.

Nevada: Nevada may designate season dates on geese in Clark County and in Elko County and that portion of White Pine County within Ruby Lake National Wildlife Refuge differing from those in the remainder of the State. In Clark County the season on Canada geese may be no more than 86 days. Except for Clark County the daily bag and possession limits are 2 and 4 Canada geese, respectively. In Clark County the daily bag and possession limits are 2 Canada geese.

Arizona, California, Utah and New Mexico: In California, the Colorado River Zone where the season must be the same as that selected by Arizona and the Southern Zone; in Arizona; in New Mexico; and in Washington County, Utah; the season for Canada geese may be no more than 86 days. The daily bag and possession limit is 2 Canada geese except in that portion of California Department of Fish and Game District 22 within the Southern Zone (i.e. Imperial Valley) where the daliy bag and possession limits for Canada geese are 1 and 2, respectively.

Tundra Swans

In Utah, Nevada and Montana, an open season for tundra swans may be selected to the following conditions: (a) the season must run concurrently with the duck season; (b) appropriate State agency must issue permits and obtain harvest and hunter participation data; (c) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 tundra swan; (d) in Nevada, no more than 650 permits may be issued, authorizing each permittee to take 1 tundra swan in either Churchill, Lyon, or Pershing Counties; (e) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 tundra swan in either Teton or Cascade Counties.

Sandhill Cranes

Arizona may select an experimental sandhill crane season subject to the conditions specified in the frameworks for early seasons.

Special Falconry Frameworks

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal

falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall within the regular and any special season framework dates.

Daily Bag and Possession Limits: Daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting season and extended falconry seasons.

Regulations Publication: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Note.—In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season or falconry season) exceed 107 days for a species in one geographical area.

Dated: September 5, 1986.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-20686 Filed 9-11-86; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 23

Revised Listing for Cactaceae (Cacti) in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. Appendices I, II, and III of CITES list those species for which trade is controlled. This rule incorporates into the U.S. regulations implementing CITES a recent decision of the Parties of CITES to amend the listing of Cactaceae (cacti) in Appendix II.

DATES: The amendments described below entered into effect on August 29, 1986, under the terms of CITES. Therefore, this rule is effective September 12, 1986.

ADDRESSES: Please send correspondence concerning this rule to the Chief, Office of Scientific Authority, Mail stop: Room 527, Matomic Building, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, DC 20240. Background materials, as well as correspondence received, are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, in Room 537, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane at the address given above, or telephone (202) 653-5948.

SUPPLEMENTARY INFORMATION:

Background

Postal procedures for amending the lists of animal and plant species included in Appendices I and II of CITES are provided in Article XV of CITES (51 FR 27431, July 31, 1986). Under this article, the Kingdom of the Netherlands proposed that the annotation "All species of the family in the Americas" be deleted from Cactaceae in Appendix II, and that the separate listing of *Rhipsalis* species be deleted from Appendix II.

These amendments remove confusion that had arisen with different interpretations of the notation "All species of the family in the Americas" in the original listing (50 CFR 23.23). With removal of the notation, all specimens of cacti in international trade, whether or not they originate in the Americas, are without doubt subject to regulation. The United States and some other countries have been regulating all cacti in this fashion, but some other countries had been interpreting the notation differently and not regulating specimens originating outside the Americas. Although the separate entry for *Rhipsalis* has been deleted, that species remains in Appendix II as indicated by the revised entry: "All species except those in App. I". Thus, all species of cacti not in Appendix I remain in Appendix II, and international trade in cacti is regulated wherever it occurs. The same applies to international trade in cactus parts and derivatives, except for some parts and derivatives that previously had been exempted from regulation and remain unregulated (50 FR 48212, November 22, 1985).

The Secretariat sent the Netherlands proposal to the Parties on February 26, 1986 [see the notice of the U.S. Fish and Wildlife Service (Service) in the **Federal Register** of April 2, 1986, 51 FR 11328]. In response to the Service's notice, no one raised any objections to the proposal and three organizations supported it. The proposal was accepted by the Parties under the postal procedures, and on June 10, 1986, the Secretariat notified the Parties that the amendments would enter into force August 29, 1986.

Article XV of CITES enables any Party to exempt itself from implementing CITES as specified for particular species if it enters a reservation with respect to the species (see the Service's proposed rule in the **Federal Register** of July 31, 1986, 51 FR 27431). In response to the Service's proposed rule requesting comments on whether the United States should enter a reservation on the above amendments, no comments were received. The United States has decided not to enter a reservation because the amendments coincide with current U.S. regulatory practice and assist in conserving cacti.

Acceptance of the amendments has little effect in the United States, which since September 15, 1980 (see the **Federal Register** of August 26, 1980, 45 FR 56923) has been regulating all cacti in Appendix II regardless of their origin (artificially propagated, naturalized, or native in or outside the Americas). The amendments do, however, require some other Parties to CITES to broaden the scope of their regulation of cacti. Uniform regulation will assist enforcement efforts and thus bring greater protection to native cacti.

Note.—The Department has determined that amendments to CITES appendices, which result from actions of the Parties to CITES, do not require the preparation of Environmental Assesssents as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321-4347); 516 DM 2, Appendix I, § 1.10. The Department also has determined that this listing action is not a rule for purposes of Executive Order 12291, and that the Regulatory Flexibility Act (5 U.S.C. 601) and Paperwork Reduction Act of 1980 (Pub. L. 96-511) do not apply to this listing process.

This rule simply implements changes in the listing of Cactaceae (cacti) in Appendix II of CITES that already have been approved by the Parties and that coincide with our current regulatory practice. The period of time during which the United States could have entered a reservation on the amendments ended on August 29, 1986. Earlier **Federal Register** publications informed the public about these amendments and allowed an opportunity for comment on them, and the comments received supported the listing revision. Therefore, the Department of the Interior has determined that good cause exists for making this rule effective upon publication (5 U.S.C. 553(d)).

This rule was prepared by Dr. Bruce MacBryde, Botanist, Office of Scientific Authority, under authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

List of Subjects in 50 CFR Part 23

Endangered and threatened plants, Endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Regulation Promulgation

Accordingly, for the reasons set out in the preamble above, Title 50, Chapter I, Subchapter B, Part 23 of the Code of Federal Regulations is amended as set forth below.

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531–43.

2. The list in § 23.23(f) under PLANT KINGDOM, Family Cactaceae is amended by (a) removing the entry "*Rhipsalis* spp. . . . Mistletoe cacti. . . . II. . . . 7/1/75" and (b) revising the first entry under Cactaceae to read as follows:

§ 23.23 Species listed in Appendices I, II, and III.

* * * * *

(f) * * *

Species	Common name	Appendix	Date listed (month/day/year)
Family Cactaceae:	Cacti:		
* *	*	* * *	
All species except those in App. I.	.....	II	7/1/75
* *	*	* * *	

Dated: September 5, 1986.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–20572 Filed 9–11–86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 50239-5115]

Atlantic Tuna Fisheries

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

ACTION: Notice of catch rate change in the General Category.

SUMMARY: The catch rate for giant Atlantic bluefin tuna in the General Category is changed from one fish per day to two fish per day per vessel. The regulations governing this fishery allow this change based on a review of specified criteria. The increase will provide handgear fishermen a better opportunity to harvest the quota.

EFFECTIVE DATE: September 10, 1986.

FOR FURTHER INFORMATION CONTACT: William C. Jerome Jr., 617–281–3600, ext. 262; or Richard G. Seamans, 617/281–3600, ext. 244.

ADDRESSES: The address for William C. Jerome, Jr. and Richard G. Seamans is National Marine Fisheries Service, Northeast Region, Management Division, 2 State Fish Pier, Gloucester, MA 01930–3097.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971–971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on October 25, 1985 (50 FR 43396).

Section 285.24(a) provides that the Assistant Administrator for Fisheries, NOAA, on or about September 1, may adjust the daily catch rate limit to a maximum of three giant Atlantic bluefin tuna per day per vessel based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors to provide for maximum utilization of the quota. The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna of only 195 short tons (st) through September 1, and the relatively low average daily catch rate of 4 st per day for the period August 15 through September 1, that the quota for the General Category will not be harvested under the prevailing catch constraints. Therefore, the catch rate of one giant Atlantic bluefin tuna per day per vessel will be increased on the effective date of this notice to two fish per day per vessel to provide the maximum opportunity to utilize the 650 st General Category quota.

This daily catch rate will remain in effect for the remainder of 1986 or until the quota for the General Category is reached.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters:

This action is taken under the authority of 50 CFR 285.24 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

(16 U.S.C. 971 *et seq.*)

Dated: September 9, 1986.

Carmen J. Blondin,

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

[FR Doc. 86–20630 Filed 9–9–86; 4:47 pm]

BILLING CODE 3510-22-M

50 CFR Part 674

[Docket No. 50694-5094]

High Seas Salmon Fishery Off Alaska

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

ACTION: Notice of commercial fishery closure.

SUMMARY: NOAA issues this notice closing the fishery conservation zone (FCZ) off Southeastern Alaska to commercial fishing for chinook salmon. The management area will remain open to the harvest of other salmon species except for one small area which is closed to all commercial salmon fishing. This action is intended to prevent the commercial troll salmon harvest from exceeding the number of chinook salmon authorized by the Pacific Salmon Commission and to conserve the chinook salmon resource.

DATES: Effective at 0001 hours Alaska Daylight Time (ADT), September 10, 1986, through 2400 hours ADT on September 20, 1986. Public comments on this notice are invited until October 10, 1986.

ADDRESS: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. During the comment period, the data upon which this notice is based will be available for public inspection during business hours (0800 to 1630 ADT, Monday through Friday) at the NMFS Alaska Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Chief, Fisheries Management Division, NMFS), 907–586–7228.

SUPPLEMENTARY INFORMATION: Salmon fishing in the FCZ off Alaska is managed under the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude (FMP). This FMP was developed and amended by the North

Pacific Fishery Management Council (Council) and is implemented by NOAA through regulations appearing at 50 CFR Part 674.

In March 1986, the Pacific Salmon Commission limited the 1986 chinook salmon harvest by all fisheries in Southeastern Alaska to 254,000 fish, exclusive of the harvest of chinook salmon resulting from Alaska's new enhancement activities. A final rule announcing this limit and setting the 1986 base fishing periods for salmon was published on July 21, 1986 (51 FR 26159). The commercial salmon fishery in the FCZ began on June 20, 1986.

On July 9, 1986, the Secretary of Commerce (Secretary) closed a small area of the FCZ called the Fairweather Grounds to commercial salmon fishing (51 FR 25528, July 15, 1986) to slow the rate at which chinook salmon were being harvested so that the number harvested did not exceed the limit imposed by the Pacific Salmon Commission and to prevent the harvest and release of large numbers of sublegal chinook salmon with a resulting high mortality.

On July 30, 1986, the Secretary closed an area between Cape Cross and Cape Fairweather to all commercial salmon fishing to protect coho salmon returning to the northern inside areas of Southeastern Alaska (51 FR 27860, August 4, 1986).

On August 11, 1986, NOAA closed the entire FCZ to all commercial salmon fishing for 10 days (51 FR 29107, August 14, 1986). This closure was intended to allow coho salmon to escape the ocean and coastal fishery so they could move to inside waters and the spawning grounds.

On August 21, 1986, the Secretary reopened the troll fishing season for chinook salmon for 6 days from August 21 until August 26 to harvest an estimated 43,000 chinook salmon remaining under the Pacific Salmon Treaty limit (August 26, 1986, 51 FR 30365).

Analyses of catches from the 6-day period between August 21 and 26 showed a marked decrease in the catch rate of chinook salmon. Alaska Department of Fish and Game salmon managers estimated that 15,000 to 20,000 chinook salmon remained to be caught under the Pacific salmon treaty provisions. Therefore, the Secretary again opened the FCZ off Southeastern Alaska on September 1, 1986, to commercial fishing for chinook salmon until the scheduled end of the commercial salmon fishing season on September 20, 1986, or until the 254,000 plus hatchery add-on chinook salmon quota is achieved, whichever occurs first.

During the period from September 1 through September 5, 1986, chinook salmon catch rates averaged just over 2,000 fish per day. It is now estimated that the 254,000 chinook salmon quota will be achieved by midnight September 9, 1986. Therefore, the Secretary is closing the FCZ off Southeastern Alaska to all fishing for chinook salmon effective at 0001 hours (ADT) September 10, 1986.

The management area off Southeastern Alaska will remain open to the troll harvest of other salmon species until the scheduled closing date of September 20, 1986, except for the area known as the Fairweather Grounds (described in 51 FR 25528, July 15, 1986). This area is being closed to continue to prevent hook and release mortality of sublegal chinook salmon.

Regulations implementing the FMP at § 674.23(a) provide that the Secretary may modify the time and area limitations governing the fishery whenever such modification is based upon a determination by the Regional Director that the condition of any salmon species in any part of the management area is substantially different from the condition anticipated in the FMP and this difference reasonably requires a modification of time or an area limitation if salmon of any species are to be adequately conserved and managed. Having reviewed the evidence of the 1986 harvest of chinook salmon, the Secretary has determined that the effect of overall fishing effort in the FCZ, the catch-per-unit-of-effort, the high rate of harvest, and the relative abundance of chinook stocks within the FCZ portion of the management area indicate that the condition of chinook stocks is substantially different from the condition anticipated in the FMP. He has also found that this difference reasonably requires a modification of time or area limitations if chinook stocks are to be conserved and managed adequately. Therefore, the Secretary is implementing the closure of the chinook fishery as prescribed by this action. The notice of closure complies with § 674.23(b)(2).

Other Matters

The Assistant Administrator for Fisheries, NOAA, has determined that the chinook harvest in Southeastern Alaska will exceed the Pacific Salmon Treaty limit unless this notice takes effect promptly. He finds, therefore, that it would be impracticable and contrary to the public interest to provide advance notice and a prior opportunity for public comment or to delay for 30 days the effective date of this notice under the provisions of 5 U.S.C. 553 (b) and (c).

This action is authorized by 50 CFR Part 674 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 674

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: September 9, 1986.

Carmen J. Blondin,

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

[FR Doc. 86-20631 Filed 9-9-86; 4:45 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 177
Friday, September 12, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-CE-15-AD]

Airworthiness Directives; Dornier Models 228-100, 228-101, 228-200 and 228-201 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawl of Notice of Proposed Rulemaking (NPRM).

SUMMARY: This action withdraws NPRM, Docket No. 85-CE-15-AD, published in the **Federal Register** May 30, 1985 (50 FR 23026), which proposed to require modification of the connections of the 4CC and 9CC relays in the horizontal stabilizer electric trim system and mandatory replacement of those relays if they have more than 200 hours time-in-service (TIS) at the time of modification. Dornier reported that during trimming, peak currents could occur on these relays which are greater than the design values which reduces the life of the relays and the reliability of the system. The NPRM is being withdrawn because the Dornier Company demonstrated during the type certification flight testing of the DO228-100/200, with a FAA Test Pilot aboard, that the aircraft is easily controllable to a safe landing by the pilot when the elevator trim is allowed to rotate to full nose up and full nose down stops at maximum operating airspeed (V_{mo}); therefore, trim runaway would not be a problem in these aircraft with the design trim stops approved during type certification.

ADDRESSES: Alert Service Bulletin ASB-228-019 dated January 30, 1985, which was referenced in the NPRM, may be obtained from Dornier GmbH, Postfach 317, P-7990 Friedrichshafen-Bodensee, Germany. Copies of this service bulletin are contained in the Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; and the Brussels Aircraft Certification Office, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium.

FOR FURTHER INFORMATION CONTACT: Mr. M. Dearing, Brussels Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone 513.38.30; or Mr. H. Chimerine, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring modification of the 4CC and 9CC relays in the horizontal stabilizer electric trim system and mandatory replacement of those relays with more than 200 hours TIS was published in the **Federal Register** on May 30, 1985 (50 FR 23026). Subsequent to issuance of the proposal, it was determined that the aircraft manufacturer demonstrated during the type certification flight testing of the DO228-100/200, with a FAA Test Pilot aboard, that the aircraft is easily controllable to a safe landing by the pilot when the elevator trim is allowed to rotate to the full nose up and full nose down stops at maximum operating airspeed (V_{mo}); therefore, trim runaway would not be a problem in these aircraft with the design stops approved during type certification. Accordingly, issuance of an AD is unnecessary and therefore the NPRM is being withdrawn.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Withdrawal of Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration deletes a proposal to amend § 39.13 of the FAR as follows:

PART 39—[AMENDED]

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

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

2. NPRM No. 85-CE-15-AD, published in the **Federal Register** on May 30, 1985 (50 FR 23026), is withdrawn.

Issued in Kansas City, Missouri, on August 28, 1986.

Jerold M. Chavkin,
Acting Director, Central Region.

[FR Doc. 86-20526 Filed 9-11-86; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-AWP-13]

Proposed Alteration of VOR Federal Airways—HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of Federal Airways V-7 and V-25 located in the state of Hawaii. The current descriptions of these airways cite the Flight Information Region/Oceanic Control Airspace (FIR/Oceanic CTA) boundary as the end of these airways. This action would redescribe the end of these airways by including geographical coordinates which pilots can easily locate.

DATE: Comments must be received on or before October 27, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 86-AWP-13, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–AWP–13." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be chsnged in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of Federal Airways V–7 and V–25 located in the state of Hawaii. The current descriptions of these airways indicates that the end of V–7 is the Molokai, HI, 358° radial and the Honolulu FIR/Oceanic CTA boundary and V–25 is the Hilo, HI, 356° radial and the Honolulu FIR/Oceanic CTA boundary. To improve the descriptions of these airways, the FAA proposes to use geographical coordinates rather than the FIR boundary. This action would aid flight planning and increase safety by giving a precise geographical and navigational point where domestic air traffic control separation criteria must be applied. Section 71.127 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.127 [Amended]

2. Section 71.127 is amended as follows:

V–7 [Amended]

By removing the words "to INT Molokai 358° and the Honolulu FIR/Oceanic CTA boundary." and substituting the words "; to INT Molokai 358°T(347°M) radial and lat. 24°19'00"N."

V–25 [Revised]

From Hilo, HI, via INT Hilo 356°T(345°M) and Maui, HI, 038°T(027°M) radials; to INT Maui 038°T(027°M) radial and lat. 23°00'24"N.

Issued in Washington, DC, on September 5, 1986.

Daniel J. Peterson,

Manager Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–20522 Filed 9–11–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 86–AGL–23]

Proposed Transition Area Alteration, Goshen, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to alter the existing Goshen, Indiana, transition area to accommodate a new LOC BC Runway 9 Standard Instrument Approach Procedure (SIAP) to Goshen Municipal Airport, Goshen, Indiana.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before October 13, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL–7, Attn: Rules Docket No. 86–AGL–23, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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

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

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The present transition area is being expanded to accommodate arrival aircraft utilizing the LOC BC Runway 9 SIAP. The additional airspace designated will be approximately a 1-mile additional expansion to the west of the present transition area.

The development of the procedure requires that the FAA alter the designated airspace to insure that the

procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AGL-23." The Postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the designated transition area airspace near Goshen, Indiana.

Section 71.181 of Part 71 of the Federal Aviation. Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

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

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

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

§ 71.18 [Amended]

2. Section 71.181 is amended as follows:

Goshen, IN [Amended]

That airspace extending upward from 700 feet above the surface within a 5 mile radius of Goshen, Indiana, Airport (lat. 41°31'30"N., long. 85°48'00"W.); and within 2 miles each side of the Goshen, Indiana, VORTAC 090 radial extending from the 5 mile radius area to 13 miles west of the airport.

Issued in Des Plaines, Illinois, on July 14, 1986.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 86-20527 Filed 9-11-86; 8:45 am]

BILLING CODE 4901-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AGL-22]

Proposed Transition Area Alteration, Kentland, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Kentland, Indiana, transition area to accommodate a new RNAV Runway 27 Standard Instrument Approach Procedure (SIAP) to Kentland Municipal Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before October 13, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 86-AGL-22, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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

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

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The development of a new RNAV Runway 27 instrument approach procedure requires that the FAA alter the designated airspace to ensure that the procedure will be contained within controlled airspace. The additional airspace designated will be approximately a 1-mile expansion of the existing transition area radius.

The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–AGL–22." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the designated transition area airspace near Kentland, IN.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Kentland, IN [Amended]

That airspace extending upward from 700 feet above the surface within a 6 mile radius of Kentland, Indiana, Airport (lat. 40°45'27" N., long. 87°25'48" W.).

Issued in Des Plaines, Illinois, on July 14, 1986.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 86–20524 Filed 9–11–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 86–AGL–21]

Proposed Transition Area Alteration—Warroad, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Warroad, Minnesota, transition area to accommodate a new RNAV Runway 31 Standard Instrument Approach Procedure (SIAP) to Warroad International-Swede Carlson Field Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before October 13, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL–7, Attn: Rules Docket No.86–AGL–21, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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

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

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The present transition area is being expanded to accommodate aircraft utilizing a RNAV Runway 31 SIAP. The additional airspace designated will be approximately a .5 mile expansion of the present transition area radius.

The development of the procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with

applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AGL-21." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation. Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the designated transition area airspace near Warroad, Minnesota.

Section 71.181 of Part 71 of the Federal Aviation. Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Warroad, MN—[Amended]

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of Warroad International-Swede Carlson Field Airport (lat. 48°56'15" N., long. 95°20'30" W.) excluding that area north of lat. 49°00'00" N. (Canadian-U.S. Boundary) and within 3 miles each side of the 108° bearing from Warroad International-Swede Carlson Field, extending from the 6.5-mile radius to 8.5 miles east southeast of the airport.

Issued in Des Plaines, Illinois, on July 14, 1986.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 86-20525 Filed 9-11-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-ANM-2]

Proposed Establishment of Transition Area, Evanston, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to establish a 700 foot transition area at Evanston, Wyoming, to accommodate new VOR/DME instrument approach procedures to the Evanston-Uinta County Airport. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

DATE: Comments must be received on or before November 1, 1986.

ADDRESS: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 86-ANM-2, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

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

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

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-534, Federal Aviation Administration, Docket No. 86-ANM-2, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2534.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulation, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-ANM-2". The postcard will be date/time stamped and returned to the

commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C–68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot transition area at Evanston, Wyoming. This action will establish a transition area to provide controlled airspace for aircraft executing new VOR/DME instrument approach procedures to the Evanston-Uinta County Airport.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(9) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Evanston, Wyoming, Transition Area [New]

That airspace extending 700 feet above the surface within an area bounded by a line beginning at lat. 41°20'00" N, long. 111°28'00" W), thence to lat. 41°32'00" N, long. 41°17'00" W, thence to lat. 41°15'00" N, long. 41°07'00" W, thence to lat. 41°01'00" N, long. 41°18'00" W, to beginning.

Issued in Seattle, Washington, on September 2, 1986.

Joseph C. Foster,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 20523 Filed 9–11–86; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9189]

Detroit Auto Dealers Association, Inc., et al.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the Detroit, Mich. Area Chrysler-Plymouth and Cadillac associations, dealerships and dealers listed in Attachments A, B, and C to the order from conspiring to not advertise in the classified sections of newspapers or to advertise vehicle prices at all. An identical proposed consent agreement with Dertoit-area Chevrolet associations, dealerships and dealers was published in the **Federal Register** on Aug. 20, 1986 (51 FR 29660).

DATE: Comment must be received on or before November 12, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Richard Smith, FTC/G–402, Washington, DC 20580. (202) 254–5020.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and §3.25(f) of the Commission's Rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Automobile dealers, trade practices.

Before Federal Trade Commission

[Docket No. 9189]

Agreement Containing consent order To Cease and Desist

In the Matter of Detroit Auto Dealers Association, Inc., a corporation, et al.

The Federal Trade Commission having initiated an enforcement proceeding after an investigation of certain acts and practices of respondents identified in Attachments, A, B and C, and those respondents having agreed to enter into an agreement containing an order to cease and desist from engaging in the acts and practices identified in Count II of the complaint,

It is Hereby Agreed by and between respondents identified in Attachments A, B and C, and counsel for the Commission that:

1. Respondent dealers identified in Attachment A are all corporations with their principal places of business located at the addresses shown in Attachment A.

2. Individual respondents identified in Attachment B are officers of various dealers, as shown in Attachment B, and as such they formulate, direct and control the acts and practices of the dealers for which they are officers.

3. The respondent association identified in Attachment C is an

incorporated trade association for motor vehicle dealers with its principal places of business located at the address shown in Attachment C.

4. The respondents listed in Attachments A, B and C have been served with a copy of the complaint issued by the Federal Trade Commission alleging that they and others have violated Section 5 of the Federal Trade Commission Act, and have filed answers to the complaint denying these allegations.

5. The respondents listed is Attachments A, B and C admit all the jurisdictional facts relating to Count II set forth in the Commission's complaint in this proceeding.

6. The respondents listed in Attachments, A, B and C waive the following with respect to Count II of the complaint:

(a) Any further procedural steps;
(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;
(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and
(d) Any claim under the Equal Access to Justice Act.

7. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents listed in Attachments A, B and C, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of Count II of the complaint issued by the Commission in this proceeding.

8. This agreement is for settlement purposes only and relates solely to Count II of the Commission's complaint in this proceding; this agreement does not constitute an admission by the respondents listed in Attachments A, B and C that the law has been violated as alleged in Count II of the complaint issued by the Commission.

9. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to the respondents listed in Attachments, A, B and C, (1) issue its decision containing the following Order to cease and desist in disposition of Count II of the complaint issued by the Commission in this proceeding, and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to Order to respondents' addresses as stated in this agreement shall constitute service. The respondents listed in Attachments A, B and C waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or in the agreement may be used to vary or to contradict the terms of the Order.

10. The respondents listed in Attachments A, B and C have read the complaint and the Order contemplated hereby. These respondents understand that once the Order has been issued, they may be required to file one or more compliance reports showing they have fully complied with the Order. These respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

11. Commission counsel may not introduce or make reference in any way to the allegations in Count II of the complaint during the remainder of this proceeding; provided, that this paragraph in no way limits Commission counsel from introducing or using factual evidence otherwise admissible on the Count I allegations.

12. By its final acceptance of this agreement, the Commission waives its right to commence a proceeding or action against the respondents listed in Attachments A, B and C seeking consumer redress or other relief under section 5 or section 19 of the Federal Trade Commission Act with respect to the acts or practices alleged in Count II of the complaint; provided, that this paragraph in no way limits the Commission in seeking relief for a violation of the Order entered pursuant to this agreement or for any other actions of the respondents listed in Attachments A, B and C taken after final acceptance of the agreement.

Order

For purposes of this Order, the following definitions shall apply:

1. "Person" means any natural person, corporation, partnership, association, joint venture, trust or any other organization or entity, but not governmental entities.

2. "Dealer" means any person who receives on consignment, or purchases, motor vehicles for sale or lease to the public, and any director, officer, employee, representative or agent of any such person.

3. "Other Dealer" means any dealer not named in this Order.

4. "Dealer association" means any trade, civic, service, or social association whose membership is comprised primarily of dealers.

5. "Detroit area" means the Detroit, Michigan metropolitan area, comprising Macomb County, Wayne County and Oakland County in the State of Michigan.

6. "Respondent" means any corporation listed in Attachment A, any individual listed in Attachment B, or any association listed in Attachment C, and the officers, directors, representatives, agents, divisions, subsidiaries, and successors and assigns of any listed corporation or association.

I.

It Is Ordered, that each respondent shall cease and desist from, directly or indirectly, or through any corporate or other device, entering into or continuing or carrying out any agreement, contract, combination or conspiracy with any respondent or any other dealer or dealer association in the Detroit area which has the purpose or effect of:

A. Restraicting, regulating or limiting the advertising of any motor vehicle in the classified section of any newspaper or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle, except to the extent that the restriction, regulation or limitation of such advertising is necessary for the purpose of engaging in lawful joint advertising; or

B. Maintaining, adopting or adhering to any policy, act or practice that restricts, regulates or limits the advertising by any person of any motor vehicle in the classified section of any newspaper or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle, except to the extent that the restriction, regulation or limitation of such advertising is necessary for the purpose of engaging in lawful joint advertising.

II.

It Is Further Ordered, that each respondent shall cease and desist from, directly or indirectly, or through any corporate or other device, performing any of the following acts or practices, or encouraging any person to perform any of the following acts or practices, or entering into or continuing or carrying out any agreement, contract, combination or conspiracy with any other person in the Detroit area to do or perform any of the following acts or practices:

A. Requesting, recommending, coercing, influencing, encouraging or persuading, or attempting to request, recommend, coerce, influence, encourage or persuade, any other respondent or any other dealer in the Detroit area to maintain, adopt or adhere to any policy, act or practice that restricts, regulates or limits the advertising by any person of any motor vehicle in the classified section of any newspaper or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle, except to the extent that the restriction, regulation or limitation of such advertising is necessary for the purpose of engaging in lawful joint advertising; or

B. Requesting, recommending, coercing, influencing, encouraging or persuading, or attempting to request, recommend, coerce, influence, encourage or persuade, any other respondent or any other dealer in the Detroit area to change his advertised or published prices.

III.

It Is Further Ordered, that nothing contained in Part I or II above shall be construed to prohibit: (a) Any respondent association from formulating, adopting, disseminating to its members, and enforcing lawful guidelines governing the conduct of its members with respect to advertisements that such respondent association reasonably believes would be false or deceptive within the meaning of section 5 of the Federal Trade Commission Act; (b) any other respondent from participating in such activities as identified in Subpart (a) of an association of which such respondent is a member; or (c) any respondent from informing or advising anyone regarding what the respondent reasonably believes to be the requirements of any other existing or proposed federal, state, or local law, regulation, or order, or publishing such interpretations thereof.

IV.

It Is Further Ordered, that the respondent association listed in Attachment C shall cease and desist from failing to maintain for five (5) years following the taking of any action against a person alleged to have violated any advertising guidelines as described in Part III of this Order, in a separate file segregated by the name of any person against whom such action was taken, any document that embodies, discusses, mentions, refers, or relates to the action taken and any allegation relating to it.

V.

It Is Further Ordered, that the respondent association listed in Attachment C shall:

A. Within sixty (60) days of the date this Order becomes final, amend its by-laws to incorporate by reference this Order, and provide each member with a copy of this Order and the amended by-laws;

B. For three (3) years from the date this Order becomes final, provide each new member with a copy of this Order and the amended by-laws within thirty (30) days of the new member's admission to the association.

VI.

It Is Further Ordered, that, for a period of three (3) years from the date this Order becomes final, the respondent association listed in Attachment C shall notify the Commission at least sixty (60) days prior to the adoption of any advertising guidelines as described in Part III of this Order.

VII.

It Is Further Ordered, that each respondent shall, within sixty (60) days after this Order becomes final, and then annually thereafter for a period of three (3) years, file with the Commission a report, in writing, signed by the respondent, setting forth in detail the manner and form in which it has complied with this Order.

VIII.

It Is Further Ordered, that each corporate respondent shall notify the Commission at least thirty (30) days prior to any proposed change in that corporate respondent, such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in that corporate respondent that may affect compliance obligations arising out of this Order. In the case of each natural person respondent named herein, for a period of three (3) years from the date this Order becomes final, said respondent shall promptly notify the Commission of the discontinuance of his present business or employment and of any new affiliation or employment with any dealer or dealer association. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which said respondent is newly engaged, as well as a description of the respondent's duties and responsibilities in connection with the business or employment.

Attachment A to Chrysler—Plymouth Proposed Consent Agreement

Birmingham Chrysler-Plymouth, Inc., 2100 West Maple Road, Troy, Michigan 48084
Lochmoor Chrysler-Plymouth, Inc., 18165 Mack Avenue, Detroit, Michigan 48224
Shelby Oil Company, Inc., d/b/a Monicatti Chrysler-Plymouth Sales, 40755 Van Dyke Avenue, Sterling Heights, Michigan 48078
Roseville Chrysler-Plymouth, Inc., 25800 Gratiot Avenue, Roseville, Michigan 48006
Bill Snethkamp, Inc., 16430 Woodward Avenue, Highland Park, Michigan 48023
Thompson Chrysler-Plymouth, Inc., 16225 Fort Street, Southgate, Michigan 48195
Westborn Chrysler-Plymouth, Inc., 23300 Michigan Avenue, Dearborn, Michigan 48124

Attachment B to Chrysler-Plymouth Proposed Consent Agreement

Robert M. Brent, Warren Chrysler-Plymouth, Inc., 32711 Van Dyke Avenue, Warren, Michigan 48093
James Riehl, Roseville Chrysler-Plymouth, Inc., 25800 Gratiot Avenue, Roseville, Michigan 48006
William Snethkamp, Bill Snethkamp, Inc., 16430 Woodward Avenue, Highland Park, Michigan 48023

Attachment C to Chrysler-Plymouth Proposed Consent Agreement

Chrysler-Plymouth Dealers Association of Greater Detroit, Inc., 32711 Van Dyke, Warren, Michigan 48093

Attachment A to Cadillac Proposed Consent Agreement

Audette Cadillac, Inc., 7100 Orchard Lake Road, West Bloomfield, Michigan 48033
Crissman Cadillac, Inc., 1350 North Woodward Avenue, Birmingham, Michigan 48012
Charles Dalgleish Cadillac-Peugeot, Inc., 6160 Cass Avenue, Detroit, Michigan 48202
Dreisbach & Sons Cadillac Co., 24600 Grand River Avenue, Detroit, Michigan 48219
Arnold Jerome Cadillac, Inc., 675 S. Saginaw, Pontiac, Michigan 48053
Roger Rinke Cadillac Co., 8333 East Eleven Mile Road, Warren, Michigan 48093

Attachment B to Cadillac Proposed Consent Agreement

Charles Audette, Audette Cadillac, Inc., 7100 Orchard Lake Road, West Bloomfield, Michigan 48033

Frank Audette, Audette Cadillac, Inc., 7100 Orchard Lake Road, West Bloomfield, Michigan 48033
Charles Dalgleish, Jr., Charles Dalgleish Cadillac-Peugeot, Inc., 6160 Cass Avenue, Detroit, Michigan 48202
Douglas Dalgleish, Charles Dalgleish Cadillac-Peugeot, Inc., 6160 Cass Avenue, Detroit, Michigan 48202
Thomas S. Dreisbach, Dreisbach & Sons Cadillac Co., 24600 Grand River Avenue, Detroit, Michigan 48219
Roger J. Rinke, Roger Rinke Cadillac Co., 8333 East Eleven Mile Road, Warren, Michigan 48093

Attachment C to Cadillac Proposed Consent Agreement

Metro Detroit Cadillac Dealers Association, Inc., 100 Renaissance Center, Suite 3100, Detroit, Michigan 48243

Analysis of Proposed Count II Consent Order to Aid Public Comment

The Federal Trade Commisson has accepted agreements and proposed consent orders from 50 respondents charged under Count II of the Commission's complaint.

The proposed consent orders have been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the argeements and the comments received and will decide whether it should withdraw from the agreements or make final the proposed orders.

Description of the Complaint

On December 20, 1984, the Commission issued a two count complaint against 19 Detroit area automobile dealer associations; 105 Detroit area automobile dealerships; and 115 individuals (all of whom are or have been dealership owners, employees, or association employees) charging them under Count I with conspiring to restrict dealership operating hours. Count II of the complaint, which the present consent orders propose to settle, also charged certain of the Chevrolet, Cadillac, and Chrysler-Plymouth automobile dealership association respondents, automobile dealership respondents, and individual respondents (most of whom were owners of the respondent automobile dealerships) with conspiring to restrict (1) the advertising of motor vehicles in the classified section of newspapers and (2) the advertising or publishing of motor vehicle prices, in violation of section 5 of the Federal Trade Commission Act.

The complaint further alleged that the purpose and effects of the respondents' conduct challenged under Count II has been to restrict competition among dealers in the sale or lease of motor vehicles in the Detroit area. According to the FTC staff, these advertising restrictions also injure consumers by reducing consumers' access to important information about automobile prices in the Detroit area, thereby increasing dealers' ability to maintain higher prices.

The Proposed Consent Orders

Three identical consent agreements have been executed by 50 Count II respondent associations, dealerships, and individuals, grouped by automobile makes, *i.e.*, Chevrolet,[1] Chrysler-Plymouth and Cadillac. The proposed consent orders against these 50 respondents are designed to remedy the Count II violations charged in the Commission's complaint, and to prevent the Count II respondents from engaging in similar allegedly illegal acts and practices in the future. The proposed orders are intended to ensure that the Count II respondents cease all conduct prohibiting or discouraging the truthful advertising of motor vehicles in the classified sections of newspapers or the advertising or publishing of the prices, terms, or conditions of sale of any motor vehicle.

Part I provides that each respondent must cease and desist from, directly or indirectly, entering into or continuing any agreement, contract, combination, or conspiracy with any respondent, or with any other dealer or dealer association in the Detroit area, which has the purpose or effect of (A) restricting the advertising of any motor vehicle in the classified section of any newspaper or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle or (B) maintaining, adopting or adhering to any policy, act or practice that restricts the advertising of any motor vehicle in the classified section of any newspaper or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle. The prohibitions in Part I (A) and (B) do not prevent respondents from imposing any restriction, regulation or limitation of such advertising that is necessary for lawful joint advertising. Part I will effectively remedy the complaint's Count II allegations that these respondents have conspired to restrict price advertising of motor vehicles and the advertising of motor vehicles in the classified sections of newspapers.

Part II goes beyond the prohibitions of Part I against actual agreements to restrain price advertising or advertising in the classified sections of newspapers. It reaches unilateral actions and attempts by prohibiting each respondent from (directly or indirectly) attempting to (A) request, recommend, coerce, influence, encourage or persuade any other respondent or other dealer in the Detroit area to maintain, adopt or adhere to any policy, act or practice that restricts or regulates the advertising by any person of any motor vehicle in the classified section of any newspaper, or the advertising or publishing by any person of any price, term, or condition of sale of any motor vehicle or (B) request, recommend, coerce, influence, encourage or persuade any other respondent or any other dealer in the Detroit area to change its advertised or published prices. The prohibitions in Part II(A) parallel those in Part I by applying to any "term or condition of sale" and by not preventing any restriction, regulation or limitation of advertising that is necessary for lawful joint advertising.

Part III(a) provides that Parts I and II do not prevent any respondent association from formulating and enforcing lawful guidelines against its members with respect to advertisements that such association "reasonably believes" are false or deceptive under section 5 of the Federal Trade Commission Act. Part III(b) permits any dealership-member of an association to participate in the association activities described in Part III(a). Part III(c) permits any respondent to inform or advise anyone or publish interpretations of what it reasonably believes to be the requirements of any existing or proposed federal, state, or local law (excluding section 5 of the Federal Trade Commission Act, which is addressed in Part III(a)), regulation, or order. However, in order that the Commission not delegate law enforcement authority to private parties, this provision does not require that the respondent receiving the advice must abide by it.

Part IV requires that each association respondent maintain documentation concerning any action taken against any person alleged to have violated any association advertising guidelines described in Part III. This documentation must be maintained for 5 years following the taking of any such action.

Part V requires that, within 60 days of the Order becoming final, each

[1] The Proposed Consent Agreement with the Chevrolet associations, dealerships, and individuals was published in the **Federal Register** on Aug. 20, 1986 (51 FR 29660).

respondent association amend its by-laws to incorporate by reference the Order, and provide each association member with a copy of the Order and amended by-laws. In addition, for 3 years from the Order becoming final, each new member of the association must be provided with such documentation within 30 days of its admission to the association.

Part VI provides that, for 3 years, each respondent association must notify the Commission at least 60 days prior to the adoption of any advertising guidelines described in Part III.

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreements and proposed orders or modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 86-20690 Filed 9-11-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD-85-092]

Puget Sound Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to amend the regulations for the Puget Sound Vessel Traffic Service (PSVTS). This proposal is intended to update the reporting requirements to reflect the Vessel Traffic Center's (VTC's) increased radar coverage capabilities; clarify the wording throughout the regulations; and reorganize and reword the regulations to make them compatible with the proposed Cooperative Vessel Traffic Management System (CVTMS) regulations which will apply to waters adjacent to those covered by the PSVTS regulations. These proposed changes would revise the operational reporting scheme by reducing the number of reports required and providing for the communication of more timely information to the VTC. For Traffic Service participants who navigate in both the PSVTS area and the CVTMS area, these proposed changes will facilitate the changeover in operating procedures when going from one area to another by minimizing the differences between the two sets of regulations.

DATES: Comments must be received by November 12, 1986.

ADDRESSES: Comments should be submitted to Commandant (G-CMC), U.S. Coast Guard, Washington, DC 20593. Comments may be delivered to and will be available for inspection and copying at the Office of the Executive Secretary, Marine Safety Council, Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593 between the hours of 8:00 a.m. and 3:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION, CONTACT: LTJG K.J. BRADLEY, Office of Marine Environment and Systems, (202) 267-1940. Normal office hours are 7:30 a.m. to 4:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person making them, identify this notice (CGD 85-092) and the specific section of the proposal to which each comment applies, and give the reasons for the comments. A self-addressed stamped envelope should be included with the comments if an acknowledgment of receipt is desired. All comments received before the expiration of the comment period will be considered before the final action is taken on this proposal. No public hearing is presently planned; however, a hearing may be held if it is determined that it would aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are LTJG K.J. BRADLEY, Project Manager, Office of Marine Environment and Systems, and CDR R.C. ZABEL, Project Counsel, Office of the Chief Counsel.

Background

The Ports and Waterways Safety Act, (33 U.S.C. 1221) provides authority for the Secretary of the Department of Transportation to "establish, operate, and maintain vessel traffic services and systems for ports, harbors, and other waters subject to congested vessel traffic." On July 10, 1974, the Coast Guard established regulations for the Puget Sound Vessel Traffic Service (PSVTS) (39 FR 25430; July 10, 1974). These regulations provide for the safe and expeditious movement of vessel traffic while minimizing the risk of pollution.

Discussion of Proposed Amendments

Changes in PSVTS equipment capabilities and operating procedures necessitate the revision of Title 33 CFR 161.101-187. This amendment will provide more definitive requirements in some areas, streamline others, and, in general, reword the PSVTS regulations to more accurately reflect intended procedures and current equipment capabilities.

This amendment also reorganizes and restructures the regulations to make them compatible with the proposed Cooperative Vessel Traffic Management System (CVTMS) regulations. The CVTMS regulations will provide for a joint U.S. and Canadian system for managing vessel traffic in waters bounding the state of Washington and Vancouver Island. The waters subject to this agreement include the Strait of Juan de Fuca and its Pacific Ocean approaches, Haro Strait, and the Strait of Georgia—waters which also bound the PSVTS Area. The PSVTS VTC in Seattle manages vessel traffic in both the PSVTS Area and in the Strait of Juan de Fuca in the CVTMS Area. The same radio call sign, "Seattle Traffic," is used to contact the PSVTS VTC whether a vessel is operating in the PSVTS Area, or the CVTMS Area. Canadian VTCs manage vessel traffic in the remainder of the CVTMS Area. The user who will be required to participate in both systems will find it easier to understand and comply with both sets of regulations if the PSVTS regulations are worded and structured to be as consistent as possible with the CVTMS regulations. Section cites have been changed throughout most of this amendment to reflect the reorganization of the PSVTS regulations. Certain section titles will have new section numbers, and/or be listed under different general headings. Changes in actual content of the sections are discussed below.

There are also several cites in this amendment which refer to various sections of the CVTMS regulations. These section cites will not be applicable until the CVTMS regulations are published as a final rule in 33 CFR 161.200-299. The CVTMS regulations were published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on 18 August 1983 (48 FR 37433), and the Final Rule was drafted without significant changes from the NPRM. Since CVTMS is a joint agreement, the U.S. and Canada intend to publish Final Rules at the same time. The delay in publication of the U.S. Final Rule is due to Canadian delays in getting their CVTMS regulations approved for publication. It is anticipated the U.S. and Canadian Final Rules will be published simultaneously in early 1987.

This amendment would delete specific reporting requirements concerning navigation in and around the TSS, delete the Initial report if the vessel is entering

the PSVTS Area from the CVTMS Area and has previously reported the information to another VTC, and delete the requirement to routinely call-in at reporting points. The only new report proposed in this amendment is the Underway report. The extra benefit of gathering up-to-date information on when a vessel actually begins navigating in the VTS area far outweighs the negligible added burden of quickly reporting a vessel name and location to the VTC. The net effect of these changes is an actual decrease in the amount of reporting required.

Most sections in this amendment have been reworded to varying degrees, but the meaning remains basically unchanged from the current regulations unless noted otherwise below. The sections which have been changed are listed in this discussion under three headings: Procedure and Editorial Changes, Compatibility Changes, and New Requirements. Sections listed under "Procedure and Editorial Changes" reflect changes that were made to clarify a section in order to make it easier to read and understand, and to more accurately reflect the intent of the section to elicit timely and accurate traffic information. The main purpose of the changes to sections listed under "Compatibility Changes" was to make the wording of these regulations as consistent as possible with the wording of the proposed CVTMS regulations. Sections listed under "New Requirements" are, as the name implies, new requirements not specifically stated in the current regulations. All section cites given in this discussion refer to sections in this amendment unless noted otherwise.

Procedure and Editorial Changes

The cite referring to the entire set of PSVTS regulations has been changed from "§§ 161.100 through 161.199" to "§§ 161.101 through 161.187" to more accurately reflect the actual section numbering. Also, the term "master" used in the current regulations has been replaced throughout this amendment with "master, pilot, or person directing the movement of a vessel" in order to more accurately reflect actual responsibilities.

Three definitions ("Commercial Vessel", "Floating Plant", and "Vessel") have been added to § 161.103 to clarify the meaning of these terms in the regulations, and one definition ("Displacement Ton") was deleted because the term was not used.

Sections 161.104, 161.113, 161.137, 161.170, and 161.174 have been reworded to more clearly and accurately reflect the intent of the regulations.

The Port Angeles precautionary area is no longer mentioned in § 161.152(b) as it lies within the CVTMS Area. Vessel operating requirements relating to the Port Angeles precautionary area are more properly addressed in the proposed CVTMS regulations. However, the Port Angeles precautionary area is mentioned in § 161.187(a). This cite is merely descriptive, and is intended to aid in identifying the Port Angeles precautionary area and its relation to other precautionary areas.

The Port Angeles precautionary area has also been added to §§ 161.183(c) (1) and (2), replacing precautionary areas "S" and "R". No separate precautionary areas exist to correspond with "S" and "R", the areas are in fact part of the east end of the Port Angeles precautionary area. Again, the wording is merely descriptive and is intended to reflect the actual precautionary area configuration.

Section 161.152(b) now specifically exempts mariners from the requirement to keep the center of precautionary area "RB" to port. Permission for such deviation is frequently granted by the VTC due to the strong currents in that area.

The description of precautionary area "RB" in § 161.187(c) has been changed. A statement has been added to the description of precautionary area "RB" to reflect the fact that the buoy which had previously marked the center of the precautionary area has been removed.

Reporting requirements concerning vessel navigation in and around the Traffic Separation Scheme (TSS), such as when crossing the TSS or when joining the TSS at a location other than a precautionary area, have been deleted because the information is either already required under other reporting requirements, or is. available from the VTC's radar.

The requirement for a report when a vessel passes a reporting point has been deleted. Radar coverage at the VTC eliminates the routine need for this report. Provision for the use of reporting points has been retained however, in § 161.132, in the case of VTC equipment malfunction.

Section 161.188 has been deleted to avoid duplication with the provision in § 165.1301 of this Chapter authorizing PSVTS to establish Temporary Special Traffic Lanes.

Compatibility Changes

Two definitions ("CVTMS" and "CVTMS Area") have been added and four ("Precautionary Area", "Separation Zone", "Traffic Lane", and "Traffic Separation Scheme") changed in § 161.103 to maintain consistency with the same definitions in the CVTMS regulations. A statement has been added to § 161.105 to make the wording identical to wording in the CVTMS regulations. This statement is a clarification of action which can be taken pursuant to consultation with, and by authority of, the Captain Of The Port (COTP) if necessary to insure maritime safety.

Sections 161.107–161.112, 161.114, 161.120, 161.124–161.128, and 161.132–161.136 have been reworded to clarify the intent of the regulation, and to be compatible with similar requirements in the CVTMS regulations.

New Requirements

In addition to the present requirements, two minor additional requirements are proposed in these amendments. They are the Requirement to carry regulations (§ 161.106) and the Underway report requirement (§ 161.131).

Vessels listed in § 161.101(c) (vessels of 300 or more gross tons, vessels of 100 or more gross tons carrying passengers for hire, dredges, etc.) will be required to carry the PSVTS regulations onboard while in the VTS area. The major benefit of this requirement is a vessel in the VTS Area will have a copy of these regulations available on board if a question arises concerning the regulations. This consideration is especially important for vessels which may transit the VTS Area only occasionally. The regulations can be found in the Coast Pilot and in the PSVTS User's Manual. The impact of this additional requirement will be minimal since foreign vessels are required to carry the applicable Coast Pilot when in U.S. waters, and the PSVTS User's Manual is available without charge by writing to the address given in § 161.106.

For the Underway report, vessels will have to report their name and location when entering or getting underway in the VTS area. The VTC is currently using § 161.142(b) of the present PSVTS regulations to require this report. The proposal formalizes this requirement in a distinct, separate section. This report at the time a vessel actually enters or gets underway in the VTS Area will provide both PSVTS and participating vessels more timely information regarding vessel traffic.

Regulatory Evaluation

This proposed rule is considered to be non-major under Executive Order 12291 and "non-significant" under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this

proposal has been found to be so minimal that further evaluation is unnecessary. The changes to these regulations do not impose any economic burden on participants. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies it will not have a significant economic impact on a substantial number of small entities.

Reporting and Recordkeeping Requirements

This proposed rulemaking contains an information collection requirement in § 161.108. It is being submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980. (44 U.S.C. 3501 *et seq.*). Persons desiring to comment on this information collection requirement should submit their comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, ATTN: Desk Officer, Coast Guard. Persons submitting comments to OMB are also requested to submit a copy of their comments to the Coast Guard as indicated under "**ADDRESSES.**"

List of Subjects in 33 CFR Part 161

Navigation (water), Vessels, Traffic separation scheme.

In view of the foregoing, the Coast Guard proposes to amend Part 161 of Title 33 Code of Federal Regulations as follows:

1. The authority citation for Part 161 is revised to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. Subpart B is amended by revising the sections under the undesignated center heading Puget Sound Vessel Traffic Service consisting of §§ 161.101 through 161.187 to read as follows.

Sections 161.188 and 161.189 are removed.

PART 161—VESSEL TRAFFIC MANAGEMENT

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Subpart B—Vessel Traffic Services

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PUGET SOUND VESSEL TRAFFIC SERVICE

General Rules

Sec.

161.101 Purpose and applicability.
161.103 Definitions.
161.104 Vessel operation in the VTS Area.
161.105 VTC directions.
161.106 Requirement to carry regulations.
161.107 Laws and regulations not affected.
161.108 Authorization to deviate from these rules.
161.110 Emergencies.

Communication Rules

161.112 Radio listening watch.
161.114 Use of designated frequency.
161.116 Time.
161.118 English language.
161.120 Radiotelephone equipment failure.
161.122 Report of radio failure.
161.124 Report of impairment to the operation of the vessel.

Vessel Movement Reporting Rules

161.127 Local harbor reports.
161.128 Initial report.
161.131 Underway report.
161.132 Calling-in-point report.
161.134 Follow-up report.
161.136 Final report.
161.137 Ferry vessels.
161.143 Navigation requirements.

Traffic Separation Scheme Rules

161.150 Vessel operation in the TSS.
161.152 Direction of traffic.
161.154 Anchoring in the TSS.
161.156 Joining, leaving, and crossing a traffic lane.
161.157 Vessel speed and wake control.

Rosario Strait Rules

161.170 Communication in Rosario Strait.
161.172 Report before entering Rosario Strait.
161.174 Entering Rosario Strait.

DESCRIPTIONS AND GEOGRAPHIC COORDINATES

161.180 VTS Area.
161.183 Separation zones.
161.185 Traffic lanes.
161.187 Precautionary areas.

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Subpart B—Vessel Traffic Services

PUGET SOUND VESSEL TRAFFIC SERVICE

General Rules

§ 161.101 Purpose and applicability.

(a) Sections 161.101 through 161.187 prescribe rules for vessel operation in the Puget Sound Vessel Traffic Service Area (VTS Area) to prevent collisions and groundings and to protect the navigable waters of the VTS Area from environmental harm resulting from collisions and groundings.

(b) The General Rules in §§ 161.101 through 161.105 and 161.107 through 161.110, the Use of Designated Frequency Rule in § 161.114, and the TSS Rules in §§ 161.150 through 161.156 apply to the operation of all vessels.

(c) The Requirement to Carry Regulations Rule in § 161.106, the Communications Rules in §§ 161.112 through 161.126, the Vessel Movement Reporting Rules in §§ 161.127 through 161.137, the Vessel Speed and Wake Control Rule in § 161.157, and the Rosario Strait Rules in §§ 161.170 through 161.174 apply only to the operation of:

(1) Each vessel of 300 or more gross tons that is propelled by machinery;

(2) Each vessel of 100 or more gross tons that is carrying one or more passengers for hire;

(3) Each commercial vessel of 26 feet or over in length engaged in towing another vessel astern, alongside, or by pushing ahead;

(4) Each dredge and floating plant; and

(5) Each small passenger carrying vessel certificated in accordance with 46 CFR Part 175 through 187 (Subchapter T) when carrying more than six passengers for hire.

§ 161.103 Definitions.

As used in §§ 161.101 through 161.187:

"Commercial Vessel" means any vessel operating in return for payment or other type of compensation.

"ETA" means estimated time of arrival.

"Floating Plant" means any vessel, other than a vessel underway and making way, engaged in any construction, manufacturing, or exploration operation, and which may restrict the navigation of other vessels.

"Person" means an individual, firm, corporation, association, partnership, and governmental entity.

"Precautionary Area" means a routing measure comprising an area within defined limits where ships must navigate with particular caution, and within which the direction of traffic flow may be recommended.

"Separation Zone" means an area of the TSS separating the opposing traffic lanes.

"Traffic Lane" means an area of the TSS within defined limits in which one-way traffic is established. Natural obstacles, including those forming separation zones, may constitute a boundary.

"Traffic Separation Scheme (TSS)" means the routing measure aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lanes.

"Vessel" means every description of watercraft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water.

"Vessel Traffic Center (VTC)" means the shore-based facility that operates the Puget Sound Vessel Traffic Service.

"Vessel Traffic Service Area (VTS Area)" means the area described in § 161.180.

"Cooperative Vessel Traffic Management System (CVTMS)" means the system of vessel traffic management established and jointly operated by Canada and the United States within the waters of the CVTMS Area.

"Cooperative Vessel Traffic Management System Area (CVTMS Area)" means the waters described in § 161.254 of this chapter.

§ 161.104 Vessel operation in the VTS Area.

No person, except those authorized to do so under § 161.108 and § 161.110, may cause or authorize the operation of a vessel in the VTS Area contrary to the rules contained in §§ 161.101 through 161.187.

§ 161.105 VTC directions.

(a) During conditions of vessel congestion, adverse weather, reduced visibility, or other hazardous circumstances in the VTS Area, the VTC may issue directions to control and supervise traffic, and may specify times when vessels may enter, move within or through, or depart from ports, harbors, or other waters in the VTS Area.

(b) When a vessel is navigating in a unsafe manner or with improperly functioning equipment, the VTC may direct the vessel's movement, including directing it to anchor or moor.

(c) The master, pilot, or person directing the movement of a vessel in the VTS Area shall comply with each direction issued to him under this section.

§ 161.106 Requirement to carry regulations.

(a) The master of a vessel listed in § 161.101(c) shall ensure that a copy of the current Puget Sound Vessel Traffic Service regulations, Title 33, Code of Federal Regulations, §§ 161.101–161.187 (33 CFR 161.101–161.187), is available on board the vessel when it is in the VTS Area.

(b) The Puget Sound Vessel Traffic Service User's Manual includes the VTS regulations and guidelines for the efficient operation of the VTS system. The manual may be obtained free-of-charge from: Commanding Officer, Puget Sound Vessel Traffic Service, 1519 Alaskan Way S., Seattle, WA 98134.

§ 161.107 Laws and regulations not affected.

Nothing in §§ 161.101 through 161.187 is intended to relieve any person from complying with any other applicable laws or regulations.

§ 161.108 Authorization to deviate from these rules; equivalent procedures.

(a) Where these regulations require a particular procedure, the Commander, Thirteenth Coast Guard District, may, upon written request, authorize any other procedure for use in U.S. waters if it is determined that such other procedure provides a level of safety equivalent to that provided by the required procedure. An application for an authorization must state the need and fully describe the proposed procedure.

(b) The VTC, may, upon request, issue an authorization to deviate from any rule in §§ 161.101 through 161.187 for a voyage or part of a voyage on which a vessel is embarked or about to embark.

§ 161.110 Emergencies.

In an emergency, the master, pilot, or person directing the movement of a vessel, may deviate from any rule in §§ 161.101 through 161.187 to the extent necessary to avoid endangering persons, property, or the environment, and shall report the deviation to the VTC as soon as possible.

Communications Rules

§ 161.112 Radio listening watch.

(a) When underway, or anchored or moored to a buoy, in the VTS Area, the master, pilot, or person directing the movement of a vessel shall ensure that a radiotelephone listening watch is maintained on the appropriate frequency designated in § 161.114, except when transmitting on that frequency.

(b) The radio listening watch required by paragraph (a) of this section may be maintained in a location other than the vessel's navigational bridge when the vessel is anchored or moored to a buoy.

§ 161.113 Radiotelephone equipment.

The master, pilot, or person directing the movement of a vessel shall ensure all reports and communications required by §§ 161.101 through 161.187 are made from the navigational bridge of the vessel, or, in the case of a dredge, at its main control station, except when anchored or moored to a buoy as provided in § 161.112(b). Such reports and communications must be made to the VTC on its designated frequency using a radiotelephone that is maintained in effective operating condition.

§ 161.114 Use of the designated frequency.

(a) In accordance with Federal Communication Commission regulations, no person may use the frequency or frequencies designated in this section to transmit any information other than information necessary for the safety of vessel traffic.

(b) All transmissions on the VTS frequencies shall be initiated on low power, if available; high power may only be used if low power communications are unsuccessful.

(c) The following frequencies must be used when communicating with the VTC, and with other vessels when passing navigation-related information, except as provided in § 161.170 for vessels operating in Rosario Strait:

(1) Primary frequency: 156.700 MHz (channel 14)

(2) Secondary frequency (to be used if communication not possible on primary frequency): 156.650 MHz (channel 13)

§ 161.116 Time.

Each report required by §§ 161.101 through 161.187 must specify time using:

(a) The zone time in effect in the VTS Area; and

(b) The 24-hour clock system.

§ 161.118 English language.

Each report required by §§ 161.101 through 161.187 must be made in the English language.

§ 161.120 Radiotelephone equipment failure.

(a) If the radiotelephone required by § 161.112 ceases to operate, the master shall ensure that it is restored to operating condition as soon as possible. The failure of a vessel's radiotelephone equipment, while the vessel is underway, shall not in itself constitute a violation of these rules, nor shall it obligate the vessel to moor or anchor; however, required reports shall be made by other means, if possible.

(b) A vessel that cannot meet the radiotelephone requirements of these rules may not enter or get underway in the VTS Area without permission from the VTC.

(c) Paragraph (a) of this section does not relieve compliance with the radio equipment requirement in § 161.174(a)(2) for vessels operating in Rosario Strait.

§ 161.122 Report of radio failure.

Whenever the master, pilot, or person directing the movement of a vessel deviates from any rule in §§ 161.101 through 161.187 because of a radio failure, the deviation and radio failure shall be reported to the VTC as soon as possible.

§ 161.124 Report of impairment to the operation of the vessel.

The master, pilot, or person directing the movement of a vessel in the VTS

Area shall report to the VTC as soon as possible:

(a) Any condition on the vessel that may impair its navigation such as fire or defective propulsion machinery, defective steering equipment, defective radar, defective gyrocompass, defective echo depth sounding device, defective communications equipment, or defective navigational lighting.

(b) Any tow that the towing vessel is unable to control, or can control only with difficulty.

(c) When involved in a grounding, collision, or ramming of a fixed or floating object.

Vessel Movement Reporting Rules

§ 161.127 Local harbor report.

(a) When a vessel moves within a three mile radius of its point of departure in the VTS Area, the movement is a local harbor movement. A vessel making a local harbor movement is exempted from the reporting requirements for Initial report (§ 161.128), Underway report (§ 161.131), and Final report (§ 161.136).

(b) At least 5 minutes, but not more than 45 minutes, before a vessel makes a local harbor movement, as described under paragraph (a) of this section, the master, pilot, or person directing the movement of a vessel shall report, or cause to be reported, the following information to the VTC:

(1) Name and type of vessel.

(2) Position of departure.

(3) Time of departure.

(4) Destination and ETA.

(5) General description of operation to be performed.

(c) The master, pilot, or person directing the movement of a vessel shall report, or cause to be reported, any changes from the information reported under paragraph (b) of this section, except that departing or ETA times must be reported only if they vary by 15 minutes or more from the report.

§ 161.128 Initial report.

(a) Except as provided in paragraphs (b) and (c) of this section, at least 15 minutes, but not more than 45 minutes, before a vessel enters or begins to navigate in the VTS Area the master, pilot, or person directing the movement of the vessel shall report the following information to the VTC:

(1) Name and type of vessel.

(2) Point of entry in the VTS Area.

(3) Estimated time of entering or beginning to navigate in the VTS Area.

(4) Destination, ETA at destination, and route in the VTS Area.

(5) Anticipated vessel speed in knots.

(6) Whether or not the vessel intends to use the TSS.

(7) Whether or not any dangerous cargo listed in Part 160, Subpart C of this Chapter is on board the vessel or its tow.

(8) Any impairment to the operation of the vessel as described in § 161.124.

(9) Any planned maneuvers that may impede traffic.

(b) Vessels making movements that require Local harbor reports (§ 161.127) are exempt from making this report.

(c) Vessels that will be entering from the CVTMS Area and have previously reported the above information to another VTC are exempt from making this report.

§ 161.131 Underway report.

As soon as a vessel enters or begins to navigate in the VTS Area, the master, pilot, or person directing the movements of the vessel shall report the following to the VTC:

(a) Vessel name.

(b) Vessel location.

§ 161.132 Calling-in-point report.

When directed to do so by the VTC, the master, pilot, or person directing the movement of a vessel shall report, on either a one time basis, or as a series of reports, their:

(a) Vessel name.

(b) Vessel location.

§ 161.134 Follow-up report.

The master, pilot, or person directing the movement of a vessel shall report to the VTC, as soon as possible, any information which has changed since the previous report, including, but not limited to, ETA, speed, destination, and route.

§ 161.136 Final report.

No later than 30 minutes after a vessel anchors, moors in, or departs from the VTS Area, the master, pilot, or person directing the movement of a vessel shall report the place and time of anchoring, mooring, or departing to the VTC.

§ 161.137 Ferry vessels.

A ferry vessel operating in the VTS Area on a schedule and route, both of which have been previously furnished to the VTC, need not comply with Initial report (§ 161.128), Underway report (§ 161.131), Follow-up report (§ 161.134), and Final report (§ 161.136); however, the master, pilot, or person directing the movement of a ferry must report the following information to the VTC at least 5 minutes, but not more than 10 minutes prior to each departure from a ferry terminal:

(a) The name of the ferry vessel.

(b) Time and point of departure of the ferry vessel.

(c) Destination of the ferry vessel.

§ 161.143 Tank vessel navigation restrictions.

Tank vessels larger than 125,000 deadweight tons bound for a port or place in the United States may not operate in waters of the United States east of the line extending from Discovery Island Light to New Dungeness Light and all points in the Puget Sound area north and south of these lights.

Traffic Separation Scheme Rules

§ 161.150 Vessel operation in the TSS.

The master, pilot, or person directing the movement of a vessel in the TSS shall operate the vessel in accordance with the TSS rules prescribed in §§ 161.152 through 161.156.

§ 161.152 Direction of traffic.

(a) A vessel proceeding in the TSS must keep the separation zone to port.

(b) A vessel in a precautionary area, except the "RB" precautionary area or any temporary precautionary area, must keep the center of the precautionary area to port.

§ 161.154 Anchoring in the TSS.

No vessel may anchor in the TSS.

§ 161.156 Joining, leaving, and crossing a traffic lane.

(a) A vessel crossing a traffic lane must, to the extent possible, maintain a course that is perpendicular to the direction of the flow of traffic in the traffic lane.

(b) A vessel joining or leaving a traffic lane must steer a course to converge on or diverge from the direction of traffic flow in the traffic lane at as small an angle as possible.

§ 161.157 Vessel speed and wake control.

When the tide exceeds a stage of 11.0 feet at Seattle, all vessels listed in § 161.101(c), operating in the waters of the VTS Area, must proceed at a speed that will minimize the risk of wake damage while maintaining the ability to maneuver safely.

Rosario Strait Rules

§ 161.170 Communications in Rosario Strait.

Before a vessel meets, overtakes, or crosses ahead of any vessel listed in § 161.101(c), in Rosario Strait, the master, pilot, or person directing the movement of a vessel shall transmit the intentions of his vessel to the master of the other vessel on the frequency designated under the Bridge-to-Bridge Radiotelephone Act for the purpose of arranging safe passage.

§ 161.172 Report before entering Rosario Strait.

At least 15 minutes before a vessel enters the TSS at Rosario Strait, the master, pilot, or person directing the movement of the vessel shall report the vessel's ETA at, and point of entry in, Rosario Strait to the VTC by radiotelephone.

§ 161.174 Entering Rosario Strait.

(a) A vessel may not enter or get underway in Rosario Strait unless:

(1) The report required by § 161.172 has been made;

(2) The radio equipment on the vessel that is used to transmit the reports required by §§ 161.101 through 161.187 is operable;

(3) During periods of visibility of 2 miles or less, the radar on a vessel equipped with radar is in operation and manned; and

(4) The vessel is free of any conditions that may impair its navigation such as fire or defective propulsion machinery, defective steering equipment, defective radar, defective gyrocompass, defective echo depth sounding device, defective communications equipment, or defective navigational lighting.

(b) A vessel of 75,000 deadweight tons or above may not enter or get underway in Rosario Strait unless permission to enter is obtained from the VTC.

DESCRIPTIONS AND GEOGRAPHIC COORDINATES

§ 161.180 VTS Area.

The VTS Area consists of the navigable waters of the United States which are inside of a line drawn from New Dungeness Light northerly to Puget Sound Traffic Lane Entrance Lighted Buoy "S"; thence to Rosario Strait Traffic Lane Entrance Lighted Buoy "R"; thence to Hein Bank Lighted Bell Buoy; thence to Cattle Point Light on San Juan Island; thence along the shoreline to Lime Kiln Light; thence to Kellett Bluff Light on Henry Island; thence to Turn Point Light on Stuart Island; thence to Skipjack Island Light; thence to Sucia Island Daybeacon 1; thence along the shoreline of Sucia Island to a point at 48°46.1′ N., 122°53.3′ W.; thence to Clements Reef Buoy "2"; thence to Alden Bank Lighted Gong Buoy "A"; thence northerly to the westernmost tip of Birch Point at 48°56.6′ N., 122°49.2′ W.

§ 161.183 Separation zones.

(a) Each separation zone is 500 yards wide and centered on a line that extends from one point to another, or through several points, described in paragraph (c) of this section.

(b) Two boundaries of each separation zone are parallel to its centerline and extend to and intersect with the boundary of a precautionary area. No part of any separation zone is contained in a precautionary area.

(c) The latitudes and longitudes describing the centerline of the separation zone are:

(1) Between the Port Angeles precautionary area and "SA",
(i) 48°12′22″ N., 123°06′30″ W.
(ii) 48°11′37″ N., 122°52′40″ W.

(2) Between the Port Angeles precautionary area and "RA",
(i) 48°16′26″ N., 123°06′30″ W.
(ii) 48°19′06″ N., 123°00′09″ W.

(3) Between precautionary area "RA" and "SA",
(i) 48°18′45″ N., 122°57′30″ W.
(ii) 48°13′04″ N., 122°51′24″ W.

(4) Between precautionary area "RA" and "RB",
(i) 48°20′26″ N., 122°57′01″ W.
(ii) 48°24′14″ N., 122°48′00″ W.
(iii) 48°25′28″ N., 122°46′23″ W.

(5) Between precautionary area "RB" and "SA",
(i) 48°25′12″ N., 122°44′40″ W.
(ii) 48°24′10″ N., 122°44′12″ W.
(iii) 48°13′22″ N., 122°48′55″ W.

(6) Between precautionary area "SA" and "SC",
(i) 48°10′48″ N., 122°46′58″ W.
(ii) 48°06′48″ N., 122°39′36″ W.
(iii) 48°02′28″ N., 122°38′20″ W.

(7) Between precautionary area "SC" and "SE",
(i) 48°01′20″ N., 122°37′37″ W.
(ii) 47°57′53″ N., 122°34′42″ W.
(iii) 47°55′46″ N., 122°30′14″ W.

(8) Between precautionary area "SE" and "SF",
(i) 47°54′49″ N., 122°29′17″ W.
(ii) 47°46′31″ N., 122°26′23″ W.

(9) Between precautionary area "SF" and "SG",
(i) 47°45′19″ N., 122°26′21″ W.
(ii) 47°40′19″ N., 122°27′38″ W.

(10) Between precautionary area "SG" and "T",
(i) 47°39′05″ N., 122°27′42″ W.
(ii) 47°35′12″ N., 122°27′06″ W.

(11) Between precautionary area "T" and "TC",
(i) 47°33′59″ N., 122°26′47″ W.
(ii) 47°26′53″ N., 122°24′12″ W.
(iii) 47°23′07″ N., 122°21′08″ W.
(iv) 47°19′54″ N., 122°26′37″ W.

(12) Between precautionary area "CA" and "C",
(i) 48°44′15″ N., 122°45′39″ W.
(ii) 48°41′39″ N., 122°43′34″ W.

§ 161.185 Traffic lanes.

(a) Except as provided in paragraph (c) of this section, each traffic lane consists of the area within two parallel boundaries that are 1000 yards apart and that extend to, and intersect with, the boundary of a precautionary area. One of these parallel boundaries is parallel to and 250 yards from the centerline of a separation zone.

(b) No part of any traffic lane is contained in a precautionary area.

(c) The traffic lane in Rosario Strait consists of the area enclosed by a line beginning at 48°26′50″ N., 122°43′27″ W.; thence, northerly to 48°36′06″ N., 122°44′56″ W.; thence northeasterly to 48°39′18″ N., 122°42′42″ W.; thence westerly and northwesterly along the boundary of precautionary area "C" to 48°39′37″ N., 122°43′58″ W.; thence southerly to 48°38′24″ N., 122°44′08″ W.; thence southwesterly to 48°36′08″ N., 122°45′44″ W.; thence southerly to 48°29′30″ N., 122°44′41″ W.; thence southwesterly to 48°27′37″ N., 122°45′27″ W.; thence northeasterly and southeasterly along the boundary of precautionary area "RB" to the point of beginning.

§ 161.187 Precautionary areas.

The precautionary areas consist of:

(a) *Port Angeles precautionary area.* An area enclosed by a line beginning on the shoreline at New Dungeness Spit at 48°11′00″ N., 123°06′30″ W.; thence due north to 48°17′10″ N., 123°06′30″ W.; thence southwesterly to 48°10′00″ N., 123°27′38″ W.; thence due south to the shorelines, thence along the shoreline to the point of beginning. (Note: the Port Angeles precautionary area lies within the CVTMS Area which is covered by §§ 161.200 through 161.299 of this Subpart.)

(b) *Precautionary area "RA".* A circular area of 2,500 yards radius centered at 48°19′46″ N., 122°58′34″ W.

(c) *Precautionary area "RB".* A circular area of 2,500 yards radius centered at 48°26′24″ N., 122°45′12″ W. (The center of precautionary area "RB" is not marked by a buoy.);

(d) *Precautionary area "C".* A circular area of 2,500 yards radius centered at 48°40′34″ N., 122°42′44″ W.;

(e) *Precautionary area "CA".* A circular area of 2,500 yards radius centered at 48°45′19″ N., 122°46′26″ W.;

(f) *Precautionary area "SA".* A circular area of 4,000 yards radius centered at 48°11′28″ N., 122°49′43″ W.;

(g) *Precautionary area "SC".* A circular area of 1,250 yards radius centered at 48°01′52″ N., 122°38′05″ W.;

(h) *Precautionary area "SE".* A circular area of 1,250 yards radius centered at 47°55′25″ N., 122°29′29″ W.;

(i) *Precautionary area "SF".* A circular area of 1,250 yards radius centered at 47°45′55″ N., 122°26′11″ W.;

(j) *Precautionary area "SG".* A circular area of 1,250 yards radius centered at 47°39′42″ N., 122°27′48″ W.;

(k) *Precautionary area "T".* A circular area of 1,250 yards radius centered at 47°34'34" N., 122°27'00" W.;

(l) *Precautionary area "TC".* A circular area of 1,250 yards radius centered at 47°19'30" N., 122°27'19" W.

June 16, 1986.

J.H. Parent,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50557; FRL-3078-3]

1-Propanol, 3-Mercapto-; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance 1-propanol, 3-mercapto- (Chemical Abstract Service Registry Number: 19721-22-3), which was the subject of premanufacture notice (PMN) P-85-433 and a TSCA section 5(e) consent order issued by EPA. The Agency believes that this substance may be hazardous to human health and that the uses described in this proposed rule may result in significant human exposure. As a result of this rule, certain persons who intend to manufacture, import, or process this substance for a significant new use would be required to notify EPA at least 90 days before commencing that activity. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, prohibit or limit that activity before it occurs.

DATE: Written comments should be submitted by November 12, 1986.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Comments should include the docket control number OPTS-50557. Nonconfidential versions of comments received on this proposal will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Rm. NE-G-004 at the address given above. For further information regarding the submission of comments containing confidential business information, see Unit XII of this preamble.

FOR FURTHER INFORMATION CONTACT:

Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Enviromental Protection Agency, Room E-543, 401 M Street SW., Washington, DC 20460. Toll Free: (800-424-9065). In Washington, DC: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices (PMNs) under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5 (b) and (d)(1), the exemptions authorized by section 5(h) (1), (2), (3), and (5), and the regulations at 40 CFR Part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities on which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires the Agency to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707. Persons who intend to import a substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Persons who import a substance identified in a final SNUR must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification requirements appears at 40 CFR Part 707.

II. Applicability of General Provisions

In the **Federal Register** of September 5, 1984 (49 FR 35011), EPA promulgated general regulatory provisions applicable to SNURs (40 CFR Part 721, Subpart A). The general provisions are discussed there in detail and interested persons should refer to that document for further information. EPA is proposing that these general provisions apply to this SNUR (except as discussed in this preamble and as set forth in § 721.585). On April 22, 1986 (51 FR 15104), EPA proposed revisions to the general provisions, some of which would apply to this proposed SNUR.

III. Summary of This Proposed Rule

The chemical substance which is the subject of this proposed SNUR is identified as 1-propanol, 3-mercapto-, and is listed as such in the TSCA inventory. It was the subject of PMN P-85-433 and was identified in the PMN as 3-mercapto-1-propanol. EPA is proposing to designate the following as significant new uses of the substance: use other than as a chemical intermediate; disposal other than by landfilling, incineration, deep/well injection, or release to an evaporation pond; production at an aggregate volume of 1-propanol, 3-mercapto greater than that permitted the PMN submitter under the terms of the Consent Order; or any manner or method of manufacture, import, or processing associated with use as a chemical intermediate without establishing a program whereby (1) persons who may be dermally exposed to the substance wear gloves, eye protection, and protective clothing, (2) persons who may be exposed to the substance as a vapor must wear respirators, unless time weighted average (TWA) airborne concentrations of the substance are controlled to $\leq$0.5 parts per million, (3) persons who are required to wear protective clothing and equipment are informed of the hazards of the substance, and (4) containers of the substance which may be distributed in commerce are labeled.

IV. Background

On January 23, 1985, EPA received a PMN which the Agency designated as P-85-433. EPA announced receipt of the PMN in the **Federal Register** of February 4, 1985 (50 FR 4896). The notice submitter intends to manufacture the substance for use as a chemical intermediate.

The notice submitter claimed the following as confidential business information (CBI): The estimated production volume and process

information. Under section 14(a)(4) of TSCA, the Agency may disclose CBI when relevant to any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired by these claims as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the CBI at this time. The Agency specifically requests comment on this approach for this SNUR rulemaking. For purposes of clarity, this substance will be referred to by its chemical name and PMN number.

Based upon results obtained from tests on structurally similar substances, 2,3-dimercaptopropanol and 2-mercaptoethanol, the Agency believes the substance may cause developmental toxicity. During review of the PMN, the Agency concluded that the uncontrolled manufacture, import, processing, distribution in commerce, use, and disposal of the substance may present an unreasonable risk of injury to human health. Therefore, EPA regulated the substance under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects.

EPA concluded that the use of appropriate protective equipment and other controls will significantly reduce exposure and potential risks to human health. A section 5(e) consent order requiring the use of appropriate controls was negotiated with the notice submitter. The order became effective June 25, 1986. The terms of this SNUR are similar to those of the section 5(e) consent order.

By issuing a section 5(e) consent order that allows controlled commercial production and distribution of the substance, EPA has taken a regulatory approach which is appreciably less burdensome than an order prohibiting manufacture of the substance until additional data ar submitted. At the same time, the section 5(e) consent order protects human health by requiring precautionary controls pending the development of the data needed for a more fully reasoned evaluation of the risks associated with the substance.

Section 5(e) orders apply only to the notice submitter. When the notice submitter commences commercial manufacture of the substance and submits a Notice of Commencement of Manufacture to EPA, the Agency will add the substance to the TSCA Chemical Substance Inventory. When a substance is listed on the Inventory, other persons may manufacture, import, or process the substance without controls. Therefore, EPA is proposing to designate the uses set forth in proposed § 721.585(a)(2) as significant new uses so that the Agency can review these uses before they occur.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements. In addition, a SNUR would afford EPA the opportunity to review exposure and toxicity information on the substance before a significant new use occurs and, if necessary, take action to ensure that persons will not be exposed to levels of 1-propanol, 3-mercapto- that are potentially hazardous.

V. Determination of Proposed Significant New Uses

To determine what would constitute significant new uses of this chemical substance, EPA considered relevant information about the toxicity of the substance, likely exposures associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA. Based on these considerations, EPA proposes to designate the significant new uses of P-85-433 as set forth in proposed § 721.585(a)(2).

EPA has already determined in the section 5(e) order that unrestricted manufacture, import, processing, distribution in commerce, use and disposal of the substance may present an unreasonable risk of injury to human health. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that the uses of the substance would be significant.

VI. Recordkeeping

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing, under its authority in sections 5 and 8(a) of TSCA, that in addition to meeting the requirements in § 721.17 the following records be maintained for 5 years after the date of their creation by persons who manufacture, import, or process P-85-433:

1. Documentation of quantities of the substance manufactured or imported, with the accompanying dates.

2. Any determination that gloves are impervious to the substance.

3. Names of persons who have attended safety meetings in accordance with proposed § 721.585(a)(2)(iii)(C), the dates of such meetings, and copies of any written information provided.

4. Any names used for the substance and the accompanying dates of use.

5. Dates of shipments of containers which have been labeled in accordance with proposed § 721.585(a)(2)(iii)(D) and names and addresses of recipients.

6. Copies of any MSDS used.

7. Information on disposal of the substance, including dates on which waste material is disposed of, location of disposal sites, volume of any disposed solid material, estimated volume of any liquid wastes containing the substance, and method of disposal.

8. Results, including charts or mechanical recordings of the monitoring of workplace concentrations pursuant to proposed § 721.585(a)(2)(iii)(B).

These recordkeeping requirements would apply to all manufacturers, importers, and processors including small manufacturers, importers, and processors because the small business exemption of section 8(a) of TSCA is not applicable when the chemical substance which is subject of the rule also is the subject of a section 5(e) order.

The Agency considered omitting these specific recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult without them. The basis for the Agency's recordkeeping requirements has been set forth in the preambles to previously proposed SNURs. Persons interested in a complete discussion of this issue should read the proposed SNUR for P-83-370 published in the **Federal Register** of January 13, 1984 (49 FR 1753).

VII. Exemptions To Reporting Requirements

EPA has codified, in § 721.19, general exemption provisions covering SNUR reporting. On a case-by-case basis the Agency may modify these provisions. However, in this case, the Agency is proposing that § 721.19 apply in its entirety.

On April 22, 1986 (51 FR 15096), EPA issued amendments to 40 CFR Part 720, the premanufacture notification rule, including revisions of §§ 720.36 and 720.78(b) which contain detailed rules for the section 5(h)(3) exemption for chemical substances manufactured or imported in small quantities solely for research and development. Because §§ 720.36 and 720.78(b) were not in effect when EPA codified § 721.19, the Agency has relied on the definition of "small quantities solely for research and development" in § 720.3(cc) and section 5(h)(3) of TSCA to determine whether activities by manufacturers, importers, and processors of substances identified in SNURs qualify under this exemption. On April 22, 1986, EPA proposed amendments to 40 CFR Part 721 which would redesignate § 721.19 as § 721.18 and which would contain a new § 721.19 establishing detailed rules for the section 5(h)(3) exemption for SNURs

and which would ultimately apply to this SNUR. The proposed new § 721.19 is similar to the revised §§ 720.36 and 720.78(b). Until the SNUR amendments are promulgated, manufacturers, importers, and processors of chemical substances identified in SNURs may look to §§ 720.36 and 720.78(b) and the proposed new § 721.19 for guidance in complying with the section 5(h)(3) exemption.

Section 721.19(g) of the general SNUR provisions exempts persons from SNUR reporting when they manufacture (the term manufacture includes import) or process the substance solely for export and label the substance in accordance with section 12(a)(1)(B) of TSCA. While EPA is concerned about worker exposure during manufacture and processing of the substance, section 12(a) of TSCA prohibits EPA from requiring reporting of such manufacture or processing for a significant new use. However, such persons would be required to notify EPA of such export under section 12(b) of TSCA (see § 721.7 of the general SNUR provisions). Such notification will allow EPA to monitor manufacture and processing activities which are not subject to significant new use reporting.

The term "manufacture solely for export" is defined in § 720.3(s) of the PMN rule; an amendment clarifying this definition was issued on April 22, 1986 (51 FR 15096). The term "process solely for export" is defined in § 721.3 of the general SNUR provisions in a similar fashion. Thus, persons would be exempt from reporting under this SNUR if they manufacture or process the substance solely for export from the U.S. under the following restrictions: (1) There is no use of the substance in the U.S. except in small quantities solely for research and development; (2) Processing is restricted to sites under the control of the manufacturer or processor, respectively; and (3) Distribution in commerce is limited to purposes of export. If a person manufactured or processed the substance both for export and for use in the U.S., the manufacturing or processing activity would not be "solely for export" because the manufacture and processing would be for use in the U.S.

VIII. Applicability of Proposal To Uses Occurring Before Promulgation of Final Rule

To establish a significant new use, the Agency must determine that the use is not ongoing. In this case, the chemical substance in question has just undergone premanufacture review. When the notice submitter begins manufacture of the substance, the submitter will send EPA a Notice of Commencement of Manufacture and the substance will be added to the Inventory. The notice submitter is prohibited by the section 5(e) order from undertaking the activities which the Agency is proposing be designated as significant new uses. Therefore, at this time, the Agency has concluded that these uses are not ongoing. However, EPA recognizes that when the chemical substance identified in this SNUR is added to the Inventory, it may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposal before promulgation of the rule.

EPA believes that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the proposal date of the SNUR rather than as of the promulgation of the final rule. If uses begun during the proposal period of a SNUR were considered ongoing, any person could defeat the SNUR by initiating a proposed significant new use before the rule became final. This would make it extremely difficult for the Agency to estabish SNUR notice requirements.

Thus, persons who begin commercial manufacture, import, or processing of 1-propanol, 3-mercapto- for a significant new use between proposal and promulgation of this rule would have to cease that activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expired.

EPA recognizes that this interpretation of TSCA may disrupt commercial activities of persons who begin manufacture, import, or processing of the substance for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption; and, persons who commence a proposed significant new use do so at their own risk.

The Agency, not wishing to unnecessarily disrupt the commercial activities of persons who manufacture, import, or process for a proposed significant new use prior to promulgation of a final SNUR, has proposed a new § 721.18(h) in Subpart A of 40 CFR Part 721 (51 FR 15104) to allow for advance SNUR compliance (i.e., compliance prior to the date of promulgation).

IX. Determining When Use is Designated in This Rule

EPA is proposing a significant new use at a production volume which is confidential. The Agency is also proposing that this production volume would remain confidential in the final rule. EPA believes it is appropriate to keep this information confidential to protect the interests of the original notice submitter. EPA specifically requests comments on this issue.

Therefore, EPA is proposing to reveal the production volume described in paragraph (a)(2)(iv) of § 721.585 only to a manufacturer or importer who has shown a *bona fide* intent to manufacture or import the substance. To establish a *bona fide* intent the person must submit the information required under § 721.6(b)(1) through (3). EPA will make a determination as to whether the person has established a *bona fide* intent to manufacture or import the substance. If the person has established a *bona fide* intent, EPA will inform the person of the production volume which would constitute a significant new use.

X. Test Data and Other Information

EPA recognizes that, under TSCA section 5, persons are not required to develop any particular test data before submitting a significant new use notice. Rather, persons are only required to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health risks that may be posed by a significant new use of this substance, EPA encourages potential SNUR notice submitters to conduct tests that would permit a reasoned evaluation of the potential risks posed by this substance when utilized for an intended use. The Agency believes that the results of a developmental toxicity study would adequately characterize possible developmental toxicity of the substance. This study may not be the only means of addressing the potential risks. SNUR notices submitted for significant new uses without such test data may increase the likelihood that EPA will take action under section 5(e).

EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance. As part of this prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance. Test data should be developed according to TSCA good laboratory practices standards at 40 CFR Part 792. Failure to do so may lead the Agency to find such data to be insufficient to reasonably evaluate the health effects of the substance.

EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the

significant new uses. In addition, EPA encourages persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

Under the Consent Order, the PMN submitter is required to submit a developmental toxicity study at least 12 weeks before it reaches a specified production volume limit. The Order contains detailed procedures for dealing with situations where the resulting data are invalid or equivocal, or show that the substance will present an unreasonable risk of injury under the exposure limitations in the Order. This proposed SNUR uses the same production volume limit as a significant new use.

EPA believes it is likely that the PMN submitter will conduct the developmental toxicity study before reaching the production volume limit and before any other person who would be subject to this SNUR would reach the limit in the SNUR. Accordingly, before beginning to conduct a developmental toxicity study a person subject to this SNUR should contact EPA to determine whether the required study has already been produced.

EPA is also considering a more detail description of the significant new use that would incorporate some or all of the procedures reflected in the Consent Order for dealing with invalid or equivocal data. EPA solicits comments on such an approach.

XI. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacture, import, and processing of this chemical substance. The Agency's complete economic analysis is available in the public file. This economic analysis is summarized below.

The only direct costs that will difinitely occur as a result of the promulgation of this SNUR will be EPA's costs of issuing and enforcing the SNUR. It is estimated that the Agency costs of issuing a SNUR are $10,500 to $17,600. While enforcement costs may also be incurred, the Agency cannot quantity them at this time.

Subsequent to promulgating the SNUR, the Agency believes that there would be three possible outcomes for companies that would manufacture, import, or process the substance. The companies could: (1) Manufacture, import, process, distribute in commerce, use, or dispose of the subtance within the limits of this SNUR; (2) Manufacture, import, process, distribute in commerce, use, or dispose of the substance under circumstances requiring the submission of a SNUR notice; or, (3) Not manufacture, import, process, distribute in commerce, use, or dispose of the substance. The costs of these outcomes are summarized below.

1. *Outcome 1.* If a company decides to manufacture, import, process, distribute in commerce, use, or dispose of P–85–433 within the limits of the SNUR, it will not incur the cost of submitting a SNUR notice. The only cost to the company would be the cost of specific protective equipment, recordkeeping, labeling, and imperviousness determinations. Protective equipment and recordkeeping costs, due to their recurring nature, are calculated as present value cost over an estimated 10-year life of the substance.

The PMN submitter claimed the actual exposure data as CBI. For analytical purposes, EPA has assumed that a worker will be exposed to P–85–433 for 8 hours a day, over 12 days of production per year. Each worker will be required to wear gloves (which are determined to be impervious to the chemical substance), other protective clothing, and chemical safety goggles. Assuming daily replacement of the gloves, the present value of supplying the gloves is $182 per worker (which annualized in $27 per worker). Assuming standard replacement of protective clothing, the present value of supplying a suit which covers the arms, legs, and torso is $241 per worker (which annualized is $35 per worker). Permeation tests to determine if the gloves are impervious to the substance have been estimated to cost $500 per substance per test per substrate (annualized cost of $75). These tests may cost up to $7,000 to $10,000 if different substrates (i.e., different compositions of gloves) are tested (annualized cost of $1,035 to $1,480). To the extent a company is able to extrapolate from previous tests, draw from knowledge of similar types of chemicals, or rely on the glove manufacturer's specification as the basis for determining imperviousness, these costs may be less.

A company wishing to manufacture or process the PMN substance will also be required to provide chemical safety goggles (or equivalent eye protection) and a category 23C organic vapor half-mask respirator. Assuming standard replacement of the chemical safety goggles, the present value of supplying eye protection is $59 per worker (which annualized is $9 per worker). Assuming standard replacements of the respirator and organic vapor cannisters, the present value of supplying a category 23C respirator is $204 per worker (which annualized is $30 per worker). If a fit test is performed for the required respirator in accordance with procedures established by the OSHA Industrial Hygiene Manual § 77:8093, which requires that the respirator be worn in a test atmosphere, the total cost of providing respirator fit tests will be the sum of the lost worker production and the cost of the equipment necessary to perform the fit test. The total costs, therefore, will vary with the specific fit test method employed. The present value of the costs of providing respirator fit testing per worker is $534 (which annualized is $79 per worker).

As an alternative to requiring the use of respirators, a company is permitted to control workplace TWA airborne concentrations of the PMN substance. The costs presented represent only the capital costs for purchasing and maintaining the equipment over the 10-year life of the PMN substance. Cost of calibrating the equipment and the analytics involved for a specific chemical cannot be estimated. Also, if high dust or moisture level are present in the workplace, cost could increase significantly; it is not possible to predict at this time how much these costs could increase. The capital cost for the monitoring has been estimated to have a present value of $15,000 (which, annualized is $2,210).

A company would also be required to inform persons of the hazards associated with the PMN substance with an MSDS, with appropriate warning labels, and as part of a training program in safety meetings. In addition, the company would be required to maintain certain records. The initial cost of the labeling requirements is estimated to be between $135 to $500, which is the cost of developing the label. Other labeling costs are expected to be minimal. The annualized cost of labeling is $20 to $75. The present value of the cost of complying with the recordkeeping requirements over a 10-year period is estimated to be $1,520 (the annualized cost is $225).

EPA will incur only enforcement costs once the SNUR has been promulgated.

2. *Outcome 2.* If the company decides to commence a significant new use, it will incur the cost of filing a SNUR notice ($1,400 to $8,000). The submitter may also experience up to a 3.2 percent reduction in profits due to delays in manufacturing, importing, or processing, and the cost of regulatory follow-up, if any.

The company may choose to test for toxicity through a standard developmental toxicity study in two mammalian species. The estimated cost would be $62,622, plus the cost of delay and the cost of any regulatory follow-up.

EPA costs following promulgation of the SNUR would include the cost of reviewing SNUR notices, estimated at $7,100 per notice, and the costs of modifying the terms of the SNUR if the information provided indicates that EPA's concerns would be adequately addressed by use of a different type of exposure control. This cost is estimated at $8,700. EPA will continue to incur the cost of enforcement.

3. *Outcome 3.* Some companies could find the cost of controlling exposure and potential testing costs too expensive to justify production, processing, and/or use. Therefore, there would be no direct costs as a result of the SNUR. The companies and society could lose benefits associated with the manufacture, processing, and use of the PMN substance. However, the fact that the original PMN submitter intends to manufacture the substance under the conditions of the section 5(e) consent order indicates that the intended uses of the substance will still return an acceptable profit under the terms of the SNUR.

The Agency has not quantified the benefits of the proposed SNUR. In general, however, benefits will accrue if the proposed action leads to the identification and control of unreasonable risks before significant health effects occur. The proposal and promulgation of the SNUR provide benefits to society by minimizing or eliminating potential health and environmental effects for this chemical substance.

XII. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XIII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50557). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The PMN for the substance.

2. The **Federal Register** notice of receipt of the PMN.

3. The section 5(e) consent order.

4. The Economic analysis of the proposed rule.

5. The toxicology support document.

6. The engineering support document.

The Agency will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record.

EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing sanitized copies from which CBI has been deleted is available to the public in the OTS Public Information Office from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The OTS Public Information Office is located in Rm. NE–G–004, 401 M Street SW., Washington, DC.

XIV. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major rule" because it will not have an effect on the economy of $100 million or more and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this proposed rule, for the reasons discussed in Unit XI of this preamble, EPA believes that the cost will be low. EPA believes that, because of the nature of the rule and the substance involved, there will be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA has determined that this proposed rule would not have a significant impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this proposed rule are likely to be small businesses. However, EPA expects to receive few SNUR notices for the substance. Therefore, the Agency believes that the number of small businesses affected by this rule would not be substantial even if all the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070–0012 to this rule. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Recordkeeping and reporting requirements, Significant new uses.

Dated: September 3, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 721—[AMENDED]

It is proposed that 40 CFR Part 721 be amended as follows:

1. The authority citation for Part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding a new § 721.585 to read as follows:

§ 721.585 1-propanol, 3-mercapto-

(a) *Chemical substances and significant new uses subject to reporting.* (1) The following chemical substance referred to by its CAS number and chemical name, is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section: 1-propanol, 3-mercapto- [CAS Number: 19721–22–3].

(2) The significant new uses are:

(i) Use other than as a chemical intermediate.

(ii) Any method of disposal associated with use of the substance as a chemical intermediate other than by incineration, landfilling, deep-well injection, or release to an evaporation pond, each of which meets all applicable local, State, and Federal laws and regulations.

(iii) Any manner or method of manufacturing, importing, or processing associated with use as a chemical intermediate without establishing a program whereby:

(A) Any person who may be exposed dermally to the substance must wear:

(*1*) Gloves determined to be impervious to the substance under the conditions of exposure, including the duration of exposure. This determination is made either by testing the gloves under the conditions of exposure or evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of specifications includes consideration of permeability, penetration, and potential chemical and mechanical degradation by the substance and associated chemical substances.

(*2*) Clothing which covers any other exposed areas of the arms, legs, and torso.

(*3*) Chemical safety goggles or equivalent eye protection.

(B) Unless time weighted average (TWA) airborne concentrations of the substance are controlled to <0.5 parts per million (ppm), monitored in a manner consistent with approaches described in the NIOSH Occupational Exposure Sampling Strategy Manual (NTIS No. PB 274 792), any person who may be exposed to the substance as a vapor must wear, in addition to the dermal protective equipment described in paragraph (a)(2)(iii)(A) of this section, at a minimum, a National Institute for Occupational Safety and Health approved, category 23C respirator, in accordance with subpart 30 CFR 11.150. The respirator is equipped with cartridages approved for organic vapor. Use of the respirator is in accordance with 29 CFR 1910.134 and 30 CFR Part 11.

(C) All persons who may be exposed to the substance are informed, in writing, and are presented the information as part of a training program in safety meetings at which attendance is recorded, by means of the following statement:

Warning: Avoid all contact. Chemicals similar in structure to [insert appropriate name] have been found to cause developmental effects in laboratory animals. To protect yourself, you must wear chemical safety goggles or equivalent eye protection, impervious gloves, protective clothing, and a respirator while handling this material. However, you are not required to wear a respirator in areas where workplace Time Weighted Average airborne concentrations of [insert appropriate name] are controlled to <0.5 parts per million. Your supervisor will inform you of any such areas.

(D)(*1*) Each container of the usbstance distributed in commerce has affixed to it a lable which includes a Warning Statement which consists at a minimum, of the following:

Warning: Aviod all contact. Chemicals similar in structure to [insert appropriate name] have been found to cause developmental effects in laboratory animals. To protect yourself, you must wear chemical safety goggles or equivalent eye protection, impervious gloves, eye protection, impervious gloves, and protective clothing while handling this material.

(*2*) The first word of the Warning Statement is capitalized, and the type size for the first word is no smaller than 6 point type for a label 5 square inches or less in area, 10 point type for a label above 5 but no greater than 10 square inches in area, 12 point type for a label above 10 but no greater than 15 square inches in area, 14 point type for a label above 15 but no greater than 30 square inches in area, or 18 point type for all labels over 30 square inches in area. The type size of the remainder of the Warning Statement is no smaller than 6 point type. All label text is of sufficient prominence and is placed with such conspicuousness relative to other label text and graphic material, to ensure that the Warning Statement is read and understood by the ordinary individual under customary conditions of purchase and use.

(E) A material safety data sheet (MSDS) is provided when the substance is distributed in commerce. The MSDS includes, at a minimum, the language specified in paragraph (a)(2)(iii)(D) of this section and specifies the requirements for protective equipment in paragraph (a)(2)(iii)(A) of this section.

(iv) Manufacturing and importing the substance, for use as a chemical intermediate, at greater than the aggregate volume allowed under the Consent Order issued for Premanufacture Notice P–85–433, effective on June 25, 1986.

(b) *Specific requirements.* The provisions of Subpart A of this part apply to this section except as modified by this paragraph.

(1) *Determining whether a use is a significant new use.*

(i) A person who intends to manufacture or import the substance identified in paragraph (a)(1) of this section may submit to EPA the information required under § 721.6(b).

(ii) EPA will review this information to determine whether the person has a *bona fide* intent to manufacture or import the substance. If EPA determines that the person has a *bona fide* intent to manufacture or import the substance, EPA will tell the person the specific production volume which would constitute a significant new use under paragraph (a)(2)(iv) of this section.

(iii) A disclosure to a person with a *bona fide* intent to manufacture or import the substance of the specific production volume which would constitute a significant new use under paragraph (a)(2)(iv) of this section will not be considered public disclosure of confidential business information under section 14 of the Act.

(2) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers, importers, and processors of the chemical substance identified in paragrah (a)(1) of this section must maintain the following records for 5 years from their creation:

(i) Documentation of quantities of the substance manufactured or imported, with the accompanying dates.

(ii) Any determination that gloves are impervious to the substance in accordance with paragraph (a)(2)(iii)(A)(*1*) of this section.

(iii) Names of persons who have attended safety meetings in accordance with paragraph (a)(2)(iii)(C) of this section, the dates of such meetings, and copies of any written information provided.

(iv) Any names used for the substance and accompanying dates of use.

(v) Dates of shipments of containers which have been labeled in accordance with paragraph (a)(2)(iii)(E) of this section, and names and addresses of persons to whom they have been shipped.

(vi) Copies of any MSDS used.

(vii) Information on disposal of the substance including dates on which waste material is disposed of, location of disposal sites, volume of any disposed solid material, estimated volume of any liquid wastes containing the substance, and method of disposal.

(viii) Results, including charts or mechanical recordings, of the monitoring of workplace concentrations pursuant to paragraph (a)(2)(iii)(B) of this section.

(Approved by Office of Management and Budget (OMB) under control number 2070–0012)

[FR Doc. 86–20586 Filed 9–11–86; 8:45 am]
BILLING CODE 6560–50–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1042

[Ex Parte No. MC–65 (Sub-No. 6)]

Passenger Motor Carrier Superhighway and Deviation Rules

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Commission is discontinuing this proceeding (noticed at 44 FR 6580, February 1, 1979, and 51 FR 12530, April 11, 1986) which proposed changes to liberalize the circumstances under which regular-route motor carriers of passengers could conduct operations over superhighways and alternate routes. Further consideration is unnecessary because of the enactment of the Bus Regulatory Reform Act of 1982, Pub. L. No. 97–261, 96 Stat. 1102.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT:
Richard R. Hartley (202) 275–7786
or
Louis E. Gitomer (202) 275–7691

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's full decision. To purchase a copy of the decision contact T. S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC metropolitan area) or toll free 800–424–5403.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources, nor will it have a significant impact on a substantial number of small entities.

Authority: 49 U.S.C. 10101, 10321, and 10922, and 5 U.S.C. 553.

Decided: September 4, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Kathleen M. King,

Acting Secretary.

[FR Doc. 86–20552 Filed 9–11–86; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 51, No. 177
Friday, September 12, 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

Office of the Secretary

Advisory Committee on Foreign Animal and Poultry Diseases; Renewal

Notice is hereby given that the Secretary of Agriculture has renewed the Advisory Committee on Foreign Animal and Poultry Diseases for a 2-year period. The Secretary has determined that the Committee is in the public interest in connection with duties imposed on the Department by law.

The purposes of the Committee will be to advise the Secretary regarding program operations and measures to prevent, suppress, control, or eradicate an outbreak of foot-and-mounth disease or other destructive foreign animal or poultry diseases in the event such diseases should enter the United States. Equal opportunity practices, in line with USDA policies, will be followed in all appointments to this Committee.

The Chairperson of the Committee will be the Assistant Secretary, Marketing and Inspection Services, United States Department of Agriculture, Washington, D.C. 20250. Plans are for the Committee to meet at least annually.

Done at Washington, DC, this 8th day of September 1986.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 86-20556 Filed 9-11-86; 8:45 am]

BILLING CODE 3410-34-M

Cooperative Agreement: Rutgers University

AGENCY: Office of International Cooperation and Development (OICD), USDA.

ACTION: Notice of intent to enter a cooperative agreement.

Activity: OICD intends to enter into a Cooperative Agreement with Rutgers University for collaboration in implementation of an Agriculture Support Program in Panama in the areas of mariculture and food technology.

Authority: Section 1458 of the National Agriculture Research, Extension and Teaching Policy Act of 1977, as amended (7 USC 3291), and the Food Security Act of 1985 (Pub. L. 99-198).

OICD announces availability of funds for fiscal year 1987 to enter into a cooperative agreement with Rutgers University for provision of technical assistance to the Government of Panama. Rutgers will collaborate with USDA in carrying out a broad based program of agriculture support—particularly in the areas of shrimp mariculture production and food technology development; i.e., the industrialization of agricultural commodities through high value added transformations. These areas coincide with Panama's interests, USDA implementation of USAID/Panama's recently established priorities, and areas in which the University will be able to enhance its already major strengths in marine production and research. Rutgers is involved in research and extension supporting New Jersey's marine resources production which ranks fifth in the US, and is opening a new, large-scale marine sciences institute. Knowledge and experience gained through this agreement will enhance and support the University's efforts in these areas. Assistant for these activities will be provided only to Rutgers.

Based on the above, this is not a formal request for application. An estimated $50,000 will be available in FY 1987 to support this work. It is anticipated that the agreement will be funded over a 12-month budget period.

Information may be obtained from: Nancy J. Croft, Contracting Officer, Management Services Branch, OICD, USDA (58-319R-7-003).

Dated: September 8, 1986.

Allen Wilder,

Contracting Officer.

[FR Doc. 86-20532 Filed 9-11-86; 8:45 am]

BILLING CODE 3410-DP-M

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revision of Privacy Act System of Records.

SUMMARY: Notice is hereby given that the United States Department of Agriculture (USDA) is revising its Privacy Act Systems of Records maintained by the Extension Service, "Cooperative Extension Personnel Records System USDA/ES-2" and "State Cooperative Extension Service Employees USDA/ES-3." These Records Systems are currently published as USDA/SEA-12 and USDA/SEA-13, respectively. The purpose of this notice is to correct the records to show the organizational changes which have occurred during the reorganization which reorganized the Science and Education Administation (SEA) into several agencies including the Extension Service (ES). Also, some addresses have been changed.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA is revising two systems of records to be maintained by the Extension Service. The purpose of this notice is to correct the records. The systems contain data on Extension Service personnel.

EFFECTIVE DATE: October 14, 1986. Comments must be received by the contact person listed below on or before October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Ovid Bay, Director of Information, Extension Service, U.S. Department of Agriculture, Room 3428 South Building, 14th & Independence Avenue, SW., Washington, DC 20250, (202-447-3029).

A "Report on New System" for each system of records, required by 5 U.S.C. 552a(o), as implemented by OMB Circular A-130, was sent to the President of the Senate, the Speaker of the House of Representatives and the Office of Management and Budget on March 31, 1986.

Signed at Washington, DC, on September 8, 1986.

Richard E. Lyng,

Secretary of Agriculture.

USDA ES-2

SYSTEM NAME:

Cooperative Extension Personnel Records System, USDA.

SYSTEM LOCATION:

Personnel Staff, Extension Service, Room 3547 South Building, 14th &

Independence Ave., SW, Washington, D.C. 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of State Extension Services who hold an Excepted Federal Appointment without compensation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Microfiche copies of personnel actions taken by individual states under delegated personnel authority to support entitlement of employees to the benefit areas of retirement, life and health insurance, workman's and unemployment compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 7 U.S.C. 341, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Office of Personnel Management and Department of Labor are supplied supporting documentation for benefit claims of employees and Cooperative Extension Service Personnel Offices are supplied specific assistance upon request. Disclosure may be made to a congressional office from the records of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on microfiche at the address listed.

RETRIEVABILITY:

Records are indexed by name of employee.

SAFEGUARDS:

In authorized locked cabinet.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with General Services Administration retirement and/or destruction schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Staff, ES, Room 3547 South Building, U.S. Department of Agriculture, Washington, DC 20250.

NOTIFICATION PROCEDURE:

Any individual may request information concerning himself from this system. A request for information should be addressed to the System Manager and should contain: Name, address and particular information requested.

RECORD ACCESS PROCEDURE:

Any individual may obtain information as to the procedures for gaining access to a record in the System which pertains to him by submitting a written request to the System Manager.

CONTESTING RECORD PROCEDURES:

Use same procedures as for requesting access.

RECORD SOURCE CATEGORIES:

Information in this System comes primarily from the employee with additional data provided by the employee's personnel office.

USDA ES-3

SYSTEM NAME:

State Cooperative Extension Service Employees, USDA.

SYSTEM LOCATION:

Reports and Analysis Branch, Management Operations Staff, Extension Service, USDA, Room 3547 South Building, 14th & Independence Ave., SW., Washington, DC 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All professional employees of the State Cooperative Extension Services from 1968 to present.

CATEGORIES OF RECORDS IN THE SYSTEM:

Magnetic tapes are made from punch cards on information from the personnel records taken and submitted by State Cooperative Extension Services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 7 U.S.C. 341, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape at the address listed.

RETRIEVABILITY:

Records are entered by social security number or other unique State identifying number.

SAFEGUARDS:

Authorization must be obtained from the Administrator, ES, USDA or Director of Personnel, ES, USDA, before information is released. All printed matter is kept in locked rooms.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel and Management Services Division, Room 3547 South Building, Washington, DC 20250.

NOTIFICATION PROCEDURE:

Any individual may request information concerning himself from this system. A request for information should be addressed to the System Manager, and should contain: Name, address, social security number, and the particular information requested.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the System which pertains to him by submitting a written request to the System Manager.

CONTESTING RECORD PROCEDURES:

Use same procedures as for requesting access.

RECORD SOURCE CATEGORIES:

Information in this System comes primarily from the employee with additional data provided by the employee's personnel office.

[FR Doc. 86-20557 Filed 9-11-86; 8:45 am]
BILLING CODE 3410-18-M

Agricultural Research Service

National Arboretum Advisory Council; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. (770-776), the Agricultural Research Service announces the following meeting:

Name: National Arboretum Advisory Council
Date: October 5-7, 1986
Time: 9:00 a.m.—4:30 p.m., Oct. 6, 9:00 a.m.—4:30 p.m., Oct. 7
Place: U.S. National Arboretum, 3501 New York Avenue, NE., Washington, DC.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permits.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review progress of National Arboretum relating to Congressional mandate of research and education concerning trees and plant life. The Council submits its

recommendations to the Secretary of Agriculture.

Contact Person: Howard J. Brooks, Executive Secretary, National Arboretum Advisory Council, Room 236 Bg–005, BARC–W, Beltsville, MD 20705. Telephone: AC 301/344–3912.

Done at Beltsville, Maryland, this 18th day of August 1986.

Howard J. Brooks,

Executive Secretary, National Arboretum Advisory Council.

[FR Doc. 86–20623 Filed 9–11–86; 8:45 am]

BILLING CODE 3410–03–M

Forest Service

Southern Pine Beetle Suppression Program, Southern Region, Environmental Impact Statement; Extension of Comment Period

AGENCY: Forest Service, USDA.

ACTION: Notice of extension of comment period.

SUMMARY: The period for receiving comments on the Draft Environmental Impact Statement for the Southern Region, Southern Pine Beetle Suppression Program on Federal and Non-Federal Lands, including Wilderness Areas is hereby extended from September 18, 1986, to October 20, 1986. The original notice of availability of the Draft Environmental Impact Statement was published in the Federal Register (51 FR 26748) July 25, 1986.

FOR FURTHER INFORMATION CONTACT: Dave Smith, Environmental Impact Statement Team Leader, Southern Region, Forest Service, USDA, 1720 Peachtree Road, N.W., Atlanta, Georgia 30367; telephone (404) 347–4338.

Dated: September 9, 1986.

F. Dale Robertson,

Associate Chief.

[FR Doc. 86–20596 Filed 9–11–86; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 29–86]

Foreign-Trade Zone 114—Peoria, IL; Application for Subzone; Diamond Star Auto Manufacturing Plant

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Economic Development Council for the Peoria Area, grantee of FTZ 114, requesting special-purpose subzone status for the automobile manufacturing plant of Diamond Star Motor Corporation, a Chrysler/Mitsubishi joint venture, located in Normal, Illinois, adjacent to the Peoria Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 2, 1986.

The plant, which is currently under construction on a 636-acre site at U.S. Route 150/I–74 in Normal, McLean County, Illinois, will be used to produce compact automobiles, employing 2500 persons. Certain components such as engines, transmissions, suspension and brake system components, will be purchased from Mitsubishi in Japan. Most of the steel and remaining components will be sourced domestically. The finished autos will be sold through Chrysler and Mitsubishi dealers.

Zone procedures will exempt Diamond Star from duty payments on foreign material used in its exports. On its domestic sales the company will be able to take advantage of the same duty rate available to importers of finished autos (2.6 percent) compared to a 3.2 percent rate that would apply to most of the foreign parts it plans to use. Subzone status will be an important factor in full utilization of the plant.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consist of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Larry Shirk, Assistant District Director, U.S. Customs Service, North Central Region, 610 South Canal St., Chicago, IL 60607; and Colonel Neil A. Smart, District Engineer, U.S. Army Engineer District Rock Island, P.O. Box 2004, Rock Island, IL 61204.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before October 26, 1986.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 411 Hamilton Blvd., Suite 1118, Peoria, IL 61602

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania NW., Washington, DC 20230

Dated: September 5, 1986.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86–20575 Filed 9–11–86; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

MCTL Implementation Technical Advisory Committee and the Special Licensing Working Group of the President's Export Council Subcommittee on Export Administration; Closed Meeting

A meeting of the MCTL Implementation Technical Advisory Committee and the Special Licensing Working Group of the President's Export Council Subcommittee on Export Administration will be held Thursday, October 9, 1986, 9:30 a.m., Herbert C. Hoover Building, Room 1092, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises and assists the Office of Export Administration in the implementation of the Militarily Critical Technologies List (MCTL) into the Export Administration Regulations and provides for continuing review to update the Regulations as needed.

The Committees will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 19, 1985, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377–4217. For further information or copies of the minutes contact Ruth D. Fitts, 202–377–2583.

Dated: September 9, 1986.

Dan Hoydysh,

Acting Director Office of Technology and Policy Analysis.

[FR Doc. 86-20576 Filed 9-11-86; 8:45 am]

BILLING CODE 3510-01-M

[A-423-601]

Mirrors in Stock Sheet and Lehr End Sizes From Belguim: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that mirrors in stock sheet and lehr end sizes (mirrors) from Belgium are being, or are likely to be, sold in the United States at less than fair value, and will notify the U.S. International Trade Administration (ITC) of our determination. We have also directed the U.S. Customs Service to suspend liquidation of all entries of mirrors in stock sheet and lehr end sizes from Belgium that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by November 24, 1986.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Gregory G. Borden, (202-377-3003) or Mary S. Clapp, (202-377-1769), Office of Investigations Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that mirrors in stock sheet and lehr end sizes from Belgium are being, or are likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). We made fair value comparisons on all sales of the class or kind of merchandise to the United States by the respondent during the period of investigation, November 1, 1985 through April 30, 1986. The weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers on behalf of the United States industry producing mirrors in stock sheet and lehr end sizes. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Belguim are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on April 21, 1986 (April 29, 1986, 51 FR 15933) and notified the ITC of our action.

On May 16, 1986, the ITC found that there is a reasonable indication that imports of mirrors in stock sheet and lehr end sizes from Belgium are materially injuring a U.S. industry (U.S. ITC Pub. No. 1850, May, 1986).

The petition included an allegation that home market sales were made at prices which were below the cost of production.

On May 20, 1986, we presented a questionnaire to Glaverbel S.A. A response was received from Glaverbel, S.A. on July 9, 1986. Since Glaverbel had insufficient home market sales on which to base foreign market values, a cost response to the questionnaire was not required. On August 20, 1986, petitioner alleged that sales to third countries were below the cost of production.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors, made of any of the glass described in TSUS items 541.11 through 544.41, 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as beveling, etching, edging, or framing, currently classifiable in the *Tariff Schedules of the United States Annotated* (TSUSA) under item 544.5400.

The period of investigation is November 1, 1985 through April 30, 1986.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Glaverbel in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

We based United States price of C.I.F. packed prices and made deductions for ocean freight, inland freight and marine insurance.

Foreign Market Value

In accordance with section 773 (a)(1)(B) of the Act, we determined that there were insufficient home market sales to be used as a basis for determining foreign market value. The third country markets with the largest volume of sales of the most similar merchandise are Italy (lehr end sizes) and the United Kingdom (stock sheet). We made comparisons of "such or similar" merchandise based on a consideration of grade, thickness, and color of the particular mirrors involved.

On August 20, 1986, petitioner alleged that these third country prices were below the cost of production. We did not have sufficient time to develop data for purposes of the preliminary determination. The issue will be addressed in the final determination.

We based foreign market value on delivered prices. We made deductions, where appropriate, for discounts, insurance and inland freight between Belgium and the United Kingdom or Italy, as appropriate.

We made an adjustment for differences in circumstances of sale for credit terms and warranty expenses, in accordance with § 353.15 of the Commerce Regulations (19 CFR 353.15). We deducted third country packing costs and added U.S. packing costs.

Currency Conversion

We made currency conversions from Belgian francs to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York.

Verification

As provided in section 776(a) of the Act, we will verify all information provided by Gaverbel, S.A. by using standard verification procedures, which will include on-site inspection of manufacturer's facilities and examination of relevant sales and financial records of the company.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of mirrors in stock sheet and lehr end sizes from Belgium that are

entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Glaverbel, S.A.	0.82
All other Manufacturers/producers/exporter	0.82

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these import materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we made our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with §353.47 of our Regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9:30 a.m. on October 14, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 7, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

This notice is published in accordance with section 733(f) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

September 8, 1986.

[FR Doc. 86-20633 Filed 9-11-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-602]

Mirrors in Stock Sheet and Lehr End Sizes From Italy: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Notice.

SUMMARY: We have preliminarily determined that mirrors in stock sheet and lehr end sizes from Italy are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend liquidation of all entries of this merchandise from Italy that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by November 24, 1986.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Willima Kane (202-377-1766) or Charles Wilson (202-377-5288), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that mirrors in stock sheet and lehr end sizes from Italy are being, or are likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The weighted-average margin applicable to all such imports is 116.26 percent.

Case History

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers, in compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36). The petition alleged that imports of the subjects merchandise from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threat material injury, to a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on April 21, 1986 (51 FR 15935, April 29, 1986), and notified the ITC of our action.

On May 13, 1986, the ITC found that there is a reasonable indication that imports of mirrors in stock sheet and lehr end sizes from Italy are materially injuring a U.S. industry (51 FR 19423, May 29, 1986).

On June 4, 1986, we delivered a questionnaire to Societa Italiano Vetro, SpA., Rome, Italy, believed to be the exporter of over eighty percent of the subject merchandise to the United States. No response to our questionnaire was received. On July 14, 1986, we again requested the company to respond. We received no response to this request.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors, made of any of the glass described in TSUS item numbers 541.11 through 544.41, 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as etching, edging, or framing, classifiable in the *Tariff Schedules of the United States Annotated* (TSUSA) under item number 544.5400

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value. Because there was no response to our questionnaire, we based United States price and foreign market value on the best information available pursuant to section 776(b) of the Act.

United States Price

We based United States price on a sampling on import statistics. These statistics were refined to approximate the unit value of the portion of the reporting category that best reflects the merchandise under investigation. We used import data during a period lagged two months from the period of investigation to approximate sales during that period based on knowledge of the industry, transit time and delays in statistical reporting.

Foreign Market Value

Petitioner based foreign market value on constructed value. We adopted the constructed value of the petition and updated it to reflect changes in the currency conversion rate. We made currency conversions using official exchange rates as certified by the Federal Reserve.

Verification

If we received a complete and timely response, we will verify all information used in the final determination, using standard verification procedures.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of mirrors in stock sheet and lehr end sizes from Italy that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percentage
All manufacturers, producers, exporters	116.26

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we made our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with section 353.47 of our Regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9:30 a.m. on October 7, 1986, at the United States Department of Commerce, Room B-841, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 109 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 30, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

This notice is published in accordance with section 733(f) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

September 8, 1986.

[FR Doc. 86-20634 Filed 9-11-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-603]

Mirrors in Stock Sheet and Lehr End Sizes From Japan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminary determined that mirrors in stock sheet and lehr end sizes from Japan are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend liquidation of all entries of mirrors in stock sheet and lehr end sizes from Japan that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by November 24, 1986.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Marie Kissel (202-377-3798) or Mary S. Clapp, (202-377-1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that mirrors in stock sheet and lehr end sizes from Japan are being, or are likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The margin applicable to all exporters is 89.59 percent.

Case History

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers in compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36). The petition alleged that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on April 21, 1986 (April 29, 1986, 51 FR 15936), and notified the ITC of our action.

On May 13, 1986, the ITC found that there is a reasonable indication that imports of mirrors in stock sheet and lehr end sizes from Japan are materially

injuring a U.S. industry (U.S. ITC Pub. No. 1850, May 1986).

On June 6, 1986, we presented questionnaires to Central Glass Co., Ltd. and Nippon Sheet Glass Co., Ltd., which account for approximately 73 percent of the exports to the United States during the period of investigation. An extension of time in which to respond was granted to both companies. On July 21, 1986, we received the narrative and computer tape versions of the responses from both companies. Both of the questionnaire responses were insufficient. Respondents reported only a small portion of home market sales. The responses to many questions indicated that they are "still under consideration." Explanations for the calculation of many expenses categories were not given. Also, respondents did not submit proper non-proprietary summaries on a timely basis.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors, made of any of the glass described in TSUS item numbers 541.11 through 544.41, 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as beveling, etching, edging, or framing, classifiable in the *Tariff Schedules of the United States Annotated (TSUSA)* under item number 544.5400.

The period of investigation is October 1, 1985 through March 31, 1986.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value. Because the questionnaire responses were insufficient, as discussed above, both United States price and foreign market value were determined as discussed below on the basis of the best information available pursuant to section 776(b) of the Act.

United States Price

We based United States price on a sampling of import statistics. These statistics were refined to approximate the unit value of the portion of the reporting category that best reflects the merchandise under investigation. We used import data during a period lagged three months from the period of investigation to approximate sales during that period based on knowledge of the industry, transit time, and delays in statistical reporting.

Foreign Market Value

We based foreign market value on prices reported in the petition which were updated to reflect changes in the currency conversion rate. Pursuant to § 353.36 of Commerce's Regulations, we made currency conversions at the rates certified by the Federal Reserve Bank.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all mirrors in stock sheet and lehr end sizes from Japan that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Central Glass Co., Ltd.	89.59
Nippon Sheet Glass Co. Ltd.	89.59
All other manufacturers/producers/exporters	89.59

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we made our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with section 353.47 of our Regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 1:30 p.m. on October 16, 1986, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by September 30, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

This notice is published in accordance with section 733(f) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

September 8, 1986.

[FR Doc. 86-20635 Filed 9-11-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-471-601]

Mirrors in Stock Sheet and Lehr End Sizes From Portugal; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that mirrors in stock sheet and lehr end sizes from Portugal are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend liquidation of all entries of mirrors in stock sheet and lehr end sizes from Portugal that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by November 24, 1986.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Karen DiBenedetto, (202–377–1778) or Mary S. Clapp, (202–377–1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that mirrors in stock sheet and lehr end sizes from Portugal are being, or are likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b), (the Act). We made fair value comparisons on all sales of the class or kind of merchandise to the United States by the respondent during the period of investigation, August 1, 1985 through January 31, 1986. The weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers, on behalf of the U.S. industry producing mirrors in stock sheet and lehr end sizes. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Portugal are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on April 21, 1986 (51 FR 15937, April 29, 1986), and notified the ITC of our action.

On May 16, 1986, the ITC found that there is a reasonable indication that imports of mirrors in stock sheet and lehr end sizes from Portugal are materially injuring a U.S. industry (U.S. ITC Pub. No. 1850; May, 1986).

On May 20, 1986, we presented a questionnaire to Abilio de Sousa, Filhos and Ca., Limitada (Sobil). An extension of time in which to respond was granted, and, on July 14, 1986, we received the narrative version of the questionnaire response. On July 17, 1986, we received the computer tape version of the response. The responses were insufficient. We sent a deficiency letter on August 12, 1986. On August 19, 1986, we received the supplemental response.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors, made of any of the glass described in TSUS items 541.11 through 544.41, 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as bevelling, etching, edging, or framing, currently classifiable in the *Tariff Schedules of the United States Annotated* (TSUSA) under item 544.5400.

We made comparisons on all of the sales of the product during the period of investigation, August 1, 1985 through January 31, 1986.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated U.S. purchasers prior to its importation into the United States.

We calculated the purchase price for Sobil based on the F.O.B. price to unrelated U.S. purchasers. We made deductions, where appropriate, for discounts, port charges, freight and insurance.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on delivered home market prices of such or similar merchandise to unrelated purchasers. We made deductions, where appropriate, for freight and discounts. We made an adjustment under § 353.15 of the Commerce Regulations for differences in circumstances of sale for credit expenses. Since respondent did not provide sufficient documentation of claimed credit expenses in the home market, we added U.S. credit expenses to the home market prices. We did not make an allowance for home market credit. No home market packing costs were reported. We added U.S. packing to home market prices.

We made comparisons of "such or similar" merchandise, pursuant to section 771(16)(B) of the Act, on the basis of mirror thickness. We made adjustments when comparing similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adustments were based on the costs of materials.

We made currency conversions from Portuguese escudos to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York.

Verification

As provided in section 776(a) of the Act, we will verify all information provided by Sobil by using standard verification procedures, which will include on-site inspection of manufacturer's facilities and examination of relevant sales and financial records of the company.

Suspension of Liquidation

In accordance with section 773(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of mirrors in stock sheet and lehr end sizes from Portugal that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-Average Margin Percentage
Abilio de Sousa, Filhos and Ca., Limitada	0.82
All other manufacturers/producers/exporters	0.82

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written

consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after the date of our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our Regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 1:30 p.m. on October 9, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 7, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

This notice is published in accordance with section 733(f) of the Act.

Gilbert B. Kaplan

Deputy Assistant Secretary for Import Administration.

September 8, 1986.

[FR Doc. 86-20636 Filed 9-11-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-412-601]

Mirrors in Stock Sheet and Lehr End Sizes From the United Kingdom; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that mirrors in stock sheet and lehr end sizes from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend liquidation of all entries of mirrors in stock sheet and lehr end sizes from the United Kingdom that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by November 24, 1986.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Raymond G. Busen (202-377-3464), or Mary S. Clapp (202-377-1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Derermination

We have preliminarily determined that mirrors in stock sheet and lehr end sizes from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b(b)) (the Act). We made fair value comparisons on all sales of the class or kind of merchandise to the United States by the respondents during the period of investigation, November 1, 1985 through April 30, 1986. The weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers and on behalf of the U.S. industry producing mirrors in stock sheet and lehr end sizes. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports materially injure, or threaten material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on April 21, 1986 (April 29, 1986, 51 FR 15937) and notified the ITC of our action.

On May 16, 1986, the ITC found that there is a reasonable indication that imports of mirrors in stock sheet and lehr end sizes from the United Kingdom are materially injuring U.S. industry (U.S. ITC Pub. No. 1850, May 1986).

On June 4, 1986, questionnaires were delivered to Solaglas Coventry, Ltd. (Solaglas) and Bowman Webber, Ltd. (Bowman Webber). An extension of time in which to respond was granted, and, on July 14 and July 17, 1986, respectively, we received incomplete responses from Solaglas and Bowman Webber. We requested supplemental information from the respondents, and Solaglas responded on July 29 and August 26, 1986. Bowman Webber submitted its supplemental information on August 5 and August 22, 1986.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors, made of any of the glass described in TSUS items 541.11 through 544.41, 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as bevelling, etching, edging, or framing, currently classifiable in the *Tariff Schedules of the United States Annotated* (TSUSA) under item 544.5400.

The period of investigation is November 1, 1985 through April 30, 1986.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise since it was sold prior to the date of importation to unrelated purchasers in the United States. We calculated purchase price based on the FOB, CIF, or free delivered, duty paid packed prices. We made deductions for brokerage charges and foreign inland freight. Where appropriate, we also made deductions for ocean freight, marine insurance, and U.S. duty. For Solaglas, we also made a deduction, where appropriate, for demurrage. For Bowman Webber, we also made a deduction, where appropriate, for U.S. inland freight.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value based on home market prices. We

calculated the foreign market value on the basis of gross, delivered prices with appropriate deductions for freight, insurance, and discounts. In accordance with § 353.15 of Commerce's Regulations (19 CFR 353.15), we also made an adjustment for differences in circumstances of sale for warranties. In cases where we had commissions in only one market, we made adjustmemts for the differences in commissions in the applicable market and indirect selling expenses in the other market, used as an offset to the commissions, in accordance with § 353.15(c) of Commerce's Regulations. We substracted home market packing and added U.S. packing to home market prices. For Bowman Webber, we also made an adjustment for differences in circumstances of sale for credit and advertising expenses.

We made comparisons of "such or similar" merchandise based on a consideration of grade, thickness, and color of the particular mirrors involved.

We disallowed Solaglas' and Bowman Webber's adjustment claims for currency conversion and exchange rate fluctuations because the respondents did not show that they met the criteria set forth in § 353.56(b) of Commerce's Regulations.

With regard to Solaglas, we disallowed its claimed adjustment for direct selling expenses (a combination of commissions and advertising expenses) because Solaglas did not provide adequate information in support of its claim. We also disallowed Solaglas' claim for a bad debt expense adjustment because the claim was not shown to be directly related to the sales under consideration. We disallowed Solaglas' claim for a credit expense adjustment because Solaglas did not provide information with regard to credit expenses in both the U.S. and home markets. We also disallowed Solaglas' claim for a level of trade adjustment because Solaglas has not provided sufficient information to demonstrate and quantify the effects in the relevant markets. With regard to Bowman Webber, we disallowed its level of trade adjustment claim between the two markets because it was not shown that selling expenses incurred on U.S. sales would have been incurred in the home market had such sales existed there.

Additional information submitted on September 3, 1986 by both respondents was untimely and could not be considered for our preliminary determination. We will consider the additional information with regard to the disallowed claims and, after verification, will make any appropriate adjustments for our final determination.

Pursuant to § 353.56 of Commerce's Regulations, we made currency conversions at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(a) of the Act, we will verify all information by using standing verification procedures, including on-site inspection of records and selection of original source documentation containing relevant information.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of mirrors in stock sheet and lehr end sizes from the United Kingdom that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-Average Margin Percentage
Solaglas Coventry, Ltd.	45.19
Bowman Webber, Ltd.	13.38
All other manufacturers/producers/exporters	13.46

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we made our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our Regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9 a.m. on October 13, 1986, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of the publication of this notice. Request should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 6, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

This notice is published in accordance with section 733(f) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

September 8, 1986.

[FR Doc. 86–20637 Filed 9–11–86; 8:45 am]

BILLING CODE 3510–DS–M

[A–428–603]

Mirrors in Stock Sheet and Lehr End Sizes From the Federal Republic of Germany; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that mirrors in stock sheet and lehr end sizes (mirrors) from the Federal Republic of Germany (FRG) are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend liquidation of all entries of mirrors in stock sheet and lehr end sizes from the FRG that are entered, or withdrawn from warehouse, for consumption on or

after the date of publication of this notice and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by November 24, 1986.

EFFECTIVE DATE: September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp (202–377–1769), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Information

We have preliminarily determined that mirrors in stock sheet and lehr end sizes from the FRG are being, or are likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b (the Act). The dumping margins range from 5.17 percent to 18.19 percent, and the weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers on behalf of the U.S. industry producing mirrors in stock sheet and lehr end sizes. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on April 21, 1986 (April 29, 1986, 51 FR 15934), and notified the ITC of our action.

On May 16, 1986, the ITC found that there is a reasonable indication that imports of mirrors in stock sheet and lehr end sizes from the FRG are materially injuring a U.S. industry (U.S. ITC Pub. No. 1850, May, 1986).

On May 22, 1986, we presented questionnaires to counsel for Flabeg GmbH and Vereinigte Glaswerke GmbH (Vegla) since we had information indicating that they accounted for virtually all of the exports to the United States during the period of the investigation. An extension of time in which to respond was granted, and, on July 11, 1986, we received a questionnaire response from Flabeg. Vegla did not respond.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors, made of any of the glass described in TSUS items 541.11 through 544.41, 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as beveling, etching, edging, or framing, classifiable in the *Tariff Schedules of the United States Annotated (TSUSA)* under item 544.5400.

The period of investigation is November 1, 1985 through April 30, 1986.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States by Flabeg were made at less than fair value, we compared the United States price with the foreign market value of such merchandise as specified below. Since Vegla did not respond, we based its United States price and foreign market value on the best information available in accordance with section 776(b) of the Act.

United States Price

As provided for in section 772(b) of the Act, we based Flabeg's United States price on purchase price because its mirrors were sold to unrelated purchasers in the United States prior to importation. We made deductions from F.O.B. or C.I.F. prices, as appropriate, for various discounts, ocean freight, marine insurance, customs duties, and foreign inland freight.

Since Vegla did not respond, we based United States price on a sampling of import statistics. These statistics were refind to approximate the unit value of the portion of the reporting category that best reflects the merchandise under investigation. We used import data during a period lagged two months from the period of investigation to approximate sales during that period based on knowledge of the industry and delays in statistical reporting.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we used home market prices since there were sufficient sales in the home market. Petitioner alleged that the home market sales were at prices which represent less than the cost of producing the mirrors over an extended period of time and at prices which would not permit the recovery of all cost within a reasonable period of time. We determined the cost of production on the basis of the cost of materials, fabrication and general expenses. We found that all sales by Flabeg were at prices above the cost of production. Therefore, we based foreign market value on sales in the home market.

We made deductions, where appropriate, from home market delivered prices for various discounts and inland freight. We made an adjustment for differences in circumstances of sale, in accordance with § 353.15 of our regulations, for differences in credit terms between the two markets. We also adjusted for differences in commission between the two markets or offset, where appropriate, a commission given in one market with selling expenses incurred in the other market in accordance with § 353.15 of our regulations. Lastly, we deducted home market packing costs and added U.S. packing costs.

Pursuant to § 353.36 of Commerce's Regulations, we made currency conversions at the rate certified by the Federal Reserve Bank.

For Vegla, we used information provided by the petitioner as the best information available to determine foreign market value. Petitioner based foreign market value on constructed value. The petitioner derived an average German cost of production from the estimated cost components of German mirror producers, to which was added the statutory minimum of eight percent for profit.

Verification

As provided in section 776(a) of the Act, we will verify all information provided by Flabeg by using standard verification procedures, which will include on-site inspection of manufacturer's facilities and examination of relevant sales and financial records of the company. If we receive a timely and complete response from Vegla, we will verify that information in the same manner.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of mirrors in stock sheet and lehr end sizes from the FRG that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a

bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Flabeg GmbH	5.17
Vereinigte Glaswerke GmbH (Vegla)	18.19
All other Manufacturers/Producers/Exporters	6.98

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproperietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we made our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our Regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9:30 a.m. on October 17, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 10, 1986. Oral presentations will be limited to issues raised in the briefs. All written veiws should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

This notice is published in accordance with section 733(f) of the Act.

Gilbert B. Kaplan.

Deputy Assistant Secretary for Import Administration.

September 8, 1986.

[FR Doc. 86-20630 Filed 9-11-86; 8:45 am]

BILLING CODE 3510-DS-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 300/301, 342/642, 435, 442, 611, 644 and 659-I

September 8, 1986.

On July 28 and 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 cotton yarn in Category 300/301, cotton and man-made fiber skirts in Category 342/642, women's girls' and infants' wool coats, in Category 435, wool skirts in Category 442, woven spun cellulosic fabric in Category 611, women's girls' and infants suits of man-made fibers in Category 644 and infants' sets in Category 659-I (TSUSA numbers 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359, and 384.9365, produced or manufactured in Japan.

The purpose of this notice is to advise the public that, if no solution is agreed upon consultation 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 by cotton textile products in the foregoing categories, produced or manufactured in Japan and exported to the United States during the twelve-month periods which began in the case of Categories 300/301 and 611, on July 28, 1986 and extends through July 27, 1987, at levels of 1,537,584 pounds and 29,683,086 square yards, respectively; and, in the case of Categories 342/642, 435, 442, 644 and 659-I, which began on July 30, 1986 and extends through July 29, 1987 at levels of 323,636 dozen, 18,169 dozen, 12,325 dozen, 27,534 dozen, and 561,073 pounds respectively.

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, in 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."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Japan—July 1986 MARKET STATEMENT

Categories 300/301—Cotton Sales Yarn—

Summary and Conclusions

United States imports Category 300/301—cotton yarns—from Japan during year ending May 1986 were 2.2 million pounds, five times the 434,782 pounds imported a year earlier. During the first five months of 1986 alone, imports of cotton yarns from Japan were 2.1 million pounds, nine times the amount imported during the calendar year 1985.

During the year ending May 1986, 91 percent of the imports in Categories 300/301 from Japan were combed, cotton/polyester yarns. The U.S. markets for these type yarns has been disrupted by imports. The sharp and substantial increase in imports from Japan is contributing to this disruption.

The impact of imports of these combed, cotton/polyester yarns is demonstrated by the production, import, market share, and import ratio data for such yarns with counts 31's and finer.

U.S. Production and Market Share

U.S. production of combed cotton/polyester plied sales yarn, 31's and finer, fell sharply during 1985 compared to 1984. For 1985, production dropped 21 percent below the level of 1985.

The U.S. producer's share of the market for domestically produced and imported combed cotton/polyester sales yarn, 31's and finer, declined from 91 percent in 1983 to 58 percent in 1985.

Imports and Import Penetration

Imports of combed cotton/polyester yarns, 31's and finer, increased sharply in 1984 to 8.8 million pounds, up 172 percent from 1983. Imports in 1985 continued to increase, reaching a record level of 15.1 million pounds, and were almost twice the level of 1984.

The ratio of imports to domestic production in 1984 was 73.5 percent, more than seven times the 10.4 percent of 1983.

Duty-Paid Values and U.S. Producers' Price

U.S. imports of combed cotton/polyester yarns from Japan entered at landed duty-paid values below the U.S. producer price for comparable yarns.

Japan—MARKET STATEMENT

Category 342/642—Cotton and Man-made Fiber Skirts—July 1986

Summary and Conclusions

U.S. imports of Category 342/642 from Japan were 342,055 dozen during the year ending May 1986 compared to 266,436 dozen a year earlier, a 28 percent increase. Japan is the fifth largest supplier of Category 342/642 and the largest uncontrolled supplier, accounting for seven percent of total imports during the year ending May 1986. Imports from Japan reached 174,002 dozen in the first five months of 1986, an increase of 41 percent over the level in the first five months of 1985.

The U.S. market for Category 342/642 has been disrupted by imports. The sharp and substantial increase of imports from Japan has contributed to this disruption.

U.S. Production and Market Share

Between 1982 and 1984, U.S. Production of cotton and man-made fiber skirts declined by 983 thousand dozen, an eleven percent drop. During this same period the market for domestically produced and imported cotton and man-made fiber skirts grew by 651 thousand dozen. The share of this market held by domestic manufacturers fell from 83 percent in 1982 to 70 percent in 1984.

U.S. Imports and Import Penetration

U.S. imports of Category 342/642 increased from 1.8 million dozen in 1982 to 3.5 million dozen in 1984, a 90 percent increase. Import growth continued as imports reached 3.8 million dozen in 1985, a 10 percent increase over the previous year. During the first five months of 1986 imports increased 77 percent over the same period in 1985. The ratio of imports domestic production more than doubled increasing from 20 percent in 1982 to 43 percent in 1984.

Duty-Paid Value and U.S. Producers' Price

Approximately 78 percent of Category 342/642 imports from Japan during the first five months of 1966 entered under the following two TSUSA Numbers: 384.5251—women's other cotton skirts except corduroy, denim, and velveteen not knit, not ornamented; 384.9445—women's man-made fiber skirts not knit, nor ornamented. These garments from Japan entered the U.S.at landed duty-paid values below U.S. producers' prices for comparable garments.

Japan—MARKET STATEMENT

Category 435—Women's, Girls' and Infants Wool Coats—July 1986

Summary and Conclusions

U.S. imports of Category 435 from Japan were 25,571 dozen during the year ending May 1986, a 31 percent increase over the level imported a year earlier. Imports of Category 435 from Japan increased 46 percent from 17,564 dozen in 1984 to 26,642 dozen in 1985.

The sharp and substantial increase of imports of Category 435 from Japan is disrupting the U.S. market for women's girls and infants' wool coats.

U.S. Production and Market

U.S. production of women's girls, and infants, coats remained relatively flat throughout the last several years. However, in 1984, U.S. production fell 13 percent to 1,103 thousand dozen. Between 1982 and 1984, the U.S. market for domestically produced and imported women's girls' and infants' wool coats grew 9 percent to 1,471 thousand dozen. The U.S. producers' share of this market decreased from 86 percent in 1982 to 75 percent in 1984.

U.S. Imports and Import Penetration

U.S. imports of Category 435 grew from 186 thousand dozen in 1982 to 368 thosand dozen in 1984, a 98 percent increase. This upward trend continued in 1985 as imports rose an additional 13 percent to 416 thousand dozen. Year ending May 1986 imports of Category 435 are 15 percent higher than the level imported during year ending May 1985. The ratio of imports to domestic production increased from 16 percent in 1982 to 33 percent in 1984.

Duty-Paid Values and U.S. Producers' Prices

Approximately 77 percent of imports of Category 435 from Japan during the first five months of 1986 entered under TSUSA No. 384.7215—women's girls' and infants' wool suit-type coats and jackets over four U.S. dollars per pound not knit, not ornamented and TSUSA NO. 384.722—women's, girls' and infnts other wool coats not knit, not ornamented over four U.S. dollar per pound. These coats entered the U.S. at landed duty-paid values below U.S. Producers' prices for comparable garments.

Japan—MARKET STATEMENT

Category 442—Wool Skirts—July 1986

Summary and Conclusions

U.S. imports of Category 442 from Japan were 19,731 dozen during the year ending May 1986 compared to 16,427 dozen a year earlier, a 20 percent increase. Imports from Japan reached 2,041 dozen in the first five months of 1986, an increase of 136 percent over the 866 dozen imported during the first five months of 1985.

The U.S. market for Category 442 has been disrupted by imports. The sharp and substantial increase of imports from Japan has contributed to this disruption.

U.S. Production and Market Share

U.S. production of wool skirts continues to decline. U.S. production declined 9 percent in 1983 and another 19 percent in 1984. During this same period wool skirt imports increased nearly three-fold. The U.S. producers' share of the wool skirt market fell from 92 percent in 1982 to 75 percent in 1984.

U.S. Imports and Imports Penetration

U.S imports of Category 442 increased from 131 thousand dozen in 1982 to 353 thousand dozen in 1984, a 169 percent increase. Imports continued to grow reaching 444 thousand dozen in 1985, a 26 percent increase over the previous year. Imports are up 15 percent in the first months of 1986. The ratio of imports to domestic production increased from 9 percent in 1982 to 19 percent in 1983 to 34 percent in 1984.

Duty-Paid Value and U.S. Producers' Price

Approximaely 79 percent of Category 442 imports from Japan during the first five months of 1986 entered the U.S. under TSUSA No. 384.7522—Womens' girls' and infants' wool skirts not knit not ornamented over 4 U.S. dollars per pound. These skirts are entered at duty-paid landed values below U.S. producers' prices for comparable skirts.

Japan—MARKET STATEMENT

Category 611—Cellulosic Spun Yarn Fobric—July 1986

Summary and Conclusions

U.S. imports of Category 611—cellulosic spun yarn fabric—from Japan during the year ending May 1986 were 29.8 million square yards compared with 16.3 million square yards a year earlier. Imports in 1984 were 17.3 million square yards increasing to 20.9 million in 1985. Japan is the largest supplier of Category 611 fabric, accounting for 56.3 percent of 1986 imports.

The U.S. market for cellulosic spun fabric has been disrupted by imports. Japan's position as the major supplier of these fabrics makes it a major contributor to the U.S. market disruption.

Production and Market Share

U.S. production of Category 611 dropped sharply in 1982 due to a substantial decline in the market for these type fabrics. Production declined from 592 million square yards in 1981 to 94 million in 1982 and continued to drop in 1983 to a level of 87 million square yards. Although production regained some of the loss in 1984, increasing to 113 million square yards, 1985 production fell to 102 million square yards, a decline of 10 percent.

The market for Category 611 has improved since 1982. However, there has been a distinct downward trend in the U.S. producers' share of the market. In 1981, the domestic producers provided 98 percent of the market; in 1985, they provided 73 percent.

Import and Import Penetration

U.S. imports of Category 611 from all sources increased 51 percent in 1985 to a

record level 36.8 million square yards. Imports for year ending May 1986 doubled over the comparable period of 1985, reaching 54.7 million square yards.

The ratio of imports to domestic production doubled from 11.4 percent in 1982 to 21.6 percent in 1984. The ratio continued to rise in 1985, reaching 36.1 percent.

Duty-Paid Values and U.S. Producers's Prices

The duty-paid landed values of Category 611 imports from Japan are below the U.S. producers prices for comparable fabrics. Approximately 57 percent of Japan's Category 611 trade during January—May 1986 were lightweight printcloth fabrics imported under TSUSA Number 338.5946.

Japan—MARKET STATEMENT

Category 644—Women's, Girls', and Infants' Man-Made Fiber Suit—July 1986

Summary and Conclusions

U.S. imports of Category 644 from Japan were 26,238 dozen during the year ending May 1986, compared to 24,220 dozen imported during the previous twelve months. During the first five months of 1986 imports from Japan were 14,682 dozen, 44 percent above the 10,168 dozen imported during the same period a year earlier.

The sharp and substantial increase of imports of Category 644 from Japan is disrupting the U.S. market for women's, girls', and infants' man-made fiber suits.

U.S. Production and Market Share

U.S. production of women's, girls', and infants' man-made fiber suits fell 22 percent from 890 thousand dozen in 1982 to 695 thousand dozen in 1984. The U.S. producers' share of this market fell from 79 percent in 1982 to 60 percent in 1984.

U.S. Imports and Import Penetration

U.S. imports of Category 644 increased 90 percent from 241 thousand dozen in 1982 to 459 thousand dozen in 1984. Year ending May 1986 imports reached 501 thousand dozen, 37 percent above the 365 thousand dozen imported during the previous twelve months. The ratio of imports to production has increased from 27 percent in 1982 to 66 percent in 1984.

Duty-Paid Landed Value and U.S. Producer Price

Approximately 75 percent of the imports of Caegory 644 from Japan during the first five months of 1986 entered under TSUSA No. 384.9158—Women's, girls' and infants' suits with single back panel jacket, not knit, not ornamented and TSUSA No. 384.9162—women's, girls' and infants' other man-made fiber suits, not knit, not ornamented. These suits entered the U.S. at duty-paid landed values below the U.S. producers' prices for comparable suits.

Japan—MARKET STATEMENT

Category 659–I—Man-Made Fiber Infant Sets—July 1986

Summary and Conclusions

U.S. imports of Category 659–I from Japan were 576,466 pounds (183,035 dozen) during the year ending May 1986. These compare with 553,156 pounds (130,062 dozen) imported a year earlier. Imports from Japan were 517,532 pounds (117,318 dozen) in 1984 and 577,467 pounds (183,778 dozen) in 1985.

The U.S. market for man-made fiber infant sets has been disrupted by imports and imports from Japan are contributing to this disruption.

U.S. Production and Market Share

U.S. production data for infant sets are available only in dozens. Domestic production of man-made fiber infant sets was 3,825 thousand dozen in 1982; 3,631 thousand dozen in 1983; and 3,854 thousand dozen in 1984. U.S. production was virtually unchanged from 1982 to 1984. The U.S. producers's share of the market for domestically produced and imported man-made fiber infant sets declined from 69 percent in 1982 to 63 percent in 1984.

U.S. Imports and Import Penetration

U.S. imports of Category 659–I increased from 1.7 million dozen (4.2 million pounds) in 1982 to 2.3 million dozen (9.0 million pounds) in 1984, a 34 percent increase. Imports for the year ending May 1986 were 3.5 million dozen (10.7 pounds), up 31 percent from the 2.7 million dozen (10.3 million pounds) imported a year earlier.

The ratio of imports to domestic production increased from 45 percent in 1982 to 59 percent in 1984.

Duty Paid Value and U.S. Producers' Price

Approximately 77 percent of Category 659–I imports from Japan during the first five months of 1986 entered under TSUSA No. 384.8651—man-made fiber infant sets, knit, not ornamented. These garments entered the U.S. at landed duty-paid values well below U.S. producers' prices for comparable garments.

[FR Doc. 86–20574 Filed 9–11–86; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1986 a service to be provided by and military resale commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 12, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 6 and July 18, 1986 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (51 FR 20687 and 51 FR 26033) of proposed additions to Procurement List 1986, October 15, 1985 (50 FR 41809).

Additions

After consideration of the relevant matter presented, the Committee has determined that the service and the military resale commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the service and the military resale commodities listed.

c. The action will result in authorizing small entities to produce the service and the military resale commodities procured by the Government.

Accordingly, the following service and the military resale commodities are hereby added to Procurement List 1986:

Service

Mailing Service, U.S. Department of Interior, Bureau of Land Management, Oregon State Office, Portland, Oregon.

Military Resale Commodities

No. 581 Flatware, Assorted, Pg. of 24
No. 583 Flatware, Forks, Pg. of 24
No. 584 Flatware, Spoons, Pg. of 24

C.W. Fletcher,

Executive Director.

[FR Doc. 86–20577 Filed 9–11–86; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1986; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1986 a commodity to be produced by and services to be provided by workshops for the blind or other severely handicapped.

DATE: Comments must be received on or before: October 15, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1986, October 15, 1985 (50 FR 41809):

Commodity

Bag, Urine Collection
6530–01–074–6600

Services

Janitorial/Custodial, Federal Building and U.S. Courthouse, 110 S. 4th Street, Minneapolis, Minnesota.

Repair of Tool Box and Rollaway, Robins Air Force Base, Georgia.

C.W. Fletcher,

Executive Director.

[FR Doc. 86–20578 Filed 9–11–86; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1986, Proposed Addition; Correction

In FR Doc. 86–19608 appearing on page 30899 in the issue of Friday, August 29, 1986, make the following correction: In the first column under *Commodities*, the entry for Pillow Bed Feather should read:

Pillow, Bed Feather
7210–01–015–5190
(Requirements for Richmond, Virginia DLA Depot)

Because of this change, the time for receipt of comments on the proposed addition of this service is extended until October 9, 1986.

C.W. Fletcher,

Executive Director.

[FR Doc. 86–20579 Filed 9–11–86; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Defense Initiative Advisory Committee Meetings

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Strategic Defense Initiative (SDI) Advisory Committee will meet in closed session in Washington, DC, on October 7–8–9, 1986.

The mission of the SDI Advisory Committee is to advise the Secretary of Defense and the Director, Strategic Defense Initiative Organization on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on October 7–8–9, 1986 the committee will discuss status of SDI research and management issues.

In accordance with section 10(d) of the the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App II, (1982)), it has been determined that this SDI Advisory Committee 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.

September 9, 1986.

[FR Doc. 86–20628 Filed 9–11–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

1. In accordance with section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Department of the Army Historical Advisory Committee
Date: 9–10 October 1986
Place: Conference Room, National Guard Association Building 1 Massachusetts Avenue, NW., Washington, DC.
Time: 9 October 1300–1600, 10 October 0900–1200, 1330–1500
Proposed Agenda: 9 October—Review of historical activities
10 October—Discussion of activities and executive session of the committee.

Purpose of meeting: The committee will review the past year's historical activities based on reports and manuscripts received throughout the year and formulate recommendations through the Chief of Military History to the Chief of Staff, U.S. Army and the Secretary of the Army for advancing the purpose of the Army Historical Program.

2. Meetings of the Advisory Committee are open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing, at least five days prior to the meeting of their intention to attend the 9–10 October meeting.

3. Any members of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairman may allow public presentations of oral statements at the meeting.

4. All communications regarding this Advisory Committee should be addressed to Dr. Brooks E. Kleber, Assistant Chief of Military History, U.S. Army Center of Military History, Washington, DC 20314–0200.

Dated: September 3, 1986.

Brooks E. Kleber,

Assistant Chief of Military History.

[FR Doc. 86–20582 Filed 9–11–86; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before October 14, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 426–7034.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal

agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests of OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: September 9, 1986.

George P. Sotos,

Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: New
Title: Libraries and Literacy Education Survey
Agency Form Number: G50–19P
Frequency: Once only
Affected Public: State or local governments; non-profit institutions
Reporting Burden:
Responses: 5,441
Burden Hours: 4,081
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: These instruments survey the extent of library involvement in literacy education and will help to determine what library literacy service models exist in different types of libraries in urban and rural settings. Public, secondary school, and state institutional libraries are being surveyed.

Type of Review: New
Title: Elementary and Secondary School Surveys of Foreign Language Education in the United States
Agency Form Number: G50–20P
Affected Public: State or local governments
Reporting Burden:
Responses: 3,000
Burden Hours: 750
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: The survey will provide information about the nature of foreign language education in elementary and secondary schools. It will also provide information on program types, languages taught, and teaching practices. This information will be useful for developing a national network of exemplary programs and for guiding future plans for research and development.

Type of Review: New
Title: National Educational Longitudinal Study of 1988
Agency Form Number: G50–21P
Affected Public: Individuals or households
Reporting Burden:
Responses: 6,026
Burden Hours: 10,841
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This study collects data on the educational, vocational, and personal development of students beginning in their 8th grade year. The study will also collect data from the students' parents, teachers, and administrators. The base year of the study is 1988 with a follow-up scheduled every two years until 1996.

Type of Review: New
Title: Survey of Secondary Providers of Vocational Education
Agency Form Number: G50–22P
Affected Public: State or local governments
Reporting Burden:
Responses: 56
Burden Hours: 28
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This survey will be used to collect data from the States to identify the number of secondary and correctional facilities offering vocational education to adults.

Type of Review: Revision
Title: Application for Grants under Library Career Training Program, Title II–B of the Higher Education Act of 1965, as amended.
Agency Form Number: ED 547
Frequency: Annually
Affected Public: State or local governments; non-profit institutions
Reporting Burden:
Responses: 120
Burden Hours: 1,680
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This form will be used by institutions of higher education and library organizations to apply for funds under the Higher Education Act, as amended, to assist in training persons in librarianship through the award of fellowships and institutes.

Office of Postsecondary Education

Type of Review: Extension
Title: Application for the Comprehensive Program New Awards and Continuations
Agency Form Number: ED 0001, 0002
Affected Public: State or local governments; non-profit institutions; small businesses or organizations
Reporting Burden:
Responses: 2,774
Burden Hours: 29,863
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: The application is used to apply for new and continuing grants under the Comprehensive Program of the Fund for the Improvement of Postsecondary Education.

Type of Review: Revision
Title: Application Information Request to Participate in the Carl D. Perkins Scholarship Program
Agency Form Number: E40–18P
Affected Public: Individuals or households, state or local governments
Reporting Burden:
Responses: 57
Burden Hours: 285
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This application form is used to obtain funds under the Carl D. Perkins Scholarship Program which provides college scholarships to outstanding students enabling them to pursue teaching careers at the elementary or secondary school level.

Type of Review: Revision
Title: Student Aid Report
Agency Form Number: ED 255–1
Affected Public: Individuals or households; Businesses or other for-profit; Non-profit institutions
Reporting Burden:
Responses: 11,086,684
Burden Hours: 1,189,723
Recordkeeping Burden:
Recordkeepers: 6,000
Burden Hours: 243,000

Abstract: The Student Aid Report (SAR) is used to notify applicants of their eligibility to receive Federal financial aid. The form is submitted by the applicant to the participating institution of their choice. The institution submits Part 3 of the SAR to

the Department to receive funds for the applicant.

Office of Special Education and Rehabilitative Services

Type of Review: Revision
Title: Grant Application Under the Education of the Handicapped Act
Agency Form Number: ED 9037
Affected Public: State or local governments; non-profit institutions
Reporting Burden:
Responses: 3,390
Burden Hours: 108,480
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: The application form provides instructions and information necessary for applicants to submit a request for Federal assistance. The information submitted is used by the Office of Special Education to determine grantee eligibility, acceptability or application, and amount of grant award.

Office of Planning, Budget and Evaluation

Type of Review: Extension
Title: GEPA 406A: State Uses of Federal Funds Under State-Administered Federal Education Programs
Agency Form Number: P75-7P
Frequency: Annually
Affected Public: State or local governments
Reporting Burden:
Responses: 51
Burden Hours: 2,550
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: Section 406A of the General Education Provisions Act mandates an annual report on the State uses of federal funds to assure that these funds are received by the subgrantees, the intended beneficiaries.

[FR Doc. 86-20625 Filed 9-11-86; 8:45 am]
BILLING CODE 4000-01-M

National Advisory and Coordinating Council on Bilingual Education; Telephone Conference

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory and Coordinating Council on Bilingual Education. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: September 22, 1986—Telephone Conference—11:30 a.m. until 3:30 p.m.

The telephone conference will be conducted at: The U.S. Department of Education, Federal Office Building Number (6), Room 6004, 400 Maryland Avenue SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Anna Maria Farias, Designated Federal Official, Office of Bilingual Education and Minority Languages Affairs, Reporter's Building, Room 421, 400 Maryland Avenue SW., Washington, DC 20202, (202) 245-2600.

SUPPLEMENTARY INFORMATION: The National Advisory and Coordinating Council on Bilingual Education is established under section 752(a) of the Bilingual Education Act (20 U.S.C. 3262). NACCBE is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations. The Telephone Conference Call of the Council is open to the public.

The proposed agenda includes the following:

I. Call to Order
II. Roll Call
III. Approval of Minutes from previous meeting
IV. Old Business
V. New Business
VI. Site Visits—Dr. Porter
VII. Meetings of Council Committees

The public is being given less than 15 days notice of this teleconference meeting due to the difficulty in communicating with some of the executive members.

Records are kept of all Council proceedings and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Reporter's Building, Room 421, 400 Maryland Avenue SW., Washington, DC 20202, Monday through Friday from 9:00 a.m.—5:30 p.m.

Dated: September 8, 1986.

Carol Pendas Whitten,

Director, Office of Biliingual Education and Minority Languages Affairs.

[FR Doc. 86-20520 Filed 9-11-86; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: The Department of Energy (DOE) has submitted the energy information collections, listed at the end of this notice, to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The collection number(s); (2) Collection title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Affected public; (7) An estimate of the number of respondents annually; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection; and (9) A brief abstract describing the proposed collection and, briefly, the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. Last notice published Wednesday, August 27, 1986, (51 FR 30538).

ADDRESS: Address comments to Mr. Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments may also be addressed to, and copies of the submissions obtained from, Mr. Gross at the address below.)

FOR FURTHER INFORMATION CONTACT: John Gross, Director, Data Collection Services Division (EI–73), Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252–2308.

SUPPLEMENTARY INFORMATION: If you anticipate commenting on a collection, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise Mr. Broussalian of your intent as early as possible.

Issued in Washington, DC, September 5, 1986.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Collections Under Review by OMB

Collection No.	Collection title	Type of request	Response frequency	Response obligation	Affected public	Estimated No. of respondents	Annual respondent burden—hrs	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
FERC								
FERC–523	Application for Authorization of the Issuance of Securities or the Assumption of Liabilities.	Extension	On occasion	Mandatory	State or Local government, businesses.	60	9,000	Applies to any issuance of a security or assumption of obligation or liability by a public utility or licensee for which approval must be obtained from this Commission.
FERC–568	Well Category Determination.	Extension	On occasion	Mandatory	Businesses or other for profit.	5,917	214,515	FERC–568 "Well Category Determinations" is an information collection which is mandatory pursuant to the Natural Gas Policy Act of 1978 for jurisdictional agency determinations of four categories of natural gas: (1) new natural gas and new reservoirs on old OCS leases; (2) new onshore production wells; (3) high-cost natural gas; and (4) stripper well natural gas.

[FR Doc. 86–20549 Filed 9–11–86; 8:45 am]

BILLING CODE 6450–01–M

Coal Survey Forms; Availability

AGENCY: Energy Information Administration, DOE.

ACTION: Solicitation of comments concerning changes to coal survey forms and notice of public hearing.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy solicits comments concerning proposed changes to the coal data collection forms. In an effort to maximize public participation in the discussion of revisions to these forms, the EIA will conduct a public hearing on Wednesday, October 15, 1986, in Room 1E–245 of the Forrestal Building, 1000 Independence Avenue SW., Washington DC 20585, beginning at 9:00 a.m. (EDT).

DATES: Those wishing to provide oral testimony at the public hearing should request to speak at hearing by 4:30 p.m., Wednesday, September 24, 1986, and should submit a copy of their presentation to the EIA by 4:30 p.m., Friday, October 3, 1986.

Those wishing to provide written comments only should submit a copy of their comments to the EIA within 45 days of the publication of this notice.

ADDRESS: Send comments, requests to speak at the hearing, and written presentations to: Ann M. Ducca, Coal Division, Energy Information Administration, EI–521, Department of Energy, Mail Stop 2G–090, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–6868.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the proposed forms and instructions: Harriet M. Tarver, Coal Division, Energy Information Administration, EI–521, Department of Energy, Mail Stop 2G–090, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–6868.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Comment and Public Hearing Procedures

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93–275), and the Department of Energy (DOE) Organization Act (Pub. L. 95–91), the Energy Information Administration (EIA) is obliged to collect, publish, and otherwise make available to the public, high-quality statistical data that reflect national and regional coal activity as accurately as possible. To meet this responsibility and to respond to internal DOE requirements that are dependent on accurate data, the EIA conducts statistical surveys that encompass each significant coal activity in the United States.

II. Current Actions

A. Proposed Surveys

In keeping with DOE's mandated responsibilities the EIA proposes the following changes to its current coal forms:

EIA–1: Weekly Coal Monitoring Report—General Industries and Blast Furnances (Standby form)—to be implemented only in case of a supply disruption. No changes. New form number: EIA–901.

EIA–3: Quarterly Coal Consumption Report—Manufacturing Plants. Report on new Form EPA–920, Coal Disposition Quarterly.

EIA–4: Weekly Coal Monitoring Report—Coke Plants (Standby form)—to be implemented only in case of a supply disruption. No changes. New form number: EIA–902.

EIA–5: Coke Plant Report-Quarterly. Report on new form, EIA–920, Coal Disposition Quarterly.

EIA–5A: Coke Plant Report-Annual Supplement Discontinued as of December 1985.

EIA–6: Coal Distribution Report (a quarterly report). Report on new Form EIA–910, Coal Supply Quarterly.

EIA–7A: Coal Production Report (an annual report). Report on new Form EIA–930, Coal Supply Annual.

EIA–7A (Supplement): Coal Production Report (Supplement), (a

biennial report). Discontinued as of December 1985.

EIA–20: Weekly Telephone Survey of Coal Burning Utilities (Standby form)—to be implemented only in case of a supply disruption. No changes. New form number: EIA–903.

EIA–97: Boiler Order Report (an annual report). This form was revised from a quarterly to an annual report and only coal boiler orders need be reported. New form number: EIA–940.

The proposed new forms are:

Coal Disposition Quarterly (Form EIA–920):

In addition to data collected on the current Forms EIA–3 and EIA–5, includes data on (1) coal quality, (2) state origin of coal, (3) method of transportation, (4) port of exportation, (5) country of destination, and (6) price and type of coal export (i.e., metallurgical vs. steam). Respondents to this new form include respondents to the current Forms EIA–3 and EIA–5 plus coal exporters.

Coal Supply Quarterly (Form EIA–910):

Data to be collected include: (1) Coal production by state and district of origin for each responding company during the quarter, (2) coal purchased by the responding company by state and district of origin during the quarter (including identification of selling company names, addresses and the quantity purchased from each company), (3) coal stocks held by the responding company by state at the end of the quarter, (4) total coal shipments during the quarter by consumer categories (categories are: electric utilities, coke plants, manufacturing plants, transportation, agriculture/mining/construction, residential and commercial, other coal supply companies, and exports), (5) coal sales to other coal supply companies (including company names and addresses and the quantity sold to each company), (6) for the total shipments reported to the agriculture/mining and construction sector and the residential and commercial sector, the quantity of coal shipped by state destination, and (7) total coal shipped during the quarter by methods of transportation (rail, water, river, truck, tramway/conveyor, and slurry pipeline). Respondents to this new form include respondents to current Form EIA–6, but responders will only submit a single report versus the current requirement to submit a separate form for each coal-producing district from which they produce and/or supply coal.

Coal Supply Annual (Form EIA–930):

In addition to data collected on the current Form EIA–7A: (1) Union affiliation and latitude/longitude of mining operation, (2) coal shipments by end-use, (3) coal shipments by methods of transporting coal from the mining operation, (4) underground mining depths and methods of loading coal at the face, (5) overburden thicknesses and ratios, (6) coal quality, and (7) coal preparation by cleaning method.

Respondents to this new form include all coal mining operators (i.e. companies operating coal mines, preparation plants, loading tipples). Operations producing or preparing less than 10,000 short tons of coal per year will report only production quantity and identification data to reduce the burden for small companies.

B. Effect on EIA Publications and Data Dissemination

Coal Production—1984 (DOE/EIA–0118(84)). EIA's annual mine-level data report would be unchanged except that most coal preparation data reported in Appendix C would be eliminated.

Coal Distribution (DOE/EIA–02125(85/4Q)). EIA's quarterly distribution data report would be renamed Coal Disposition Quarterly, and its contents would reflect changes in the data elements proposed to be collected by the EIA. Because of the availability of complete coal origin and quality data for electric utilities, coke plants, manufacturing plants, and coal exporters, the EIA plans to publish coal receipts (quantity and price) and coal quality tables covering all major consuming sectors in the Coal Disposition Quarterly. This data would allow the Coal Distribution publication user to continue to track coal from origin (state and district) to destination (state) by consumer category and method of transportation.

Quarterly Coal Report (ROE/EIA–02121 (854Q)), Weekly Coal Production (DOE/EIA–02180) and Coal Data: A Reference (DOE/EIA–0064). No changes.

The EIA will enhance its data dissemination capabilities by making data contained in its quarterly and annual reports available in a machine (including PC) readable media to the public beginning in 1987. Currently, weekly coal production is available electronically in machine readable format by dialing (202) 252–8658.

C. Automation to Reduce Respondent Burden

The EIA intends to further reduce respondent burden through the use of

various automated approaches to data collection. The use of preprinted forms containing identification information and data which remain fairly static will reduce the amount of new data to be entered by responders to the coal data surveys. For those responders having word-processing equipment/or personal (micro) computers, the EIA will seek to collect coal survey data using formatted diskettes so that responders can take advantage of their automated data processing equipment and thereby reduce response time and errors by avoiding manual data handling.

The EIA will provide all software necessary to enter the data in a user friendly format. This software will perform basic data editing functions and will include the capability of generating a completed form for retention and for submission. Responders having the capabilities and desire to use word-processing equipment and/or personal (micro) computers to submit their coal data should answer question 6 in Section III. Comment procedure.

D. Restatement of EIA's Current Disclosure Policy

1. The responding company's name and address; the mine or plant type (i.e. underground, surface, preparation plant, SIC code) and location (state, county, and/or coal-producing district); and the mine level total production quantity and coal bed(s) mined from Form EIA–930, Coal Supply Annual, will be released upon request in the form of full or partial list of respondents for each of the EIA coal data collection surveys. This policy is based on the fact that these data are publicly available from other sources and therefore not considered to be confidential.

2. The information contained on the proposed forms other than that described above, will be kept confidential to the extent that it satisfies the criteria set forth in the Freedom of Information Act (FOIA) exemption for trade secrets and confidential commercial information and DOE regulations implementing the FOIA, and is prohibited from release by the Trade Secrets Act, 18 U.S.C. 1905. Upon receipt of a request for disclosure of this information under the FOIA, the DOE shall, in accordance with procedures and criteria provided in 10 CFR 1004.11, make a final determination whether the information is exempt from disclosure. To assist in this determination, respondents should demonstrate to DOE that their information constitutes trade secrets or commercial or financial information whose release would be likely to cause substantial harm to their company's competitive position. A letter accompanying the submission that explains (on an element-by-element basis, if possible) the reasons why the information would be likely to cause the respondent substantial competitive harm if released to the public would aid in this determination. Requests from other Federal agencies for information from these forms shall be evaluated in accordance with the DOE Policy on the Disclosure of Individually Identifiable Energy Information in the Possession of the EIA [45 FR 59812 (1980)]. Information concerning coal supplies (stocks) from Forms EIA–901, 902, and 910 (Coal Supply Quarterly) and 920 (Coal Disposition Quarterly) are subject to disclosure to state agencies under certain limited conditions and provided that the state agrees to maintain the confidential nature of the data.

Except as otherwise provided by law, the information will also be made available in response to an order of a Court of competent jurisdiction, or upon written request, to the Congress, any committee of Congress, the General Accounting Office, or other congressional agencies authorized by law to receive such information.

3. All data on Form EIA–903 will continue to be treated as nonconfidential because this form collects data from coal-fired electric power plants and all electric utility survey data are considered to be in the public domain.

III. Comment and Public Hearing Procedures

A. Written Comments

The EIA invites the public to comment on these proposed changes and provides the following guidelines to assist in preparation of responses.

If you are a data provider:

1. How many hours, including time for research, computation, preparation, and administrative review, will it take your firm to complete and submit each form relevant to your firm?

2. How many hours will your firm require in subsequent years of reporting?

3. Estimate the cost to respond to the forms, including direct and indirect costs associated with the data collection. Direct costs should include all one-time and recurring costs, such as development, assembly equipment, ADP, and other administrative costs.

4. Are there any changes to any of the forms that you would recommend?

5. Would you be interested in completing your form(s) using a word-processor or personal computer with EIA providing a diskette containing software to process the form and possibly copies of your previously submitted data? What type of equipment do you have?

If you are a data user:

1. Do you use data at the levels of aggregation that are available using the forms? (i.e., do the products, frequency, market categories, and geography reflect your needs?)

2. Are there alternative sources of data? Do you now use them? What are their deficiencies?

3. How could the forms be improved to better meet your specific data needs?

4. What on-line data or data tapes would better meet your data needs?

Comments or summaries of comments will be included in EIA's submission to the Office of Management and Budget and will become a matter of public record.

EIA is also interested in receiving comments concerning the need to continue the collection of the data required on these forms.

B. Public Hearings

1. Procedures for Requests to Make Oral Presentation.

The time and place for the hearing are indicated in the **"DATES"** and **"ADDRESSES"** sections above.

The EIA invites any interested person wishing to provide oral testimony on these forms to request to speak at the hearing no later than 4:30 p.m., Wednesday, September 24, 1986, and provide a copy of the presentation to the EIA by Friday, October 3, 1986. Such a presentation should include the interest concerned, if appropriate, a statement indicating why the individual is a proper representative of a class of persons that has such an interest, and a telephone number where this individual may be contacted during the day. The EIA will notify each person selected to speak at the hearing by Wednesday, October 8, 1986. We request that persons selected bring 25 copies of their written presentations to the hearing.

2. Conduct of the Hearing.

The EIA will schedule the presentations and establish the procedures governing the conduct of the hearing. Due to the fact that, at the end of previously scheduled testimony a determination will be made whether to continue or adjourn the hearing, we request that all persons seeking to

submit testimony arrive by 9:00 a.m. Any person desiring to present oral testimony will be allowed to do so, time permitting. Although time contraints may limit the number of persons who will be allowed to speak, the EIA will consider all comments submitted. The length of each presentation will be limited to a maximum of 10 minutes. An EIA official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions immediately following a presentation may be asked only at the discretion of those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any other procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer. A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained in the EIA and made available for inspection at the DOE Freedom of Information Office, Room 1E-190, 1000 Independence Avenue SW., Washington, DC 20585, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, DC, on September 8, 1986.

Yvonne M. Bishop,

Director, Statistical Standards Energy Information Administration.

[FR Doc. 86-20568 Filed 9-11-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 9688-000, 7186-010]

Chocorua Forestlands Limited Partnership Mississquoi Associates; Availability of Environmental Assessment and Finding of No Significant Impact

September 5, 1986.

In accordance with the National Environmental Policy Act of 1969, of the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project name	State	Water body	Nearest town or county	applicant
			Exemptions		
9688-000	Weed Brook/Halfway Brook	NH	Weed Brook and Halfway Brook	Moultonboro and Sandwich	Chocorua Forestlands Limited Partnership.
			Licenses		
7186-010	Sheldon Springs	VT	Missisquoi River	Sheldon Springs	Missisquoi Associates.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-20602 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-700-000 et al.]

Natural gas certificate filings; Columbia Gas Transmission Co.

September 5, 1986.

Take notice that the followings filings have been made with the Commission:

1. Columbia Gas Transmission Company

[Docket No. CP86-700-000]

Take notice that on August 26, 1986, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP86-700-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas storage operations and facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to abandon storage operations from its Knox Storage Field located in Knox County, Ohio, and its Knox Compressor Station because of existing operational problems and deteriorating facilities. Applicant states that the Knox Storage Field had a maximum peak day deliverability of 26,500 Mcf of natural gas and consists of (1) approximately 30.5 miles of various sized pipelines ranging in size from 2-inch to 10-inch, (2) 59 storage wells, (3) measuring and regulating facilities, and (4) approximately 9,306 acres of leaseholds, and appurtenances. The Knox Compressor Station consists of four 200-horse-power compressor units and appurtenant facilities related thereto. It is indicated that downhole remedial work and replacement of the compressor station and related facilities at an estimated cost of approximately $7,100,000 would be required to upgrade operations of the Knox Storage Field, with no assurance that such expenditure of funds would correct the operational problems of the field resulting from oil contamination of the wells.

Applicant states that once authorization to abandon the storage operations from the Knox Storage Field and the Knox Compressor Station is obtained, Applicant would reclassify approximately 9.4 miles of 10-inch pipeline and certain measuring and regulating facilities from storage plant to transmission plant and other facilities, wells, lines, leasehold, etc., would be reclassified from storage plant to production plant, all as appropriate under the uniform system of accounts. Applicant further states that the existing facilities, other than the compressor station which would be retired, would be utilized to produce the native natural gas in the field.

Applicant states that the proposed abandonment of the field from storage operations and retirement of the Knox Compressor Station would have a *de minimis* effect on the overall operations of and the benefits derived from the operation of its underground gas storage facilities. Further, Applicant states that, in the event additional storage deliverability is required in the future, it believes it has the potential to obtain equivalent volumes of the Knox Storage Field by drilling additional wells in its other existing storage fields at considerably less cost and without the oil contamination problems. It is indicated that abandonment of storage operations from this field would not

result in any reduction of service to Applicant's existing customers.

Comment date: September 26, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Columbia Gulf Transmission Company

[Docket No. CP86-697-000]

Take notice that on August 25, 1986, Columbia Gulf Transmission Company, P.O. Box 683, Houston, Texas 77001, hereinafter referred to as "Applicant", filed an application pursuant to section 7(b) of the Natural Gas Act for a certificate of public convenience and necessity for permission to abandon a transportation service for Tennessee Gas Pipeline Company, a division of Tenneco, Inc. (Tennessee), pursuant to the authorization granted in Docket No. CP83-2-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by Commission Order issued March 31, 1983, in Docket No. CP83-2-000, 22 FERC ¶ 62,422, Applicant is authorized to transport up to 25,000 Mcf of gas per day for Tennessee, on an interruptible basis, Tennessee's South Timbalier Block 53 amounts of gas which Tennessee transports to Applicant at a point of interconnection with Applicant's pipeline in Lafourche Parish, Louisiana. It is stated that Columbia Gulf redelivers thermally equivalent amounts of gas to Tennessee at a point of interconnection in Acadia Parish, Louisiana.

Applicant requests authorization to abandon this transportation service. It is stated that the gas normally transported for Tennessee from this point of receipt will be included with gas Applicant is currently receiving from Tennessee as part of an exchange authorized by Commission order issued April 26, 1977, in Docket No. CP77-21 58 FERC 650, as amended. Columbia Gulf and Tennessee will file a joint application to amend this Commission Order so as to authorize the inclusion of this gas in the exchange.

Comment date: September 26, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Great Lakes Gas Transmission Company

[Docket No. CP86-696-000]

Take notice that on August 25, 1986, Great Lakes Gas Transmission Company, 2100 Buhl Building, Detroit, Michigan 48226 (Applicant), filed in Docket No. CP86-696-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Michigan Consolidated Gas Company (MichCon), amendments to existing certificates and abandonment of sales service, so as to be able to terminate the existing service agreement under which Applicant currently sells gas to MichCon, abandon such service, and provide transportation service for MichCon for amounts of gas to be purchased by MichCon directly from TransCanada PipeLines Limited (TransCanada), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that under the current servcie agreement dated September 12, 1985, between Applicant and MichCon, Applicant sells up to 59,578 Mcf of natural gas per day to MichCon which Applicant purchases from TransCanada. During the last two years, MichCon has successfully negotiated new market-oriented pricing arrangements with TransCanada, it is stated. Applicant states that its role has become that of a conduit between its resale customers and TransCanada.

Applicant requests that the Commission authorize Applicant to (1) abandon its sales service to MichCon pursuant to its rate schedule CQ, (2) cancel the existing service agreement under which Applicant currently sells gas to MichCon, (3) provide transportation service for MichCon for amounts of gas which MichCon will purchase directly from TransCanada, and (4) approve the transportation service agreement between Applicant and MichCon to be filed as Rate Schedule T-15 to Applicant's FERC Tariff.

Applicant states that, along with MichCon, it is filing a joint petition with te Economic Regulatory Administration to obtain authorization allowing MichCon to succeed to Applicant's import authorization so that MichCon may purchase amounts of gas directly from TransCanada. The sole purpose of the new arrangement, it is stated, is to "unbundle" the sale of Canadian gas by Applicant to MichCon, so that MichCon may purchase such gas directly from TransCanada.

The rates Applicant proposes to charge for its transportation service would be the transportation component of resale rates for Applicant's central and eastern zones under its existing Rate Sechdule CQ. Also, Applicant states, that without relieving MichCon of its obligations under the transportation agreement, MichCon may, with respect to the amounts of gas it puchases from TransCanada, allocate to third parties all or a portion of its transportation capacity on Applicant's system.

Comment date: September 26, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. National Fuel Gas Supply Corporation

[Docket No. CP86-703-000]

Take notice that on August 27, 1986, National Fuel Gas Supply Corporation (National), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP86-703-000 a request pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act, 18 CFR 157.205 to add additional delivery points to its affiliate, National Fuel Gas Distribution Corporation (Distribution), under the certificate issued in Docket No. CP83-4-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

National requests authorization to construct sales tap facilities in the towns of Sandy Lake, Mercer County; Bear Lake, Warren County; Edinboro, Erie County; Segel, Jefferson County; North East, Erie County; Cooksburg, Jefferson County; Butler, Jefferson County; Sandy Creek, Venango County and Kittanning, Armstrong County, Pennsylvania, as feeds to Distribution in order to service additional residential customers. National states that the proposed deliveries will have minimal impact on its peak and annual deliveries.

Comment date: October 14, 1986, in accordance with Standard Paragraph G at the end of this notice.

Consolidated Gas Transmission Corporation and Tennessed Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP86-694-000]

Take notice that on August 25, 1986, Consolidated Gas Transmission Croporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, hereinafter referred to collectively as Applicants, filed in Docket No. CP86-694-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing a gas for gas exchange by Applicants, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to an exchange agreement dated August 12, 1986, Consolidatd would receive gas

from Tennessee's share of production in three wells which are jointly owned by Applicants in Allegany County, New York. It is asserted that Tennessed would receive thermally equivalent amounts of gas from Consolidated's share of gas in the Harrison and Ellisburg storage fields in Potter County, Pennsylvania. It is further asserted that the Harrison filed is owned by Applicants and that the Fllisburg filed is owned by Applicants and by Applicants and by National Fuel Gas Supply Corporation.

Applicants state that the exchange would be performed on a gas for gas basis with no rates charged. It is further stated that existing facilities would be used and that no construction would be required.

Comment date: September 26, 1986, in accordance with Standard Paragraph F at the end of this notice.

6. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP84-441-018]

Take notice that on August 28, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP84-441-018 a petition to further amend the order issued June 14, 1985, in Docket No. CP84-441-002 (31 FERC ¶ 61,308) pursuant to section 7(c) and 7(b) of the Natural Gas Act to provide up to 4,804 dt equivalent of natural gas per day of firm storage service transportation for EnergyNorth Inc. (EnergyNorth) and up to 2,798 dt equivalent of gas per day of firm storage service transportation for Fitchburg Gas and Electric Light Company (Fitchburg) for a limited period expiring May 1, 1987, with pregranted abandonment, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that in Docket No. CP84-441-002 it was authorized to provide firm storage service transportation subject to approval of Penn-York Energy Corporation's (Penn-York) application in Docket No. CP76-492-036 to provide increased storage service to EnergyNorth and Fitchburg. Pending depostion of Penn-York's application, Petitioner states that the Commission authorized Petitioner to transport reduced firm volumes of 1,865 dt equivalent of natural gas per day for EnergyNorth and 1,271 dt equivalent of natural gas per day for Fitchburg.

Petitioner seeks authorization to provide full firm storage transportation of 4,804 dt equivalent of natural gas per day for EnergyNorth and 2,798 dt equivalent of natural gas per day for Fitchburg by October 15, 1986.

Petitioner states that both EnergyNorth and Fitchburg have executed one-year storage contracts with Consolidated Gas Transmission Corporation (Consolidated) for interim storage service to supplement their currently authorized level of storage service from Penn-York.

Petitioner states that it would deliver injection quantities and receive withdrawal quantities from Consolidated and Penn-York at existing interconnections in Potter County, Pennsylvania. Petitioner further states that it would receive injection quantities and deliver withdrawal quantities in Hillsborow and Worcester Counties, Massachusetts.

Petitioner further seeks authorization to transport quantities in any increment of the total transportation quantity from either Consolidated or Penn-York as mututally agreed upon by EnergyNorth, Fitchburg, and Petitioner subject to the contract quantity limitations in the related Consolidated and Penn-York storage agreements.

It is further stated that the service proposed herein is identical to the service authorized by the Commission's November 7, 1985, order in Docket No. CP84-441-008 for a limited period expiring May 1, 1986.

Comment date: September 26, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

7. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP86-705-000]

Take notice that on August 28, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86-705-000 an application pursuant to sections 7(c) and 7(b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an interruptible storage transportation service of up to 1,124 dt equivalent of natural gas per day for Valley Gas Company (Valley) for a limited term expiring May 1, 1987, and pregranted abandonment upon the expiration of the term, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Appicant states that Valley has executed a storage service agreement with Consolidated Gas Transmission Corporation (Consolidated) for an additional 100,000 dt equivalent interruptible storage capacity (1,124 dt equivalent maximum withdrawal quantity of gas) for a one-year period commencing April 1, 1986, and has requested Applicant to provide the related storage transportation services pursuant to the terms of an August 26, 1986, precedent agreement (Agreement) between Applicant and Valley.

For injections into storage, applicant states that it has agreed to receive, on an interruptible basis, up to 1,124 dt equivalent of natural gas per day for Valley from the existing point of interconnection between the facilities of Applicant and Valley at Applicant's Meter No. 2-0135-1 located at Applicant's Valve No. 266A-124 at Pawtucket, Providence County, Rhode Island, and to deliver a thermally equivalent quantity of gas to Consolidated for Valley at the existing interconnection between the facilities of Applicant and Consolidated at Applicant's Meter No. 2-0480-1 located at Applicant's Main Line Valve No. 313G-102 at Ellisburg, Potter County, Pennsylvania.

For withdrawals from storage, Applicant states that it would accept and receive daily on an interruptible basis as determined in its sole opinion, up to 1,124 dt equivalent of natural gas per day for Valley at the existing interconnection between the facilities of Applicant and Consolidatged located at Applicant's Meter No. 20480-1 located at Applicant's Main Line Valve 313G-102 at Ellisburg, Potter County, Pennsylvania, and deliver thermally equivalent quantities (less quantities retained for Applicant's fuel and uses and gas lost and unaccounted for) to Valley at an existing point of interconnection between the facilities of Applicant and Valley at Applicant's Meter No. 2-0135-1 located at Applicant's Valve No. 266A-124 at Pawtucket, Providence County, Rhode Island.

Applicant further states that it proposes to render the service proposed herein in accordance with the terms and conditions of Applicant's Rate Schedule ISST-NE.

Applicant further requests authority by October 15, 1986, so that injections of gas into storage can be made in time for the 1986-1987 winter season storage withdrawals.

Comment date: September 26, 1986, in accordance with Standard Paragraph F at the end of this notice.

8. Trunkline Gas Company

[Docket No. CP86-699-000]

Take notice that on August 26, 1986, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP86-699-000

an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain compression facilities located at its Premont Compressor Station (Premont), Jim Wells County, Texas, and a request for temporary authorization to relocate the facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

More specifically, Trunkline seeks to abandon by relocation one (1) 6,350 Horsepower, G.E. Regenerative Cycle, gas-fired turbine compressor located at Premont. The compressor is now idle and is not expected to be needed, due to the depletion of gas reserves in the area. Trunkline states that the remaining compression related facilities would be abandoned in place. Trunkline further states that the compressor would be relocated to its Kountze Compressor Station (Kountze), Hardin County, Texas, to replace an equivalent but damaged unit. It is stated that there would be no change in the design capacity at Kountze. Finally, Trunkline contends that its proposal would permit a more efficient utilization of its facilities and would expedite resumption of service at Kountze.

Comment date: September 26, 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. 86-20003 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3056-000 et al.]

ARCO Oil and Gas Co., Division of Atlantic Richfield Co. et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates [1]

September 8, 1986.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 25, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). 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. Persons wishing to become parties to a poceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-3056-000, D, Sept. 2, 1986	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas, 75221.	Trunkline Gas Company, Columbus Field, Colorado County, Texas.	(1)	
G-4319-000, D, Sept. 2, 1986	do	do	(1)	
G-3219-000, D, Sept. 2, 1986	do	Natural Gas Pipeline Company of America, Clayton Field, Live Oak County, Texas.	(1)	
G-3894-023, D, Sept. 2, 1986	do	do	(1)	
G-4544-002, D, Sept. 2, 1986	do	Transcontinental Gas Pipe Line Corp., Clayton Field, *et al.*, Live Oak County, Texas.	(1)	
G-11832-000, D, Aug. 22, 1986	Amoco Production Company, P.O. Box 800, Denver, Colorado 80201.	Northern Natural Gas Company, Division of Entron Corp., Certain acreage in Hansford County, Texas.	(2)	

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-17412-000, D, Sept. 2, 1986	Mobil Exploration & Producing North America, Inc., Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	United Gas Pipe Line Company, Sunrise Field, Terrebonne Parish, Louisiana.	(2)	
CI184-498-002, D, Aug. 26, 1986	Eastern Kentucky Production Co., P.O. Box 824, Hazard, Kentucky 41701.	Kentucky West Virginia Gas Company, Well No. 493, Floyd County and Well No. 950, Pike County, Kentucky.	(4)	
CI86-703-000, A, Aug. 28, 1986	Phillips Petroleum Company, 336 HS&L Building, Bartlesville, Okla. 74004.	Transcontinental Gas Pipe Line Corp., West Cameron Block 480, Offshore, Louisiana.	(5)	
CI86-704-000, (CI68-749), B, Aug. 27, 1986.	Texaco Inc., P.O. Box 52332, Houston, Texas 77052.	Mountain Fuel Resources, Inc., South Baggs Area, Carbon County, Wyoming.	(6)	
CI86-706-000, (G-2570), B, Aug. 27, 1986.	Texaco Producing Inc., P.O. Box 52332, Houston, Texas 77052.	Phillips Petroleum Company, Milroy Field, Carter and Stephens Counties, Oklahoma.	(7)	
CI86-707-000, (CI72-714), B, Aug. 27, 1986.	Texaco Inc.	Sea Robin Pipeline Company, OSC-G-0966, East Cameron Block 229, Offshore Louisiana.	(8)	
CI86-678-000, F, Aug. 18, 1986	Koch Hydrocarbon Company (Succ. in Interest to Phillips Petroleum Company), P.O. Box 2256, Wichita, Kansas 67201.	Williston Basin Interstate Pipeline Co., Koch's Williston Plant, Williams County, North Dakota or Koch's McKenzie Plant, McKenzie County, North Dakota.	(9)	
CI63-1371-000, Aug. 1986	Phillips 66 Natural Gas Company, 336 HS&L Building, Bartlesville, Okla. 74004.	Panhandle Eastern Pipe Line Company, Sneed Gasoline Plant located in Hansford County, Texas.	(10)	
CI77-385-001, Aug. 15, 1986	do	Panhandle Eastern Pipe Line Company, Hansford and Sneed Gasoline Plants located in Hansford County, Texas.	(10)	
CI75-760-001, D, Aug. 18, 1986	Mobil Producing Texas & New Mexico, Inc., Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Transwestern Pipeline Company, Worsham-Bayer Field, Reeves County, Texas.	(11)	

[1] Deletion of acreage. ARCO no longer holds an interest in acreage to be deleted.
[2] Amoco Production Company assigned certain acreage to Scarth Oil and Gas Company on 6-9-86.
[3] By Partial Releases dated 6-19-67 and 6-23-67, a portion of the acreage covered under the contract dated 12-9-58 with United Gas Pipe Line Company was released.
[4] Well No. 493, Floyd County, Kentucky, and Well No. 950, Pike County, Kentucky, have minimal reserves. Production from Well No. 493 has become difficult due to frequent water encroachment, and production from Well No. 950 has become difficult due to mining operations in the area.
[5] Applicant is filing under Contract dated 8-20-86.
[6] Assignment of a part of Texaco's interest under said certificate to Shakespeare Oil Company on 5-7-85. The acreage retained by Texaco was non-productive.
[7] TPI's contract with Phillips expired on 7-1-81, with year-to-year sales thereafter. As per the terms of the 7-1-74 contract, TPI gave notice of termination by letter dated 6-2-86. Phillips acknowledged termination of the contract as 6-30-86 by letter dated 6-25-86. TPI intends to enter into percentage-of-proceeds type Casinghead Gas Contracts covering gas from the leases previously contracted and delivered to Phillips. The gas will be processed in TPI's Velma Plant, located in Stephens County, Oklahoma.
[8] By assignment dated 8-4-86, effective 7-1-86, Texaco Inc. assigned all of its interest in certain properties under the 4-25-72 contract to Conn Energy, Inc .
[9] By assignment dated 1-1-66, Phillips Petroleum Company assigned to Koch Hydrocarbon Company all its right, title and interest in certain properties.
[10] Applicant is filing to add alternate delivery point at Phillips' Sherman Plant located in Hansford County, Texas.
[11] Applicant is filing for a change in delivery point and partial abandonment authorization to the extent that the proposed processing of the gas will reduce the amount of gas delivered to the purchaser.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-20604 Filed 9-11-86; 8:45 am]
BILLING CODE 6717-01-M

Streamline Hydro, Inc.; Surrender of Preliminary Permit

[Project No. 8603-001]

September 8, 1986.

Take notice that Streamline Hydro, Inc., permittee for the proposed Herman Gulch Project No. 8603, has requested that its preliminary permit be terminated. The preliminary permit was issued on February 19, 1985, and would have expired on July 31, 1987. The project would have been located on Herman Gulch Creek in, Clear Creek County, Colorado.

The permittee filed the request on August 25, 1986, and the preliminary permit for Project No. 8603 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. 86-20605 Filed 9-11-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA87-1-31-000, 001]

Arkla Energy Resources; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

September 8, 1986.

Take notice that on September 2, 1986 Arkla Energy Resources (AER), a division of Arkla, Inc., tendered for filing the following tariff sheets:

Original Volume No. 3, Rate Schedule No. X-26

First Revised Volume No. 1, Rate Schedule No. G-2

Tariff Sheets Setting Forth Regular Semi-Annual PGA Adjustments

41st Revised Sheet No. 185, 14th Revised Sheet No. 185A

42nd Revised Sheet No. 4, 14th Revised Sheet No. 4A

Tariff Sheets Revising AER's Purchase Gas Adjustment Clauses

4th Revised Sheet No. 188C, Original Sheet No. 188H

3rd Revised Sheet No. 12I, Original Sheet No. 12N

The purpose of the above described tariff sheets reflecting AER's regular semi-annual PGA changes is to (1) reflect the average projected cost of purchased gas for the six month period commencing October 1, 1986; (2) recover or refund accumulated deferred purchased gas costs as of June 30, 1986; (3) set forth the incremental pricing calculation applicable to this PGA period and, (4) refund the remaining balance of deferred transportation revenue as of June 30, 1986.

The purpose of the above described tariff sheets revising AER's purchase gas adjustment clauses is to provide a new section for interim adjustments to AER's rates between its regular semi-annual PGA adjustment dates with a twenty-four hour's filing notice. When approved this section will allow AER to file known and measurable changes in its purchased gas costs and pass through to its customers these changes in costs on a timely basis. AER shall waive its recovery rights to deferred amounts under an interim filing in excess of 103% of the actual average costs of gas over the current average cost of purchased gas as filed in the interim filing.

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 September 15, 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. 86-20606 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-692-000]

Cambridge Electric Light Co.; Filing of Rate Change

September 5, 1986.

Take notice that on September 2, 1986, Cambridge Electric Light Company ("Cambridge") tendered for filing, pursuant to § 35.13 of the Commission's Regulations, two proposed rate schedules affecting the sale and transmission of electric power to the Municipal Light Department of the Town of Belmont, Massachusetts ("Belmont"), its only wholesale customer. The tendered filing consists of two proposed FERC electric tariffs, as below-listed, plus two implementing and unexecuted service agreements by and between Cambridge and Belmont:

(1) FERC Electric Tariff for Partial Requirements Service

(2) FERC Electric Tariff for Firm Transmission Service

Cambridge has requested that both such tariffs become retroactively effective on July 1, 1985 as proposed and, in support of such request, has stated that both such tariffs give effect to a Settlement Agreement between itself and Belmont in prior FERC Docket No. ER86-287-001. By the terms of such Settlement Agreement, Cambridge has already consented to make refunds to Belmont in this proceeding as and if necessary pursuant to the Commission's final order herein. Suspension of the proposed rate schedules, therefore, is not required to protect Belmont's interests.

Copies of the tendered filing have been served upon Belmont and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 18, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-20607 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-135-001]

Caprock Pipeline Co.; Compliance Filing

September 8, 1986.

Take notice that on August 15, 1986, Caprock Pipeline Company (Caprock) tendered for filing the following materials in accordance with the Commission's order of July 30, 1986:

(1) Original Volume No. 3—a Restatement of Appendix A in a format consistent with sections 154.32 and 154.33 of the Commission's regulations. In addition, as directed, Appendix A has been changed to eliminate the processing fee previously found in Paragraph 7.3; and

(2) Caprock's calculation of minimum and maximum rates in accordance with Subpart A of 284.

According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until August 28, 1986.

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 September 15, 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. 86-20608 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-157-000]

El Paso Natural Gas Co.; Petition for Authority to Institute Direct Billing of Changes in Net Liquid Revenues

September 8, 1986.

Take notice that El Paso Natural Gas Company ("El Paso") on August 29, 1986 tendered for filing with the Federal Energy Regulatory Commission ("Commission") a petition for authority to institute direct billing for the difference between actual and settlement "net liquid revenues," which, under current procedures, are credited or debited, as appropriate, to Account 191, pursuant to the Stipulation and Agreement in Settlement of Rate Proceedings at Docket No. RP85-58-000, *et al.* El Paso proposes to continue use of the direct billing procedures through the term of such Settlement, commencing with amounts attributable to the period January 1, 1986 through June 30, 1986.

In order to allocate the difference between actual and settlement net liquid revenues among customers, El Paso will first identify the jurisdictional amount for each month during the six-month period commencing January 1, 1986. Each jurisdictional customer's share of a month's jurisdictional net liquid revenues will be determined by multiplying the amount by a fraction, the numerator of which is the difference between the jurisdictional customer's actual purchases for the month and the customer's quantities for that month utilized in the Settlement, and the denominator of which is the difference between the aggregate of all jurisdictional customer's purchases for the month and the total jurisdictional quantities utilized in the Settlement for the related month. The amount to be billed or refunded directly to the customer will be the total of each month's share so calculated to be payable in six-monthly installments commencing October 1, 1986. This method will continue for each six-month period until expiration of the final billing period following termination of El Paso's Stipulation and Agreement at Docket No. RP85-58-000. El Paso will calculate

and allocate interest on each month's ending balance for changes in net liquid revenues through the time the billing commences in accordance with § 154.38(d)(4)(iv)(c) of the Commission's Regulations. El Paso will also charge or credit interest to each customer on the allocated remaining balance.

Copies of this filing were served on El Paso's pipeline system customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of this chapter. All such motions or protests should be filed on or before 9–16–1986. 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. 86–20609 Filed 9–11–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87–1–33–000,001]

El Paso Natural Gas Co.; Proposed Change in Rates Pursuant to Purchased Gas Cost Adjustment

September 8, 1968.

Take notice that on August 29, 1986, El Paso Natural Gas Company ("El Paso") filed a notice of change in rates for jurisdictional gas service rendered under rate schedules affected by and subject to section 19, Purchased Gas Cost Adjustment Provision ("PGA"), of the General Terms and Conditions in El Paso's FERC Gas Tariff, First Revised Volume No. 1. The filing reflects a decrease of $0.1704 per dth in the base purchased gas cost rate and an increase of $0.0587 per dth in the surcharge rate for a net decrease in El Paso's currently effective sales rates of $0.1117 per dth attributable to the PGA.

To implement the notice of change in rates, El Paso tendered for filing and acceptance the following revised sheets to its FERC Gas Tariff:

Tariff volume	Tariff sheet
First Revised Volume No. 1	Tenth Revised Sheet No. 100, Seventh Revised Sheet No. 540
Third Revised Volume No. 2	Thirty-fifth Revised Sheet No. 1–D
Original Volume No. 2A	Thirty-seventh Revised Sheet No. 1–C

El Paso also tendered Fifth Revised Sheet No. 24 to its Original Volume No. 1–A Tariff to reflect a rate of $1.7236 per dth as the fuel reimbursement charge payable under Rate Schedule T–1 or T–2 in said Tariff by shippers electing to reimburse El Paso for fuel usage in monthly payments rather than in-kind.

El Paso requests that the Federal Energy Regulatory Commission ("Commission") grant waiver of its applicable rules and regulations as may be necessary to permit the tendered tariff sheets to become effective on October 1, 1986.

On August 8, 1986 at Docket No. RP86–150–000, El Paso petitioned the Commission for authority to direct bill its customers for certain production-related costs incurred pursuant to Order No. 94, *et seq.*, for gas purchases prior to January 1, 1986, which became the subject of payment by El Paso between January 1, 1986 and June 30, 1986 ("retroactive Order No. 94 costs"). Additionally, concurrently with the notice of rate change El Paso filed a petition with the Commission for authority to direct bill its customers for the difference between actual and settlement net liquid revenues credited or debited, as appropriate, to Account 191 ("net liquid revenues") pursuant to the provisions of Article V of the Stipulation and Agreement in Settlement of Rate Proceedings at Docket No. RP85–58–000, *et al.*, continuing through the term of such settlement, commencing with amounts attributable to the period January 1, 1986 through June 30, 1986. Therefore, El Paso states that the above-designated tariff sheets set forth rates based on an Account 191 block balance for the six-month period ended June 30, 1986, exclusive of such retroactive Order No. 94 costs and net liquid revenues. In the event the Commission does not act on one or both of the petitions for direct billing prior to the proposed effective date of the notice of PGA rate change or denies either or both of El Paso's requests, El Paso also tendered three sets of alternate tariff sheets to be made effective in lieu of their above-designated counterparts, as appropriate. The alternate tariff sheets reflect rates based on an Account 191 block balance for the six-month period ended June 30, 1986, which:

Alternate, Tab 1—excludes the retroactive Order No. 94 costs and includes net liquid revenues, resulting in a net increase in rates of $0.2389 per dth;

Alternate, Tab 2—includes the retroactive Order No. 94 costs and excludes net liquid revenues, resulting in a net decrease in rates of $0.0691 per dth; and

Alternate, Tab 3—includes the retroactive Order No. 94 costs and net liquid revenues, resulting in a net increase in rates of $0.2815 per dth.

El Paso states that copies of the filing have been served upon all of its interstate pipeline system customers and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of this chapter. All such motions or protests should be filed on or before September 15, 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. 86–20610 Filed 9–11–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86–156–000]

El Paso Natural Gas Co.; Tariff Filing

September 8, 1986.

Take notice that on August 29, 1986, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulatons Under the Natural Gas Act, Original Sheet Nos. 362–A and 362–B to its FERC Gas Tariff, First Revised Volume No. 1.

El Paso states that the above designated tariff sheets, when accepted by the Commission and permitted to become effective, will serve to revise section 19, Purchased Gas Cost Adjustment Provision ("PGA"), of the General Terms and Conditions contained in El Paso's First Revised Volume No. 1 Tariff by adding a new section § 19.11, Interim Adjustments to Rates for Changes in Seller's Average Cost of Purchased Gas.

El Paso requests that the Commission grant waiver of its applicable rules, regulations and orders as may be necessary to permit the tendered tariff sheets to become effective on October 1, 1986, the proposed effective date of El Paso's semi-annual PGA filed concurrently therewith.

El Paso further states that in addition to filing its semi-annual PGA's effective April 1 and October 1 of each calendar year, El Paso requests authorization to adjust, from time to time and at any time upon one (1) day's notice to its affected customers, state commissions, the Commission and all other persons that are parties to Seller's immediately preceding PGA filing, its jurisdictional rates to reflect known and measurable changes in the average cost of gas per dth. Such adjustments would be limited only to purchased gas costs and would reflect either an increase or decrease in El Paso's jurisdictional rates; provided, however, that any increase would not exceed the level of the jurisdictional rates established in the immediately preceding PGA filing.

El Paso states that the filing has been served upon all interstate pipeline system customers of El Paso and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426, in accordance with §§ 385.214 and 385.211 of this chapter. All such motions or protests should be filed on or before September 15, 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. 86-20611 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-696-000]

Kansas Gas and Electric Co.; Filing

September 5, 1986.

Take notice that on September 2, 1986, Kansas Gas and Electric Company (KG&E) tendered for filing a proposed Transmission Service Agreement superseding FERC Rate Schedule No. 157 between KG&E and the City of Girard, Kansas (City).

This filing is necessary as a result of a negotiated settlement of the terms upon which service will be rendered to the City of Girard. KG&E has requested an effective date of January 31, 1987.

Copies of the filing were served upon the City of Girard, Kansas and the Utilities Division of the Kansas Corporation Commission.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 18, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-20612 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4734-004]

Marin Municipal Water District; Surrender of Exemption

September 5, 1986.

Take notice that Marin Municipal Water District, exemptee for the proposed Alpine Lake Project No. 4734, has requested that its exemption be terminated. The exemption was issued April 2, 1984. The project would have been located on Lagunitas Creek, near Fairfax, in Marin County, California.

The exemptee filed the request on August 19, 1986, and the exemption for Project No. 4734 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 exemption 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. 86-20613 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-2-15-003]

Mid Louisiana Gas Co.; Compliance Tariff Filing

September 8, 1986.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on September 2, 1986, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff, Substitute Fifty-Sixth Revised Sheet No. 3a.

Mid Louisiana states that the filing of the tariff sheet is in compliance with the Commission's Order issued July 31, 1986, in the above captioned docket. Mid Louisiana further states that the purpose of Substitute Fifty-Sixth Revised Sheet No. 3a is to restate the normal surcharge account to eliminate the collection of $1,750,000 of costs related to the repricing of company-owned production and to institute a special surcharge to reflect the collection, during an 18 month amortization period, of costs related to the pricing of company-owned production at NGPA pricing levels for the period February 1, 1982 through December 31, 1982.

Mid Louisiana states that a copy of this compliance filing has been mailed to each of its jurisdictional customers, interested state commissions and all other parties to this proceeding.

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. All such motions or protests must be filed on or before September 16, 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. 86-20614 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

Natural Gas Pipeline Company of America; Modification to Settlement

[Docket Nos. RP85-150-000, RP85-200-000 and RP85-200-001]

September 5, 1986.

Take notice that on August 22, 1986, Natural Gas Pipeline Company of

America (Natural) filed a letter in Docket No. RP85–150–000 which sets forth certain terms and conditions which modify the terms and conditions of a contested settlement filed by Natural on November 8, 1985, and certified by the administrative law judge in the above-captioned dockets to the Commission on December 19, 1985.

Natural states that the terms and conditions set forth in the August 22 letter would remove certain objections to the settlement, and that such terms and conditions are acceptable to Natural and the active participants which previously supported the settlement. Attached to the letter are three appendices which detail the proposed modifications to the settlement, described in the body of the August 22 letter. Natural requested that the Commission take the proposed modifications into consideration in its review of the pending settlement.

Any person desiring to file comments on the proposed modifications to the settlement, as set forth in Natural's letter of August 22, 1986, should file comments with the Commission pursuant to the regulations at 18 CFR 385.602(f), at 825 North Capitol Street, NE., Washington, DC 20426. Initial comments must be filed not later than 20 days after the issuance of this notice in the **Federal Register** and reply comments must be filed not later than 30 days after the issuance of this notice in the **Federal Register**. Consistent with the regulations at 18 CFR 385.602(f)(3), any failure to file comments constitutes a waiver of all objections to the modifications to the settlement embodied in the August 22, 1986, letter which is the subject of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–20615 Filed 9–11–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER86–101–003]

Northern States Power Co.; Filing

September 9, 1986.

Take notice that on August 13, 1986, Northern States Power Company tendered for filing its compliance and refund report in this docket. The filing company states that it has mailed copies of this report to the Minnesota Public Utilities Commission, the North Dakota Public Service Commission, and the South Dakota Public Utilities Commission.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 16, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–20616 Filed 9–11–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA86–3–28–003]

Panhandle Eastern Pipe Line Co.; Change in Tariff

September 8, 1986.

Taken notice that on August 29, 1986, Pahandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Fifty-Sixth Revised Sheet No. 3–A

First Substitute Thirty-Third Revised Sheet No. 3–B

The proposed effective date of these revised tariff sheets is September 1, 1986.

Panhandle sates that these revised tariff sheets reflect a commodity rate decrease of 4.36¢ per Dt. Panhandle further states that this filing reflects reduced purchased gas costs from Panhandle's pipeline supplier, Trunkline Gas Company (Trunkline). Trunkline is filing concurrently herewith a 56.94¢ per Dt reduction to its commodity rates to be effective September 1, 1986.

In anticipation of the Commission's approval of the aforementioned Trunkline reduction effective September 1, 1986, Panhandle is submitting these revised tariff sheets. The instant Panhandle rate reduction is a revision to the PGA rate adjustment which becomes effective September 1, 1986. Therefore, to the extent required, if any, Panhandle requests that the Commission grant such waivers as may be necessary for the acceptance of these tariff sheets submitted herewith, to become effective September 1, 1986, as previously described.

Panhandle states that copies of this filing were served on all its jurisdictional customers and applicable 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). All such motions or protests should be filed on or before September 15, 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. 86–20617 Filed 9–11–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA87–1–40–000, 001]

Raton Gas Transmission Co.; Change in Rates

September 8, 1986.

Take notice that Raton Gas Transmission Company (Raton), on August 29, 1986, tendered for filing, proposed changes in its FERC Gas Tariff, Original Volume No. 1, consisting of Thirty-seventh Revised Sheet No. 3a. The change in rates is for jurisdictional gas service. The proposed effective date is October 1, 1986.

Raton states that the instant notice of change in rates is occasioned solely for changes in cost of gas purchased from Colorado Interstate Gas Company (CIG). The tracking of CIG Gas Cost Change results in Decrease of $0.05 per MCF Demand Charge and decrease of 2.12¢ per MCF in Commodity Charge. On an annual basis the changes result in a revenue decrease of $28,831.

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 September 15, 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. 86-20618 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-38-000, 001]

Ringwood Gathering Co.; Change in Tariff

September 8, 1986.

Take notice that on August 28, 1986, Ringwood Gathering Company (Ringwood) tendered for filing Thirty-Eighth Revised Sheet PGA-1 to its FERC Gas Tariff. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until September 3, 1986. Ringwood proposes an effective date of October 1, 1986.

Ringwood states that said tariff sheet revises its Base Tariff Rate to reflect the increase in the system cost of purchased gas and recover the balance accumulated in the unrecovered purchased gas cost account.

Copies of this filing have been mailed to Northwest Central Pipeline Corporation, Westar Transmission Company, and 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). All such motions or protests should be filed on or before September 15, 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. 86-20619 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-94-005 and RP85-167-005]

Sea Robin Pipeline Co.; Compliance Tariff Filing

September 8, 1986

Take notice that on August 29, 1986, Sea Robin Pipeline Company ("Sea Robin"), 600 Travis, P.O. Box 1478, Houston, Texas 77251-1478, tendered for filing tariff all of the tariff sheets necessary to comply with §§ 284.7, 284.8, 284.9, 284.10 of the Commission's Regulations, as required by the August 14, 1986 letter order of the Director of the Office of Pipeline and Producer Regulation in the above-captioned docket, as modified by the Commission's August 22, 1986 order granting an extension of time. The tariff sheets submitted for filing in Sea Robin's FERC Gas Tariff Original Volume No. 1 include:

Eighth Revised Sheet No. 1, Fourth Revised Sheet No. 1-A, and Original Sheet Nos. 1-B through 1-D, Table of Contents;

Revised Substitute Sheet No. 4-A1, Statement of Effective Interruptible Transportation Rates; [1]

Original Sheet No. 4-A2, Statement of Effective Firm Transportation Rates;

Original Sheet Nos. 25-49, Transportation General Terms and Conditions;

Original Sheet Nos. 50-70, Rate Schedule ITS, Interruptible Transportation Services;

Original Sheet Nos. 71-91, Rate Schedule FTS, Firm Transportation Service;

Original Sheet Nos. 92-102, Gas Transportation Service Agreement, Service Under Rate Schedule ITS;

Original Sheet Nos. 103-113, Gas Transportation Service Agreement, Service Under Rate Schedule FTS;

Original Sheet Nos. 114-122, Lateral Line Interconnect Agreement.

Sea Robin states that in compliance with § 284.7 of the Commission's Regulations, the tariff sheets contain maximum and minimum rates for interruptible and firm transportation service under section 311 of the Natural Gas Policy Act. Sea Robin states that these rates are based on costs that underlie Sea Robin's currently effective rates. Sea Robin states further that these tariff sheets contain Transportation General Terms and Conditions, Interruptible and Firm Transportation Service Rate Schedules and Service Agreements, and Sea Robin's Lateral Line Interconnect Agreement, all in compliance with Part 284 of the Commission's Regulations governing self-implementing transportation under section 311.

Sea Robin asserts that good cause exists pursuant to 18 CFR 154.51 for waiver of the thrity-day notice period provided in 18 CFR 154.22, so that the tariff sheets may become effective on July 1, 1986. Sea Robin states that these tariff sheets are submitted in compliance with the requirements of Order 436 for section 311 self-implementing transportation, and will govern the terms and conditions under which Sea Robin will offer such transportation.

Sea Robin states that copies of this filing have been mailed to Sea Robin's producers and jurisdictional customers, and to interested state regulatory agencies, as well as to parties listed on the service list in Docket No. RP86-94.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 16, 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. 86-20620 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[1] This tariff sheet contains a technical correction that reflects the Commission's most current GRI Surcharge.

[Docket No. TA87-1-7-000, 001]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 8, 1986.

Take notice that Southern Natural Gas Company (Southern) on August 29, 1986, tendered for filing proposed changes to its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective October 1, 1986. Such filing is pursuant to section 17 (Purchased Gas Adjustment) of the General Terms and Conditions of Southern's FERC Gas Tariff, Sixth Revised Volume No. 1. The proposed changes reflect a net increase in Southern's rates of approximately 11.550¢ per Mcf as a result of the following items:

(1) A Current Adjustment pursuant to section 17.3 of the General Terms and Conditions of Southern's tariff, reflecting an annual increase in the cost of purchased gas to jurisdictional customers of $26,444,305 or approximately 10.775¢ per Mcf.

(2) A Surcharge Adjustment for unrecovered purchased gas costs of .570¢ per Mcf, which is an increase of .796¢ per Mcf from the present Surcharge Adjustment.

(3) A Surcharge Adjustment for estimated Demand Charge Credits pursuant to section 9.6(3) of the General Terms and Conditions of Southern's tariff of (.031¢) per Mcf, which reflects a decrease of .021¢ per Mcf from the present DCC Surcharge Adjustment.

Pursuant to § 282.601(a)(1)(ii) of the Commission's Regulations, Southern is also filing Fourteenth Revised Sheet No. 45R with a proposed effective date of October 1, 1986. Such tariff sheet reflects Southern's projected incremental pricing surcharge for the six-month period beginning October 1, 1986, to be zero.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or 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 September 15, 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. 86-20621 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-4-18-002]

Texas Gas Transmission Corp.; Filing of Revised Tariff Sheets

September 8, 1986.

Take notice that on September 2, 1986 Texas Gas Transmission Corporation (Texas Gas) tendered for filing Substitute Fourth Revised Sheet No. 10 and Substitute Fourth Revised Sheet No. 10A to its FERC Gas Tariff, Original Volume No. 1.

The revised tariff sheets are being filed to reflect rate revisions from Texas Eastern Transmission Corporation and Tennessee Gas Pipeline Company pursuant to Ordering Paragraph (B) of the Commission's Order issued July 30, 1986 in Docket No. TA86-4-18.

Copies of the revised tariff sheets are being mailed to Texas Gas' jurisdictional customers, interested state commissions, and parties of record in this proceeding.

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 2 11 and 2 14 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 September 16, 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. 86-20622 Filed 9-11-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3078-6]

Environmental Impact Statements; Availability

Responsible Agency

EPA Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements filed September 2, 1986 through September 5, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860362, Final, NPS, DC, MD, VA, George Washington Memorial Parkway, Spout Run to the Theodore Roosevelt Bridge, and Spout Run Parkway Improvements, Traffic and Recreational Management, Due: October 14, 1986, Contact: John Byrne (703) 285-2600.

EIS No. 860363, Final, IBR, CA Westland Water District, Drainage Disposal Project, West San Joaquin Division, Central Valley Project, Fresno and Kings Cos., Due: October 14, 1986, Contact: Alan Solbert (916) 978-5130.

EIS No. 860364, Final, FHW, NC, NC-280 Improvement, NC-280 and NC-191 Intersection to I-26 near Asheville Airport, Henderson and Buncombe Cos., Due: October 14, 1986, Contact: Kenneth Bellamy (919) 755-4346.

EIS No. 860365, Final, AFS, UT, Dixie National Forest Land and Resource Management Plan, Garfield, Iron, Kane, Piute, Washington and Wayne Counties, Due: October 14, 1986.

EIS No. 860366, FSuppl, USN, GA, Kings Bay Ballistic Missile Submarine Support Base, North River Access Restriction, Construction, Camden County, Due: October 14, 1986, Contact Cdr. Bruce Dutton (202) 697-8055.

EIS No. 860367, Draft, AFS, OR, Ochoco National Forest and Crooked River National Grassland, Land and Resource Management Plan, Due: December 20, 1986, Contact: David Rittersbacher (503) 447-6247.

Amended Notices

EIS No. 860258, Draft, BIA, AZ, San Xavier/Tucson Planned Community Development, Lease Approval, Pima County, Due: October 7, 1986, Published FR 07-11-86 - Review period extended.

Dated: September 9, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86-20600 Filed 9-11-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3078-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 25, 1986 through August 29, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. D-AFS-K65107-CA, Rating EC2, San Bernardino Nat'l Forest, Land and Resource Mgmt. Plan, CA. Summary: EPA expressed concerns that proposed forest management activities could impact riparian areas, water quality and beneficial uses. EPA requested the final EIS discuss mitigation measures to reduce any adverse impacts.

ERP No. D-FHW-B40064-ME, Rating EO2, Sears Island Marine Dry Cargo Terminal and Access Road Construction, ME. Summary: EPA believes the project will cause substantial impacts to marine and terrestrial habitats and recommends more thorough consideration of the alternative site, Mack Point, and less damaging design alternatives.

ERP No. D-FHW-L40152-WA, Rating EC2, I-405 Construction, S. Renton Interchange to Sunset Blvd., Transit and Carpool Improvements, 404 and 10 Permits, WA. Summary: EPA is concerned that the proposed detention basins for mitigation of accidental spills be operated consistent with the objectives of the project, which will reduce risks of contamination of the Renton water supply wells and reduce nonpoint source water pollution to the Cedar River over current conditions. As current and expected traffic noise levels from the project are significant, additional explanation of the projected change in traffic noise from current levels is needed.

Final EISs

ERP No. F-AFS-F65012-MI, Huron and Manistee Nat'l Forests, Land and Resource Mgmt. Plan, MI. Summary: EPA's review resulted in no objections to the preferred alternative. Documentation was requested regarding the designation of Bear Swamp as a Research Natural Area.

ERP No. F-AFS-G65041-AR, Ozark-St. Francis Nat'l Forests, Land and Resource Mgmt. Plan, AR. Summary: The final EIS adequately responded to EPA comments issued on the draft EIS. EPA has not identified any new issues of concern with regard to the proposed action.

ERP No. F-AFS-H65002-MO, Mark Twain Nat'l Forest, Land and Resource Mgmt. Plan, MO. Summary: EPA did not object to the plan. EPA commented that the Eleven Point and Current Rivers are designated as outstanding national resource waters, and as such, no degradation of their existing water quality will be permitted even if the present quality exceeds the standards. EPA also stated that if hazardous waste disposal sites were identified on Forest grounds the Forest Service is required to file a 103(c) CERCLA notification with EPA.

ERP No. F-BLM-L70004-ID, Lemhi Resource Area, Resource Mgmt. Plan, ID. Summary: The final EIS did not provide sufficient information to assure that water quality and beneficial uses of water would be adequately protected by the BLM Standard Operating Procedures. EPA will meet with BLM and seek to resolve remaining concerns prior to issuance of the Record of Decision.

ERP No. F-FHW-C40061-NJ, NJ-522 Realignment, US 1 to US 130, Right-of-Way Acquisition, NJ. Summary: EPA remains concerned about the lack of mitigation for the loss of 5.6 acres of wetlands and has indicated that this issue must be resolved through the 404 permit process.

ERP No. F-FHW-L40113-OR, McLoughlin Blvd. and US 99E Widening, Pacific Highway East, Union-Grand Viaduct to South East River Road, Right-of-Way Acquisition, 404 Permit, OR. Summary: EPA made no formal comments. EPA reviewed the final EIS and the project was found to be satisfactory.

ERP No. F-FHW-L40146-OR, Tualatin Valley Highway Widening, 21st Ave. to E. Main Street, Improvements and Developments, Right-of-Way Acquisition, OR. Summary: EPA made no formal comments. EPA reviewed the final EIS and the project was found to be satisfactory.

ERP No. F-SFW-C90011-NY, Honeoye Creek Wetland Expansion and Enhancement Project, NY. Summary: EPA believes that the project as proposed will not result in significant environmental impacts. However, EPA requested final details for the proposed impoundment construction, when they become available.

Regulations

ERP No. R-FHA-A99172-00, 7 CFR Parts 12, 1940, 1941, 1943, 1945, and 1980, Highly Erodible Land and Wetland Conservation (51 FR 23496). Summary: EPA supports full implementation of subtitles B and C of the Food Security Act, but has significant concerns that the implementing rule, in its interim form, will not fully realize its potential agricultural and environmental benefits. EPA feels that water quality criteria and off-site effects should be used in determining highly erodible lands and is also concerned that the conversion exemptions and wetland determinations of the interim rule may allow for the continued conversion of wetlands without the loss of USDA program eligibility. EPA has offered to meet with USDA to discuss its concerns and suggestions.

Dated: September 9, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86-20601 Filed 9-11-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59226A; FRL-3079-1]

Certain Chemical, Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-86-54. The test marketing conditions are described below.

EFFECTIVE DATE: August 29, 1986.

FOR FURTHER INFORMATION CONTACT: John G. Davidson, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Environmental Protection Agency, RM. E-613, 401 M St., SW., Washington, DC 20460, (202-382-3373).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substance for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-86-54. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed those specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-86-54. A bill of lading accompanying each shipment must state that the use of the substance is restricted to those approved in the TME. In addition, the Company shall maintain the following records until five years

after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of dates of the shipments to the customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T-86-54

Date of Receipt: July 22, 1986.

Notice of Receipt: August 12, 1986 (51 FR 28874).

Applicant: Tennant Corporation.

Chemical: (G) Ammonio derivative of a copolymer of polyalkyl glycols toluene diisocynate, an alkyl polyamine.

Use: Curing agent for aqueous epoxy resin dispersions.

Production Volume: Confidential.

Number of Customers: 15.

Worker Exposure: Manufacturer: dermal and inhalation, a total of 15 workers, up to 15 hrs/day.

Test Marketing Period: Twelve Months.

Commencing on: August 29, 1986.

Risk assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its findings that the test market activities will not present any unreasonable risk of injury to health or the environment.

Dated: August 29, 1986.

Edward A. Klein,

Acting Director, Office of Toxic Substances.

[FR Doc. 86-20592 Filed 9-11-86; 8:45 am]

BILLING CODE 6560-50-M

[9OPTS-59225A FRL-3079-3]

Certain Chemical; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substance Control Act (TSCA), TME-86-53. The test marketing conditions are described below.

EFFECTIVE DATE: August 29, 1986.

FOR FURTHER INFORMATION CONTACT: Sally Sasnett, Premanufacture Notice Management Branch, Environmental Protection Agency, RM. E-613, 401 M St., SW., Washington, DC 20460, (202-382-3861).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substance for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-86-53. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed those specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-86-53. A bill of lading accompanying each shipment must state that the use of the substance is restricted to those approved in the TME. In addtion, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of dates of the shipments to the customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T-86-53

Date of Receip: July 21, 1986.

Applicant: Confidential.

Chemical: (G) Thermoplastic elastomer.

Use: (S) Tubes, sealings for industrial instruments.

Production Volume: (V) Confidential.

Numbers of Customers: Confidential.

Worker Exposure: Confidential.

Test Marketing Period: Twelve Months.

Commencing on: (August 29, 1986).

Risk assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restriction of an exemption should any new information come to its attention which casts significant doubt on its findings that the test market activities will not present any unreasonable risk of injury to health or the environment.

Dated: August 29, 1986.

Edward A. Klein,

Acting Director, Office of Toxic Substances.

[FR Doc. 86-20593 Filed 9-11-86; 8:45 am]

BILLING CODE 6560-50-M

[Opts-51637; FRL-3070-8]

Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 86-19246 beginning on page 30426 in the issue of Tuesday, August 26, 1986, make the following corrections on page 30426:

In the first column, under "P86-1527", in the fifth line, insert a period after "coatings". In the ninth line, under "P86-1528", "Sdin" should read "Skin".

In the second column, under "P86-1532", in the fourth line, the first phrase should read, "1,1 "methylene bis,".

BILLING CODE 1505-01-M

[OPTS-59224A; FRL-3072-4]

Certain Chemicals; Approval of Test Marketing Exemptions

Correction

In FR Doc. 86-19715 beginning on page 31168 in the issue of Tuesday, September 2, 1986, make the following correction: On page 31169, in the second column, in the first line after the signature, "*Textile*" should read "*Toxic*".

BILLING CODE 1505-01-M

[OPTS-59782; FRL-3073-1]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 86-19716 beginning on page 31169 in the issue of Tuesday, September 2, 1986, make the following correction: On page 31169, in the third column, in the fifth line under the entry for Y 86-225, *Use/Production* should read *Use/Import.*

BILLING CODE 1505-01-M

FARM CREDIT ADMINISTRATION

Denial of Request to Liquidate; Amarillo Production Credit Association, Amarillo, TX

AGENCY: Farm Credit Administration.

ACTION: Notice of Decision.

SUMMARY: On January 23, 1986, the Amarillo Production Credit Association ("Association") filed with the Farm Credit Administration ("FCA") a request to liquidate the Association voluntarily pursuant to section 4.12(a) of the Farm Credit Act of 1971, as amended ("Act"). Notice of the request and opportunity for hearing was published in the Federal Register on March 25, 1986, and interested persons were invited to testify and submit written views at any session of the hearing held at Dallas, Texas on April 30, 1986; Englewood, Colorado on May 14, 1986; and Washington, DC on June 10, 1986. At the hearing, FCA officials heard testimony and received written submissions from over 40 witnesses and their counsel, representing the Association, 12 other production credit associations, one Federal land bank association, two farm credit district boards, one national bank, one Farm Credit system service organization, and two Congressmen. Notice is hereby given that the FCA Board denied the request of the Association to liquidate at a special meeting held on Wednesday, August 22, 1986.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration.

[FR Doc. 86-20545 Filed 9-11-86; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL RESERVE SYSTEM

BTB Corp.; Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 1, 1986.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *BTB Corp.*, Boston, Massachusetts; to engage *de novo* in directly making, acquiring or servicing loans or other extensions of credit for its own account or for the account of others pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 8, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-20546 Filed 9-11-86; 8:45 am]

BILLING CODE 6210-01-M

Mellon Bank Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 29, 1986.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon Bank Corporation*, Pittsburgh, Pennsylvania; to acquire Muller Data Corporation, New York, New York, and thereby engage in providing to its customers quotation data regarding stocks, bonds, options, mutal funds, commodities, BNMAs, 13F Reports, corporate actions, overseas security markets' information, and with access to a library of financial and economic data bases, prepared by third party data base services, that provide,

among other things, financial information extracted from reports filed with the SEC and advisory services pursuant to § 225.25(b) (4) and (7) of the Board's Regulation Y. These activities will be conducted throughout the United States and abroad.

Board of Governors of the Federal Reserve System, September 8, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-20547 Filed 9-11-86; 8:45 am]

BILLING CODE 6210-01-M

Mountaineer Bankshares of West Virginia, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requires a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 2, 1986.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Mountaineer Bankshares of West Virginia, Inc.*, Martinsburg, West Virginia; to acquire 100 percent of the voting shares of The Old National Bank of Jefferson County, Ranson, West Virginia, a *de novo* bank.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Commerce Corporation*, St. Francisville, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Feliciana Commerce Corporation, St. Francisville, Louisiana, and thereby indirectly acquire Bank of Commerce and Trust Company, St. Francisville, Louisiana.

2. *SouthTrust Corporation*, Birmingham, Alabama; to acquire 100 percent of the voting shares of SouthTrust Bank of Cleburne County, N.A., Heflin, Alabama, a *de novo* bank.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Iowa National Bankshares Corp.*, Waterloo, Iowa; to acquire 100 percent of the voting shares of FT&S Bancorp, Indianola, Iowa, and thereby indirectly acquire Peoples Trust & Savings Bank, Indianola, Iowa.

2. *Merchants National Corporation*, Indianapolis, Indiana; to acquire 100 percent of the voting shares of Citizens National Bank of Tipton, Tipton, Indiana.

3. *Merchants National Corporation*, Indianapolis, Indiana; to merge with Mid-Southern Indiana Bancorp, Seymour, Indiana, and thereby indirectly acquire Seymour National Bank, Seymour, Indiana.

4. *Merchants National Corporation*, Indianapolis, Indiana; to merge with NBG Financial Corporation, Greenwood, Indiana, and thereby indirectly acquire The National Bank of Greenwood, Greenwood, Indiana.

5. *New Palestine Bancorp*, New Palestine, Indiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of New Palestine Bank, New Palestine, Indiana.

6. *Northern Trust Corporation*, Chicago Illinois; to acquire 100 percent of the voting shares of First Lake Forest Corporation, Lake Forest, Illinois, and thereby indirectly acquire The First National Bank of Lake Bluff, Lake Bluff, Illinois, The First National Bank of Lake Forest, Lake Forest, Illinois, and Lake Forest National Bank, Lake Forest, Illinois.

7. *Peoples Tri-County Bancorporation*, Des Moines, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples State Bank, Albia, Iowa, a *de novo* bank.

8. *RNB Corp.*, Brazil, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Riddell National Bank, Brazil, Indiana.

9. *River Forest Bancorp*, River Forest, Illinois; to acquire 100 percent of the voting shares of Commercial Chicago Corporation, Chicago, Illinois, and thereby indirectly acquire Commercial National Bank of Chicago, Chicago, Illinois.

D. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Chambers Bancshares, Inc.*, Danville, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Danville State Bank, Danville, Arkansas.

2. *Grenada Sunburst System Corporation*, Grenada, Mississippi; to merge with South Mississippi Capital Company, Prentiss, Mississippi, and thereby indirectly acquire South Mississippi Bank, Prentiss, Mississippi, and to merge with Citizens Capital Corporation, Mount Olive, Mississippi, and thereby indirectly acquire Mount Olive Bank, Mount Olive, Mississippi.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Desoto Bancshares, Inc.*, Desoto, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Desoto State Bank, Desota, Kansas.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Equitable Bankshares, Inc.*, Dallas, Texas; to acquire 100 percent of the voting shares of Landmark National Bank, Arlington, Texas.

Board of Governors of the Federal Reserve System, September 8, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-20548 Filed 9-11-86; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of July 8-9, 1986

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on July 8-9, 1986.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting indicates a mixed pattern of developments but suggests on balance that economic activity expanded slowly in the second quarter. In June total nonfarm payroll employment grew little after accounting for striking workers, with continued weakness in the industrial sector reflected in further

[1] Copies of the Record of policy actions of the Committee for the meeting of July 8-9, 1986, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

declines in employment in manufacturing and mining. The civilian unemployment rate moved down to 7.1 percent from 7.3 percent in May. Industrial production declined in May. Total retail sales were about unchanged during the month, although consumer spending rose considerably for the second quarter as a whole. Housing starts fell somewhat in May from a relatively high level. Weakness in the energy sector has contributed to a slowing of business capital spending. Preliminary data for the U.S. merchandise trade balance in April show a somewhat larger deficit thah the rate recorded in the first quarter. Both consumer and producer prices turned up in May but have fallen on balance since late 1985, largely reflecting declines in energy prices.

M1 growth in June, though less than in May, was still rapid; through June, M1 grew at a rate well above the Committee's range for 1986. Growth of M2 slowed somewhat and expansion of M3 remained relatively moderate in June, keeping these two aggregates close to the middle of their respective ranges for the year. Expansion in total domestic nonfinancial debt remains appreciably above the monitoring range for 1986. Most short-term interest rates have declined on balance since the May 20 meeting of the Committee. Rates on Treasury bonds also have moved lower while rates on private long-term obligations are about unchanged to somewhat higher. The trade-weighted value of the dollar against major foreign currencies has declined somewhat on balance since the May meeting.

The Federal Open Market Committee seeks monetary and financial conditions that will foster reasonable price stability over time, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives the Committee agreed at this meeting to reaffirm the ranges established in February for growth of 6 to 9 percent for both M2 and M3, measured from the fourth quarter of 1985 to the fourth quarter of 1986. With respect to M1, the Committee recognized that, based on the experience of recent years, the behavior of that aggregate is subject to substantial uncertainties in relation to economic activity and prices, depending among other things on the responsiveness of M1 growth to changes in interest rates. In light of these uncertainties and of the substantial decline in velocity in the first half of the year, the Committee decided that growth of M1 in excess of the previously established 3 to 8 percent range for 1986 would be acceptable. Acceptable growth of M1 over the remainder of the year will depend on the behavior of velocity, growth in the other monetary aggregates, developments in the economy and financial markets, and price pressures. Given its rapid growth in the early part of the year, the Committee recognized that the increase in total domestic nonfinancial debt in 1986 may exceed its monitoring range of 8 to 11 percent, but felt an increase in that range would provide an inappropriate benchmark for evaluating longer-term trends in that aggregate.

For 1987 the Committee agreed on tentative ranges of monetary growth, measured from the fourth quarter of 1986 to the fourth quarter of 1987, of 5½ to 8½ percent for M2 and M3. While a range of 3 to 8 percent for M1 in 1987 would appear appropriate in the light of most historical experience, the Committee recognized that the exceptional uncertainties surrounding the behavior of M1 velocity over the more recent period would require careful appraisal of the target range at the beginning of 1987. The associated range for growth in total domestic nonfinancial debt was provisionally set at 8 to 11 percent for 1987.

In the implementation of policy for the immediate future, the Committee seeks to decrease somewhat the existing degree of pressure on reserve positions, taking account of the possibility of a change in the discount rate. This action is expected to be consistent with growth in M2 and M3 over the period from June to September at annual rates of about 7 to 9 percent. While growth in M1 is expected to moderate from the exceptionally large increase during the second quarter, that growth will continue to be judged in the light of the behavior of M2 and M3 and other factors. Somewhat greater or lesser reserve restraint might be acceptable depending on the behavior of the aggregates, the strength of the business expansion, developments in foreign exchange markets, progress against inflation, and conditions in domestic and international credit markets. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 4 to 8 percent.

By order of the Federal Open Market Committee, September 8, 1986.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 86-20642 Filed 9-11-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Immunization Practices Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.

Date: October 6-7, 1986.

Place: Conference Room 207, Centers for Disease Control 1600 Clifton Road NE., Atlanta, Georgia 30333.

Time: 8:30 a.m.

Type of Meeting: Open.

Contact Person: Jeffrey P. Koplan, M.D., Executive Secretary of Committee, Centers for Disease Control (1-2047), 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephone: FTS: 236-3751, Commercial: 404/329-3751.

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.

Agenda: The Committee will review and discuss recommendations on *Haemophilus influenzae* type b, influenza, measles, hepatitis B vaccine; review data on pertussis and DTP; and will consider other matters of relevance among the Committee's objectives.

Agenda items are subject to change as priorities dictate.

Dated: September 5, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination Centers for Disease Control.

[FR Doc. 86-20529 Filed 9-11-86; 8:45 am]

BILLING CODE 4160-18-M

Reducing Back Stress to Nursing Personnel; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: September 22, 1986.

Time: 9 a.m.-12 noon.

Place: Room 203, Appalachian Laboratory for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Purpose: To discuss a study to be conducted by the University of Wisconsin pursuant to a contract with NIOSH. The study will assess the efficacy of a program for minimizing back stress in nurses employed at long-term geriatric facilities. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: Roger Jensen, Division of Safety Research, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, Telephones: FTS: 923-4809, Commercial: 304/291-4809.

Dated: September 5, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination Centers for Disease Control.

[FR Doc. 86-20530 Filed 9-11-86; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Cardiovascular and Renal Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of the Cardiovascular and Renal Drugs Advisory Committee by the Secretary of Health and Human

Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on August 27, 1988, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: September 5, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–20537 Filed 9–11–86; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Orlando District Office, chaired by Douglas Tolan, District Director. The topics to be discussed are fad diets and diet products and health claims on food labels.

DATE: Wednesday, September 24, 1986, 1 p.m. to 3:15 p.m.

ADDRESS: Hillsborough County Extension Service, 5339 State Rd. 579, Seffner, FL 33584.

FOR FURTHER INFORMATION CONTACT: Lynne Isaacs, Consumer Affairs Officer, Food and Drug Administration, 7200 Lake Ellenor Dr., Suite 120, Orlando, FL 32809, 305–855–0900.

Detroit District Office, chaired by Alan L. Hoeting, District Director. The topics to be discussed are prescription education month and items of current concern.

DATE: Wednesday, September 24, 1986, 1:30 p.m.

ADDRESS: George Potter Larrick Bldg., Conference Rm., 1560 East Jefferson, Detroit, MI 48207.

FOR FURTHER INFORMATION CONTACT: Evelyn DeNike, Consumer Affairs Office, food and Drug Administration, 1560 East Jefferson, Detroit, MI 48207, 313–226–6260.

Los Angeles District Office, chaired by George J. Gerstenberg, District Director. The topic to be discussed is health claims on food labels.

DATE: Tuesday, September 30, 1986, 10 a.m. to 12 m.

ADDRESS: Los Angeles District Office, 1521 West Pico Blvd., Los Angeles, CA 90015.

FOR FURTHER INFORMATION CONTACT: Gordon L. Scott, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213–252–7597.

SUPPLEMENTARY INFORMATION: The purpose of these meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: September 5, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Do. 86–20540 Filed 9–11–86; 8:45 am]

BILLING CODE 4160–01–M

Endocrinologic and Metabolic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of the Endocrinologic and Metabolic Drugs Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on August 27, 1988, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: September 5, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–20538 Filed 9–11–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86N–0371]

Human Drugs; Becton Dickinson and Co., et al.; New Drug Applications; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice proposes to withdraw approval of 12 new drug applications because the applicants have failed to submit required annual reports.

DATE: Requests for hearing are due by October 14, 1986.

ADDRESS: Requests for hearing in response to this notice should be identified with Docket No. 86N–0371 and directed to:

Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ron Lyles, Center for Drugs and Biologics (HFN–46), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4320.

SUPPLEMENTARY INFORMATION: An applicant is required to report periodically to FDA concerning each of its approved new drug applications (NDA's) in accordance with 21 CFR 314.81. Although in the past some exemptions from these reporting requirements have been granted, all such exemptions were rescinded (43 FR 20556; May 12, 1978). The holders of the following NDA's have not submitted annual reports and have not responded to the agency's requests by certified mail for submission of the reports:

NDA	Drug name	Applicant's name and address
5–839	Bal in Oil Injection	Becton Dickinson & Co., 1 Becton Dr., Franklin Lakes, NJ 07417.
9–436	Acylanid Tablets	Sandoz Pharmaceuticals, Div. of Sandoz Inc., East Hanover, NJ 07936.
9–464	Rauwolfia Serpentina Tablets.	American Pharmaceutical Co., Inc., 120 Bruckner Blvd., Bronx, NY 10454.
9–477	Rauwolfia Serpentina.	The C.M. Bundy Co., 2055 Reading Rd., Cincinnati, OH 45202.
9–481	Hyserp Tablets	Moore Kirk Laboratories, Inc., 326 Chandler St., Worcester, MA 01602.
9–577	Rauja Tablets	Bell Pharmacal Corp., Box 1968, Greenville, SC 29602.
9–663	Reserpine Tablets	The C.M. Bundy Co.
9–667	Reserpine Tablets 0.1 mg and 0.25 mg.	ICN Pharmaceuticals Inc. 3300 Hyland Ave., Costa Mesa, CA 92626.
9–668	Rauwolfia Serpentina 0.1 mg and 0.25 mg.	Do.
10–441	Reserpine Tablets	Stanlabs Pharmaceutical Co., P.O. Box 3108, Portland, OR 97208.
12–686	Contac CR-Cap	Menly & James Laboratories, P.O. Box 8082, Philadelphia, PA 19101.
17–130	Sodium Heparin Injection (all strengths).	Chamberlin Parenteral Corp., 6–10 Nassau Ave., Inwood, NY 11609.

Therefore, notice is given to the holders of the new drug applications and to all other interested persons that the Director of the Center for Drugs and Biologics proposes to issue an order under section 505(e) of the Federal Food, Drug, and Comestic Act (21 U.S.C.

335(e)) withdrawing approval of the new drug applications and all amendments and supplements thereto on the grounds that the applicants have failed to submit the reports required under 21 CFR 314.81.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310, 314), the applicants are hereby given an opportunity for a hearing to show why approval of their new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products named above.

An applicant who decides to seek a hearing shall file (1) on or before October 14, 1986, a written notice of a appearance and request for hearing, and (2) on or before November 12, 1986, the data, information, and analyses relied on to justify a hearing as specified in 21 CFR 314.200.

The failure of the applicant to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the applicant not to make use of the opportunity for a hearing concerning the action proposed for the drug product and constitutes a waiver of any contentions about the legal status of the drug product. The drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will begin appropriate regulatory action to remove it from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that justifies a hearing. Reports submitted to remedy the deficiencies must be complete in all respects in accord with 21 CFR 314.81. If the submission is not complete or if a request for hearing is not made in the required format or with the required reports, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests a hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice must be filed in two copies. Except for information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m. Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under authority delegated to the Director of the Center for Drugs and Biologics (21 CFR 5.82).

Dated: August 28, 1986.

Harry M. Meyer, Jr.,

Director, Center for Drugs and Biologics.

[FR Doc. 86–20539 Filed 9–11–86; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Notice of Hearing to Reconsider Disapproval of an Iowa State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on October 29, 1986 in Kansas City, Missouri to reconsider our decision to disapprove Iowa State Plan Amendment 85–33.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove an Iowa State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a dispproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Iowa SPA 85–33 violates section 1902(a)(13)(A) of the Social Security Act and Federal regulations at 42 CFR 447.253(b)(1)(i) and 42 CFR 447.252(b).

Iowa SPA 85–33 would amend the Iowa Medicaid State plan for reimbursement of intermediate care facility services.

The Medicaid regulation at 42 CFR 447.253(a) requires the State Medicaid agency to provide an assurance satisfactory to the Health Care Financing Administration that it meets the requirements of 42 CFR 447.253(b)(1)(i) and pays for long-term care facility services through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated providers to provide services in conformity with applicable State and Federal laws, regulations, and quality and safety standards.

In this case, for the period November 1, 1985 through December 31, 1985, the State's proposed payment rate includes a facility's base period per diem costs plus an inflation factor of .8 percent, providing the trended costs do not exceed the maximum allowable per diem cost limits. HCFA has determined the State's assurance for this period is not acceptable because Iowa has not satisfactorily demonstrated that its prospective rate, based in many cases on costs over a year old plus a nominal inflation adjustment, are reasonable and adequate to meet costs that must be incurred by the most efficient and economically operated facility to meet applicable requirements during the 2-month rate period. HCFA has determined the rates also do not reasonably take into account projected economic trends during the period for which the rates are set.

HCFA has determined the State's assurance for the payment rates to be effective January 1,1986, is also not acceptable. HCFA believes the State's methods may result in less than 50 percent of the facilities receiving full payment of their reasonable costs incurred during the rate period. HCFA believes this situation would be further exacerbated during future rate periods as the amendment does not require Iowa to update the maximum ICF rate to reflect the level of costs the 50th percentile facility would be expected to incur during any subsequent rate period. Thus, HCFA has determined Iowa has not provided sufficient information or justification to support its finding and

assurance that such results comply with section 1902(a)(13)(A) of the Social Security Act and Federal regulations at 42 CFR 447.253(b)(1)(i).

Finally, HCFA has determined the amendment violates 42 CFR 447.252(b) because it does not comprehensively specify the methods and standards used by the agency to determine payment rates, in a manner consistent with 45 CFR 201.2.

The notice to Iowa announcing an administrative hearing to reconsider our disapproval of its State plan amendment reads as follows:

Michael V. Reagen, Ph.D.,
Commissioner, Department of Human Services, Hoover State Office Building, 5th Floor, Des Moines, Iowa 50319.

Dear Dr. Reagen: This is to advise you that your request for reconsideration of the decision to disapprove Iowa State Plan Amendment 85–33 was received on August 11, 1986. Iowa SPA 85–33 would amend the Iowa Medicaid State plan for reimbursement of intermediate care facility services.

You have requested a reconsideration of whether this plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations. The issues to be considered at the hearing are whether: 1) Iowa has provided sufficient information or justification to support its finding and assurance that its proposed rates are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities to provide services in conformity with applicable State and Federal laws, regulations and quality and safety standards as required by section 1902(a)(13)(A) and 42 CFR 447.253(b)(1)(i), and 2) whether the amendment adequately specifies the methods and standards used by the agency to determine payment rates in a manner consistent with 45 CFR 201.2 as required by 42 CFR 447.252(b).

I am scheduling a hearing on your request to be held on October 29, 1986 at 9:00 a.m. in the HCFA Conference Room, Second Floor, Federal Office Building, 601 East 12th Street, Kansas City, Missouri. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594–8261.

Sincerely,

William L. Rober, M.D.,
Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: September 8, 1986.

William L. Roper,
Administrator, Health Care Financing Administration.

[FR Doc. 86–20597 Filed 9–11–86; 8:45 am]
BILLING CODE 4120–03–M

Health Resources and Services Administration

Application Announcement for Grants for Residency Training in General Internal Medicine and General Pediatrics

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1987 Grants for Residency Training in General Internal Medicine and/or General Pediatrics are being accepted under the authority of section 784, Title VII, of the Public Health Service Act, as amended by Pub. L. 99–129.

Section 784 authorizes the award of grants for planning, developing and operating approved residency training programs which emphasize the training of residents for the practice of general internal medicine or general pediatrics. In addition, section 784 authorizes assistance in meeting the cost of supporting residents who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

The Administration's budget request for Fiscal Year 1987 does not include funding for this program. This notice regarding applications does not reflect any change in this policy. However, should funds become available unexpectedly for this purpose, this contingency action will assure that grants can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year.

Eligible applicants are accredited schools of medicine and osteopathy, public and private nonprofit hospitals, or other public or private nonprofit entities.

To receive support, programs must meet the requirements final regulations as specified in 42 CFR Part 74, Subpart FF.

Section 784, as amended by Pub. L. 99–129, requires that the Secretary shall give priority to applicants that demonstrate to the satisfaction of the Secretary a commitment to general internal medicine and general pediatrics in their medical education training programs.

In addition, § 57.3106(b) of the program regulations require that preference will be given to projects in which:

1. Substantial training experiences are provided in settings where physician assistants or nurse practitioners, or both, are used as part of a health care team.

2. Administrative and educational resources are coordinated for the use of a program of general internal medicine and a program of general pediatrics which are to be conducted within a single project.

3. Substantial portions of a project are conducted in a primary medical care manpower shortage area(s) designated under section 332 of the Public Health Service Act and in particular, one which is located in a Metropolitan Areas, as defined by the Office of Federal Statistical Policy and Standards, Department of Commerce; or are conducted in an Area Health Education Center funded, at least in part, under section 781 of the Act.

Additionally, all applicants must either demonstrate an increase in minority and disadvantaged residents or show evidence of efforts to recruit minority and disadvantaged residents into their medical education program.

Requests for grant application materials and questions regarding grants policy should be directed to: Grants Management Officer (D–28), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C–22, Rockville, Maryland 20857, Telephone (301) 443–6960.

Should additional programmatic information be required, please contact: Primary Care Graduate Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C–04, Rockville, Maryland 20857, Telephone (301) 443–6820.

The standard application form and specific instructions for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

The deadline data for receipt of applications is December 12, 1986. Applications shall be considered as meeting the deadline if they are either:

(1) *Received* on or before deadline data, or

(2) *Postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal

Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

The program is listed at 13.884 in the *Catalog of Federal Domestic Assistance*. Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Dated: August 14, 1986.

John H. Kelso,

Acting Administrator.

[FR Doc. 86-20581 Filed 9-11-86; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Advisory Committees; 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 bodies scheduled to meet during the months of September/October 1986:

Name: Health and Services Developmental Grants Review Subcommittee.

Date and Time: October 16-17, 1986, 8:30 A.M.

Place: Linden Hill Hotel, Queensbury Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

Open October 16, 8:30 A.M. to 9:30 A.M.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research and Health Care Technology Assessment (NCHSR).

Agenda: The open session of the meeting of October 16 from 8:30 A.M. to 9:30 A.M. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, NCHSR. During the closed sessions, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S.C., Appendix 2 and Title 5, U.S.C. 552b(c)(6), the Assistant Secretary for Health has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mr. Hoke S. Glover, National Center for Health Services Research and Health Care Technology Assessment, Stop 152, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

* * * * *

Name: Health Care Technology Study Section.

Date and Time: September 22-23, 1986, 8:30 A.M.

Place: Lister Hill National Center, NIH, Training Classroom B, Level B1, Building 38A, 9000 Rockville Pike, Bethesda, Maryland 20892.

Open September 22, 8:30 A.M. to 9:30 A.M.

Closed for remainder of meeting.

Purpose: The Study Section is charged with the initial review of health research grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research and Health Care Technology Assessment (NCHSR).

Agenda: The open session from 8:30 A.M. to 9:30 A.M. on September 22 will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Director, NCHSR. The closed portion of the meeting will be devoted to review of health services research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S.C., Appendix 2 and Title 5, U.S.C. 552b(c)(6), the Assistant Secretary for Health has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research and Health Care Technology Assessment, Stop 152, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

* * * * *

Name: Health Services Research Review Subcommittee.

Date and Time: October 9-10, 1986, 8:30 A.M.

Place: Linden Hill Hotel, Pinehurst Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

Open October 9, 3:30 P.M. to 5:00 P.M.; October 10, 8:30 A.M. to 9:30 A.M.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research and Health Care Technology Assessment (NCHSR).

Agenda: The open sessions of the meeting on October 9 from 3:30 P.M. to 5:00 P.M. and October 10 from 8:30 A.M. to 9:30 A.M. will be devoted to a business meeting covering administration and reports. There will also be a presentation by the Director, NCHSR. During the closed sessions, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, Title 5, U.S.C., Appendix 2 and Title 5, U.S.C. 552b(c)(6), the Assistant Secretary for Health has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Dr. Anthony Pollitt, National Center for Health Services Research and Health Care Technology Assessment, Stop 152, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Agenda items are subject to change as priorities dictate.

Dated: September 4, 1986.

Norman W. Weissman,

Acting Director, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 86-20569 Filed 9-11-86; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 40269; OR-090-06-4212-11: GP6-365]

Realty Action; Classification of Public Lands for Recreation and Public Purposes; OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, classification of public lands in Lane County, Oregon.

SUMMARY: The following described public land has been examined and determined to be unsuitable for lease as a minimal development, natural area type county park under the Recreation and Public Purposes Act of June 14, 1926 as amended (43 U.S.C. 869 et seq.), and is hereby so classified:

Willamette Meridian, Oregon

T. 15 S., R. 1 W.

Sec. 33: Metes and Bounds within SE¼NE¼

Sec. 34: Metes and Bounds within S½NW¼, N½SW¼

Containing 110 acres, more or less.

Lane County has filed an application to lease the above described land under the said Act of June 14, 1926, for use as a minimal development, natural area type county park. The proposed lease is not consistent with the provisions of current

BLM land use planning. The land is partially encumbered with a timber sale contract on 43 acres, while the timber on an additional 31 acres has been sold but the contract has not yet been awarded. Upon examination of the proposal it has been determined that the adverse impacts of the proposed lease outweigh the potential benefits and that approval of the lease would not be in the national interest. The land is, therefore, classified as unsuitable for the proposed use and the application is rejected.

DATE: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Eugene District Manager at the address shown below. Any objections will be reviewed by the Oregon State Director, Bureau of Land Management, 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, and will become effective 60 days from the date of publication of this notice in the **Federal Register.**

ADDRESSES: Detailed information concerning this classification, including the environmental assessment, land report, and record of public comments, is available for review at the Eugene District Office, P.O. Box 10226 (1255 Pearl Street), Eugene, Oregon 97440.

FOR FURTHER INFORMATION CONTACT: Lee Lauritzen, Mohawk Area Manager, Eugene District Office, at (503) 687–6671.

Date of Issue: September 5, 1986.

Roland D. Smith,

District Manager (Acting).

[FR Doc. 86–20528 Filed 9–11–86; 8:45 am]

BILLING CODE 4310–33–M

Bureau of Indian Affairs

Intent To Prepare an Environmental Impact Statement for the Proposal To Lease Approximately 100 Acres of the Cabazon Indian Reservation (Near Mecca, California) for a 50-MW Biomass-Fueled Electrical Power Plant In Riverside County, California

September 9, 1986.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent and public scoping meeting.

SUMMARY: This notice advises the public that the Bureau intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the proposal to lease 100 acres of the Cabazon Indian Reservation (near Mecca, California) for a 50–MW biomass-fueled electrical power plant in Riverside County, California. Public scoping meetings will be held to receive input and questions from members of the public regarding this proposal and preparation of this EIS. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received 30 days from the date of this notice. A public meeting will be held on Thursday, September 18, 1986, at 7:00 p.m. at the Swap Meet Area on the Cabazon Indian Reservation at 84–245 Indio Springs Drive, Indio, California.

ADDRESS: Comments should be addressed to Mr. Maurice W. Babby, Area Director, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Mr. Donald B. Knapp, Area Environmental Coordinator, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825, telephone (916) 978–4703 or FTS 460–4703.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs (BIA), Department of the Interior, proposes to issue a lease for approximately 100 acres of the Cabazon Indian Reservation to Colmac Energy Inc. so they can build a 50–MW biomass-fueled electrical power plant. The plant will be located adjacent to State Highway 111 and the Southern Pacific Railroad mainline about one mile north of the town of Mecca in Southcentral Riverside County, California. Fuel for the plant will consist of agricultural residues, commercial wood waste, municipal tree trimmings, a small percentage of cattle manure, and possibly up to 15 percent coal. The fuel will be combusted in a circulation fluidized bed boiler to produce steam which will drive a conventional turbine-generator. Electricity will be sold to the Southern California Edison Utility under a power sales agreement.

The purpose and need for this action is that the Tribe would like to increase economic development within the reservation and further develop their Tribal Government. The project would add to long-term renewable energy supplies in California. The project is intended to provide full off-sets for all emissions generated through the elimination of open-field burning new being used for agricultural residues.

The two principal alternatives identified are either to build the project as planned or not to build the project. Major impacts to be expected if the proposed action is implemented will be new air emissions from the plant and an increase in truck traffic bringing in fuel and taking away ash.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), Department of the Interior procedures (516 DM 1–6), and the Bureau of Indian Affairs Handbook (30 BIAM Supplement 1) for compliane with the procedures.

We estimate the DEIS will be made available to the public by March 1987.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: September 9, 1986.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 86–20783 Filed 9–11–86; 8:45 am]

BILLING CODE 4310–02–M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C 10524(b)(1).

That the named Corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 01524(b).

A. 1. Parent Corporation and address of principal office:

(i) Parent Corporation—A–1 Racing Specialties, Inc., 770 Route 28, Middlesex, New Jersey 08846.

2. Wholly-owned subsidiary(s) which will participate in the operations, and State(s) of incorporation:

(i) Subsidiary—A–1 Racefuel Transport Corporation, 770 Route 28, Middlesex, New Jersey 08846, State of Incorporation—New Jersey

B. 1. Parent corporation and address of principal office: American Information Technologies Corporation, 30 South Wacker Drive, Chicago, Illinois 60606.

2. Subsidiaries participating in the operations that are wholly-owned, directly or indirectly, by the parent corporation, and their state(s) of incorporation:

(i) Ameritech Services, Inc. (Delaware)
(ii) Wisconsin Bell, Inc. (Wisconsin)
(iii) Illinois Bell Telephone Company (Illinois)
(iv) Indiana Bell Telephone Company, Inc. (Indiana)
(v) Michigan Bell Telephone Company (Michigan)
(vi) The Ohio Bell Telephone Company (Ohio)
(vii) Ameritech Communications, Inc. (Delaware)
(viii) Illinois Bell Communications, Inc. (Delaware)
(ix) Wisconsin Bell Communications, Inc. (Delaware)
(x) Indiana Bell Communications, Inc. (Delaware)
(xi) Michigan Bell Communications, Inc. (Delaware)
(xii) Ohio Bell Communications, Inc. (Delaware)

C. 1. Parent corporation and address of principal office: General Battery Corporation, P.O. Box 1262, Reading, PA 19603.

2. Wholly-owned subsidiaries which will participate in the operations and states of incorporation:

a. Dixie Metals Corporation, Incorporated in Delaware
b. GBW of Arizona, Inc., Incorporated in Arizona
c. Banning Battery Company, Incorporated in California
d. GBW of Oregon, Inc., Incorporated in Washington
e. GBW Corporation, Incorporated in Washington
f. Battery Marketers, Inc., Incorporated in Delaware
g. GBC—Manchester, Inc., Incorporated in Delaware

D. 1. Parent corporation and address of principal office: Krispy Kreme Distributing Company, Inc., 1814 Ivy Avenue, Winston-Salem, North Carolina 27102

2. Wholly-owned subsidiaries which will participate in the operations, and state of incorporation:

(a) Krispy Kreme Doughnut Corporation, 1814 Ivy Avenue, Winston-Salem, North Carolina 27102.
(b) North Carolina
(c) Tennessee

E. 1. Parent corporation and address of principal office: RJR Nabisco, Inc., 1100 Reynolds Boulevard, Winston-Salem, North Carolina 27102.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

	State of incorporation
(i) Del Monte Banana Company, P.O. Box 011940, Miami, Florida 33131.	Florida.
(ii) Del Monte Corporation, P.O. Box 3575, San Francisco, California 94119.	New York.
(iii) Paddison Truck Lines, Inc., P.O. Box 1033, Hughson, California 95326.	Washington.
(iv) R.J. Reynolds Tobacco Company, P.O. Box 2959, Winston-Salem, North Carolina 27102.	New Jersey.
(v) RJR Archer, Inc., 1100 Reynolds Boulevard, Winston-Salem, North Carolina 27102.	Delaware.
(vi) Nabisco Brands, Inc.,100 DeForest Avenue, East Hanover, New Jersey 07936.	Delaware.
(vii) Shippers Imperial, Inc., 2277 7th Street, Oakland, California 94607.	California.
(viii) Heublein, Inc., Munson Road, Farmington, Connecticut 06032.	Connecticut.

F. 1. Parent corporation and address of principal office: Roberts & Dybdahl Inc., 1350 Financial Center, Des Moines, Iowa 50309

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Shelter Superstore Corp., State of Incorporation—Iowa
(ii) Astro Buildings, Inc., State of Incorporation—Iowa
(iii) R&D Transportation Corporation, State of Incorporation—Iowa
(iv) Solar Homes Co., State of Incorporation—Iowa

Kathleen M. King,

Acting Secretary.

[FR Doc. 86-20550 Filed 9-11-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30847]

The Atchison, Topeka and Santa Fe Railway Company and the Oklahoma, Kansas and Texas Railroad Co.—Construction Exemption—In Lost Springs, KS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts The Atchison, Topeka and Santa Fe Railway Company and Oklahoma, Kansas and Texas Railroad Company from the provisions of 49 U.S.C. 10901 to construct a new connection between their respective lines at Lost Springs, KS.

DATES: This exemption will be effective by October 13, 1986. Petitions for stay must be filed by September 22, 1986, and petitions for reconsideration must be filed by October 2, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30847 to:

(1) Office of the Secretary:
Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representative:
Michael W. Blaszak, 80 East Jackson Boulevard, Chicago, IL 60604
Michael E. Roper, 701 Commerce Street, Dallas, TX 75202

FOR FURTHER INFORMATION CONTACT: Donald Shaw, Jr., (202) 275-7693.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or call toll free (800) 424-5403.

Decided: September 4, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Kathleen King,

Acting Secretary.

[FR Doc. 86-20553 Filed 9-11-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30888]

Montana Western Railway Co., Inc.—Acquisition and Operation Exemption—Burlington Northern Railway Co.

Montana Western Railway Company (MWR) has filed a notice of exemption (1) to acquire the interests of Burlington Northern Railroad Company (BN) in a railroad line extending from Butte to Garrison, MT, including the Newcombe branch, and to operate such property. The property between Butte and Garrison is the subject of a lease between BN and the Oregon Short Line Railroad dated August 1, 1886. Comments must be filed with the Commission and served on: R. Lawrence McCaffrey, Jr., Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350

New York Avenue NW., Washington, DC 20005–4797, (202) 628–2000. This transaction will also involve the issuance of securities by MWR, which will be a class III carrier. The issuance of these securities is an exempt transaction under 49 CFR 1175.1.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: September 5, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 86–20554 Filed 9–11–86; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30892]

The Newburgh & South Shore Railroad Co.—Acquisition and Operation—Chicago, West Pullman & Southern Railroad Co.

The Newburgh & South Shore Railroad Company [1] has filed a notice of exemption to acquire and operate Chicago, West Pullman & Southern Railroad Company's 5.13–mile line in Cuyahoga County, OH.[2] Any comments must be filed with the Commission and Served on Edward K. Wheeler, 1729 H Street, NW., Suite 200, Washington, DC 20423.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: September 5, 1986

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Do. 86–20555 Filed 9–11–86; 8:45 am]

BILLING CODE 7035–01–M

[1] Amsteel and Wire Corporation will acquire the involved rail line and immediately change its corporate name to The Newburgh & South Shore Railroad Company. A different corporate entity with the same name owned the same line prior to its acquisition by Chicago, West Pullman & Southern Railroad Company.

[2] The line extends from valuation station 0+00 to station 316+65.9 (but excludes the segment between station 25+49.7 and station 140+05).

Section 5a Application No. 83; Alaska Carriers Association, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of dissolution and revocation of antitrust immunity.

SUMMARY: Alaska Carriers Association, Inc. (ACA), on July 14, 1986, filed a notice of dissolution. Cancellation supplements to all outstanding bureau issuances were filed with the Commission July 7, 1986, to become effective September 1, 1986. After that date, no carrier will be party to its rate bureau agreement. ACA must file a certificate of dissolution from the appropriate official in the State where it is incorporated. All outstanding antitrust immunity is revoked.

EFFECTIVE DATE: September 1, 1986.

FOR FURTHER INFORMATION CONTACT:

Robert G. Rothstein, (202) 275–7912

or

Louis E. Gitomer, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's full decision. A copy may be purchased from T. S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423; or call toll-free (800) 424–5403, or (202) 289–4357 in the Washington, DC metropolitan area.

Energy And Environmental Statement

This action does not appear to significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10706 and 10321.

Decided: September 4, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Kathleen M. King,

Acting Secretary.

[FR Doc. 86–20551 Filed 9–11–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Morris Salkind, D.O. Revocation of Registration

On June 26, 1986, the Administrator of the Drug Enforcement Administration (DEA) issued to Morris Salkind, D.O. of 88 West Steuben Street, P.O. Box 4556, Crafton-Ingram Shopping Center, Pittsburgh, Pennsylvania 15205, an Order to Show Cause proposing to revoke his DEA Certificate of Registration, AS8872891. The Order to Show Cause alleged that the continued registration of Dr. Salkind would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f). Additionally, citing his preliminary finding that Dr. Salkind's continued registration posed an imminent danger to the public health and safety, the Administrator ordered the immediate suspension of DEA Certificate of Registration AS8872891 during the pendency of these proceedings. 21 U.S.C. 824(d).

The Order to Show Cause/Immediate Suspension was personally served on Dr. Salkind on June 27, 1986. More than thirty days have passed since the Order to Show Cause was served and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Dr. Salkind is deemed to have waived his opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that Dr. Salkind was the subject of an investigation conducted by agents of the Commonwealth of Pennsylvania's Office of the Attorney General, Bureau of Narcotics Investigations and Drug Control (BNIDC). On March 12, 1984, a City of Pittsburgh Narcotics Investigator went to Dr. Salkind's office in an undercover capacity to attempt to obtain prescriptions for controlled substances from the doctor. Before Dr. Salkind would prescribe anything for the undercover investigator he said, "you know how it works. You have to say something is wrong with you in order to get a script." After she gave him a fabricated medical need, Dr. Salkind sold the undercover investigator prescriptions for Percocet, Valium and Seconal. These are all controlled substances.

On October 10, 1985, an agent of the BNIDC interviewed the receptionist at Dr. Salkind's office. She had been the receptionist since January 1985. She told the agent that Dr. Salkind saw approximately 30 to 35 patients daily. All of the patients would be rescheduled for appointments every two weeks. On each visit, a patient generally received between three and five prescriptions for controlled substances. On some occasions, a patient would receive as many as seven to ten prescriptions for controlled substances. The receptionist further told the agent that Dr. Salkind kept, on a daily basis, 100 to 150 photocopies of prescriptions with the name and amount of controlled substance already filled in prior to the

patients' arrival. The receptionist stated that on many occasions patients would line up outside of Dr. Salkind's office waiting to see the doctor.

As a result of this information, an undercover BNIDC agent went to Dr. Salkind's office on October 16, 1985, to attempt to purchase prescriptions for controlled substances. Following a brief cursory examination, Dr. Salkind wrote the agent a prescription for 30 dosage units of Restoril, a Schedule IV controlled substance and a prescription for 60 dosage units of Anexsia-D, a Schedule III controlled substance. After the agent left the examining room, the receptionist told him that Dr. Salkind suspected that he was a law enforcement officer and had written "N. Agent" on his chart. The receptionist informed the agent that while Dr. Salkind had prescribed only Schedule III and IV drugs for him, the doctor saw 31 other patients that day and gave them all prescriptions for Schedule II drugs.

The undercover agent returned to Dr. Salkind's office on seven more occasions between November 20, 1985 and May 13, 1986. On each occasion Dr. Salkind wrote the agent four or five presciptions for Schedule II through IV controlled substances. He never performed any sort of physical examination nor did he ask any questions regarding the agent's health.

On February 21, 1986, the BNIDC agent interviewed a woman who was a nurse in Dr. Salkind's office from May 1985 to September 1985. This woman stated that Dr. Salkind's office was like an assembly line. All of the patients entering the doctor's office had similar complaints, and all patients exiting the office had received prescriptions for Tylox, a Schedule II controlled substance and Hycodan, a Schedule III controlled substance. When this nurse questioned the doctor about his prescribing practices, he told her it was none of her business. The woman further stated that she had reported to the doctor that she had observed several patients with needle marks on their arms or with what she recognized as obvious signs of drug abuse. Dr. Salkind responded, "If I don't give them what they want, they will just get it someplace else."

On January 14, 1986, the BNIDC agent interviewed a woman who was at that time drug dependent on Percodan and Hycodan and who had been a patient of Dr. Salkind since January 1985. She stated that it was generally known on the street that addicts merely had to make an appointment with Dr. Salkind, appear and pay for the visit and tell the doctor that they were nervous, couldn't sleep or had back pain. The doctor would then write multiple prescriptions for controlled substances for such "patients". The woman further stated that she saw the doctor regularly for several months. At no time did Dr. Salkind give her any medical advice nor did he give her any sort of physical examination. She told the agent that her visits with the doctor generally did not last more than five minutes, but that she always received prescriptions for controlled substances.

Agents of the BNIDC interviewed a doctor who had performed surgery on Dr. Salkind and then volunteered to maintain Dr. Salkind's medical practice during his recuperation from the surgery. The doctor noted that after the first couple of days at the medical office, he determined that Dr. Salkind's practice consisted mainly of patients who were drug dependent and/or had no medical indication for any controlled substances. As a result of this discovery, the doctor refused to dispense or write any prescriptions for controlled substances. He posted a sign in Dr. Salkind's office that stated, "no class II, III or IV drugs prescribed." The doctor noted that upon seeing the sign, approximately ninety percent of the patients left the office.

The Administrator concludes that given the magnitude of Dr. Salkind's diversion of controlled substances and his obvious disregard for the health and safety of those individuals who frequented his office, there is no question that the continued registration of Dr. Salkind is inconsistent with the public interest. 21 U.S.C. 824(a)(4). Dr. Salkind did not respond to the Order to Show Cause. He did not offer any evidence of explanation or mitigating circumstances. Accordingly, the Administrator concludes that the registration must be revoked.

On June 19, 1986, the State Board of Osteopathic Medicine for the Commonwealth of Pennsylvania ordered the emergency temporary suspension of Dr. Salkind's license to practice osteopathic medicine and surgery. Even if the public interest grounds to revoke the registration were not as compelling as they are, the loss of state licensure requires DEA to revoke the DEA Certificate of Registration. 21 U.S.C. 823(f) and 21 U.S.C. 824(a)(3). See, *Jerry L. Word, M.D.*, 51 FR 26613 (1986); *Meyer Liebowitz, M.D.* 51 FR 11654 (1986); *George P. Gotsis, M.D.*, 49 FR 33750 (1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AS8872891, previously issued to Morris Salkind, D.O., be, and it hereby is revoked. This order is effective immediately.

When the Order to Show Cause/Immediate Suspension was served on Dr. Salkind, all controlled substances possessed by the doctor under the authority of his then-suspended registration were placed under seal and removed for safekeeping. 21 U.S.C. 824(f) provides that no disposition may be made of such controlled substances under seal until all appeals have been concluded or until the time for taking an appeal has elapsed. Accordingly, these controlled substances shall remain under seal until October 14, 1986 or until any appeal of this order has been concluded. At that time, all such controlled substances shall be forfeited to the United States and shall be disposed of pursuant to 21 U.S.C. 881(e).

Dated: September 8, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86-20531 Filed 9-11-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Privacy Act of 1974; Amendment of Systems of Records

AGENCY: Office of the Secretary, Labor.

ACTION: Amendment of Privacy Act systems of records, Office of Veterans' Reemployment Rights.

SUMMARY: The Department of Labor hereby publishes for comment the amendment of the system of records DOL/LMSA-7, "Veterans' Reemployment Rights Complaint File." Specifically, the system of records is renumbered "DOL/VETS-1"; the System Managers addresses are changed, and an exemption is proposed. In addition, certain non-substantive editorial changes are being made.

DATES: Comments: Persons wishing to comment on this system of records may do so by October 14, 1986.

EFFECTIVE DATE: Unless otherwise noted in the **Federal Register**, this notice shall become effective October 14, 1986.

ADDRESS: Seth D. Zinman, Associate Solicitor, Office of the Solicitor, Division of Legislative and Legal Counsel, U.S. Department of Labor, Room N-2428, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Sofia P. Petters, Counsel for Administrative Legal Services, Office of the Solicitor, Department of Labor, 200

Constitution Avenue NW., Room N-2428, Washington, DC 20210; Telephone (202) 523-8188.

Revision of DOL/LMSA-7

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Labor hereby revises the system of records maintained by the Office of Veterans' Reemployment Rights, previously published at 47 FR 30401 (July 13, 1982).

DOL/VETS-1

SYSTEM NAME:

Veterans' Reemployment Rights Complaint File—VETS-1.

SYSTEM LOCATION:

Veterans' Reemployment Rights (VRR) Area Offices, Veterans' Employment and Training Services (VETS) Regional Offices, VETS National Office, Regional Solicitor's Offices, National Solicitor's Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Veterans, enlistees, examinees, reservists or members of the National Guard of the U.S. Armed Forces on active or reserve service or training duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigatory files compiled for compliance/enforcement of individual cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C., 2021 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are filed/stored by name of complainant and cross-referenced by name of employer. Requests must specify either name of complainant or name of employer with sufficient similarity to name(s) maintained on file to enable searcher to locate correct file.

Data processing storage and manual records.

RETRIEVABILITY:

By name of complainant or name of employer.

SAFEGUARDS:

Secured room, or locked cabinets, and security access requirement for ADP system.

RETENTION AND DISPOSAL:

Records will be maintained by the VETS for 5 years in accordance with NARA retention retirement and disposal schedule.

SYSTEM MANAGER(S) AND ADDRESS:

United States Department of Labor, Veterans' Employment and Training Service, Room S1315, 200 Constitution Avenue NW., Washington, DC 20210, and Regional Offices located at:

Veterans' Employment and Training Service, U.S. Department of Labor, 506 John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203 (617) 223-0918

Veterans' Employment and Training Service, U.S. Department of Labor, U.S. Customs House, Room 240, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106 (215) 597-5032

Veterans' Employment and Training Service, U.S. Department of Labor, 1371 Peachtree Street NE., Room 716, Atlanta, Georgia 30367 (404) 881-3673

Veterans' Employment and Training Service, U.S. Department of Labor, 230 South Dearborn, Room 1064, Chicago, Illinois 60604 (312) 353-0970

Veterans' Employment and Training Service, U.S. Department of Labor, 525 Griffin Street Federal Building, Room 204, Griffin and Young Streets, Dallas, Texas 75202 (214) 767-4987

Veterans' Employment and Training Service, U.S. Department of Labor, Federal Building, Room 800, 911 Walnut Street, Kansas City, Missouri 64106 (816) 374-7151

Veterans' Employment and Training Service, U.S. Department of Labor, Federal Office Building, 909 First Avenue, Room 3104, Seattle, Washington 98174 (206) 442-4831

NOTIFICATION PROCEDURES:

See above.

RECORD ACCESS PROCEDURES:

See above.

CONTESTING RECORD PROCEDURES:

See above.

RECORD SOURCE CATEGORIES:

Veterans, employees, employers, Department of Defense, Veterans Administration, physicians, fellow employees, union officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority provided by paragraph 3(k)(1) of 5 U.S.C. 552a certain investigatory material compiled for law enforcement purposes which is maintained in the Veterans' Reemployment Rights Complaint File may be exempted from disclosure under the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(F); (e)(4)(G); (e)(4)(H); and (e)(4)(I) and (f); and the portion of 29 CFR Part 70a which implements these provisions, if the disclosure of this information could result in the threatening of investigators and/or witnesses, or occasion them and/or their families with adverse consequences or could inhibit the effective investigation of complaints under the Veterans' Reemployment Rights Act and predecessor statutes. In order to conduct effective investigations it is at times necessary to guarantee the confidentiality of information being collected. Release of such information would constitute a break of the guarantee of confidentiality, could lead to the intimidation of witnesses, harassment or dismissal from employment of those involved, and could discourage those contacted from cooperating with investigators in future investigations.

Signed at Washington, DC, this 8th day of September 1986.

William E. Brock,

Secretary of Labor.

[FR DOC. 86-20543 Filed 9-11-86; 8:45 am]

BILLING CODE 4510-23-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal

statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

District of Columbia:
DC86-1(Jan. 3, 1986) p.80
Florida:
FL86-9(Jan. 3, 1986) pp.124-125
New York:
NY86-9(Jan. 3, 1986) p.723
NY86-10(Jan. 3, 1986) ..... pp.727-728, pp. 731-734
NY86-13(Jan. 3, 1986) p.753
NY86-14(Jan. 3, 1986) pp.760-761
NY86-15(Jan. 3, 1986) pp.763-764
NY86-17(Jan. 3, 1986) pp.777-872
Rhode Island:
RI86-1(Jan. 3, 1986) pp.965-969
Listing by Location (index) ..... p.xxxiv

Volume II

Kansas:
KS86-6(Jan. 3, 1986) p.326
Missouri:
MO86-1(Jan. 3, 1986) p.539

Volume III

None.....

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 5th day of September 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-20364 Filed 9-11-86; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

[V-82-5]

Lenox China, Inc.; Withdrawal of Application for Variance and Termination of Interim Order

AGENCY: Occupational Safety and Health Adminstration, Labor.

ACTION: This notice announces the Withdrawal of the application of Lenox China, Inc., for permanent variance from the lead standard, prescribed in 29 CFR 1910.1025, concerning the requirement at Paragraph (e)(2) that appropriate respirators be worn where engineering and work practice controls do not reduce employee exposure to or below the permissible exposure limit.

Based on the withdrawal of the variance application notice is hereby given that the interim order, granted on June 11, 1982, has been revoked.

Notice of this application for permanent variance appeared in the **Federal Register** of July 10, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3656, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 9th day of September 1986.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 86-20599 Filed 9-11-86; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

[Application No. D-6308 et. al.]

Proposed Exemptions; Additional Securities Benefit Fund et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the

Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retiirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N–5669, U.S. Department of Labor, 200 Constitution Avenue NW., Washington DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, DC 20210.

Notice of Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Additional Securities Benefit Fund (the Fund) and Plumbers Local Union No. 1 of Brooklyn and Queens (the Union) Located in Howard Beach, New York

[Application No. D–6308]

Proposed exemption

The Department is considering granting an exemption under the authority of seciton 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of seciton 4975(c)(1)(A) through (E) of the Code shall not apply to the loan of $575,672 by the Fund to the Union provided that the terms of such loan are as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

EFFECTIVE DATE: August 26, 1985.

Summary of Facts and Representations

1. The Union is the collective bargaining representative of approximately 2,800 journeymen and apprentice plumbers in New York City. The Fund is a jointly administered fund whose trustees are designated equally by the Union and the Contracting Plumbing Association of Brooklyn and Queens (CPA). CPA is the employer represesntative for the Fund. The Fund had total assets of $10,208,612 as of September 30, 1985.

2. In 1971, the Union acquired land in Howard Beach, New York from an unrelated party with the intention of constrtucting its headquarters on the land. In 1972, the Union made inquiry of the Board of Trustees of the Fund to determine if a building loan and a first mortgage loan would be made available by the Fund to the Union. On April 2, 1972, the Fund made a loan of $800.00 to the Union (the Loan). The Loan bore interest at the rate of 6 percent, repayable in 25 years, with quarterly payments of principal and interest, with a first mortgage on the building to be constructed by the Union. [1] The construction of the Union's headquarters located at 158–29 Cross Bay Boulevard, Howard Beach, New York (the Building) was completed in April of 1974.

3. As of July 1, 1984, the outstanding balance of the Loan was $575,672. Effective July 1, 1984, the terms of the Loan were revised (the Revised Loan). The Revised Loan is for a 30-year period, maturing on June 1, 2014 and requires quarterly payments of principal and interest in the amount of $18,499, with a fixed rate of interest of 12½ percent.[2] All payments on the Loan and the Revised Loan been made on a timely basis.

4. A first mortgage on the Building is the security for the Revised Loan. An independent appraisal of the Building was performed by George J. Schneider of Brand-Schneider Real Estate located in Ozone Park, New York (the Appraiser). The Appraiser established the fair market value of the Building at $1,5000,000 as of October 1, 1984. The Appraiser updated his valuation of the Building and by letter of November 15, 1985 represented that the fair market value of the Building remains at $1,500,000.

5. The Pension Fund Monitoring and Evaluation Services, Inc. (PFM&E) is the independent fiduciary for the Revised Loan effective October 17, 1984. PFM&E is a member of the National Association of Securities Dealers and the Securities Investment Protection Corporation and is registered with the Securities and Exchange Commission as an investment advisor pursuant to the Investment Advisors Act of 1940. PFM&E monitors the performance of investment managers of numerous employee benefit plans, including those funds administered by the Plumbing Industry Board, Plumbers Local Union No. 1. PFM&E represents that it understands and acknowledges its duties, responsibilities and liabilities under the Act in acting as independent fiduciary for the Revised Loan.

6. PFM&E represents that it will monitor payment of the Revised Loan through its duration and take whatever action it deems necessary to protect the

[1] The applicant represents that the Loan was not a prohibited transaction until July 1, 1984 because it was covered by section 414 of the Act. The Department expresses no opinion as to the applicability of section 414 in this instance. The applicant further represents that any excise tax imposed by the Internal Revenue Service, as finally determined, for the period commencing July 1, 1984, will be paid within sixty (60) days after the final grant of this proposed exemption.

[2] The Department has determined that the effective date of the proposed exemption, if granted, should commence on August 26, 1985. Two payments were made by the Union to the Plan to pay the additional interest owed to the Plan beginning July 1, 1984. These payments were: $18,449 on July 1, 1985 and $7,348 on August 26, 1985.

interests of the Plan participants and beneficiaries and will pay particular attention to assure that throughout the term of the Revised Loan (i) the Revised Loan will represent no more than 25 percent of the total assets of the Fund; (ii) the Building will represent at least 150 percent of the outstanding balance of the Revised Loan; and (iii) payments are made on a current basis.

7. PFM&E has reviewed the terms of the Revised Loan and has concluded that the 12½ interest rate, effective July 1, 1984 reflects fair market value. In making such determination, PFM&E represents that it communicated with a number of financial institutions in the New York City metropolitan area to determine the mortgage financing of different financing packages were offered to the Union, including 12½ percent fixed rate mortgage financing. Thus, PFM&E has determined that the 12½ percent interest rate for the Revised Loan would be substantially the same as the interest rate the Union would obtain from a third party financial institution.

8. In summary, the applicant represents the subject transaction meets the statutory criteria of section 408(a) because:

(a) the Revised Loan will be secured by collateral which represents approximately 260 percent of the outstanding balance of the Loan; and

(b) the Fund's independent fiduciary has determined that the Revised Loan is in the interests of and protective of the Fund and its participants and beneficiaries.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 30 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Employees Stock Purchase Plan of Enserch Corporation (the Plan) Located in Dallas, Texas

[Application No. D-6518]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a) and 407(a) of the Act shall not apply to (1) effective January 3, 1986, the acquisition and holding by the Plan of certain depositary units (the Units) representing limited partnership shares in Enserch Exploration Partners, Ltd. (the Partnership) distributed as dividends to the Plan as a shareholder of Enserch Corporation (Enserch) common stock (the Stock); and (2) the proposed acquisition and holding by the Plan of Units acquired on the open markets as a result of either the Plan's reinvestment of cash distributions received with respect to the Units or the Plan's purchase of additional Units in accordance with directions given by Plan participation.

Effective Date: If the proposed exemption is granted, the exemption will be effective January 3, 1986.

Summary of Facts and Representations

1. The Plan is a stock bonus plan with approximately 5,900 participants. As of May 31, 1985, the Plan's total assets were approximately $58.06 million. The trustee of the Plan is InterFirst Bank of Dallas (the Trustee). The Plan is sponsored by Enserch and certain subsidiaries. Enserch is a diversified energy company engaged in the transportation and distribution of natural gas, oil and gas exploration and development, oil field services and products, and various other related activities. The Plan is administered by a committee whose members are appointed by the Enserch Board of Directors (the Committee). The Committee serves as the Plan's administrator and named fiduciary. The Applicants referred to herein are Enserch, the Committee, and the Trustee.

2. The Partnership is a Texas limited partnership which was formed on March 7, 1985 to succeed to substantially all of the domestic oil and gas exploration and production business of Enserch. Enserch and its subsidiaries contributed to the Partnership substantially all of their domestic developed and undeveloped oil and gas properties (the Partnership Properties). In exchange for the Partnership Properties, Enserch received Units representing approximately 85 percent of the total outstanding Units issued by the Partnership. The remaining 15 percent of the Units were sold to the public in a public offering completed in April, 1985. The Units are represented by depositary receipts issued by Harris Trust Company of New York. The Units are traded on the New York Stock Exchange and are freely transferable to United States citizens and qualified United States entities, except as restricted by federal and state securities laws. Each Unit represents the same percentage interest in the Partnership.

3. On September 10, 1985, Enserch announced that quarterly cash dividends on the Stock would be supplemented with distributions of Units to all shareholders of record. Each shareholder would receive one Unit for each 100 shares of the Stock held on the record date. The initial distribution of Units was made on January 3, 1986 to shareholders or record as of November 15, 1985. Thus, since January 3, 1986, the Plan, as a shareholder of the Stock, has received noncash dividends in the form of Units in addition to cash dividends.

4. Prior to the receipt of the Units as dividends, the assets of the Plan consisted only of shares of the Stock and cash. The Plan owned 2,313,910 shares of the Stock as of May 31, 1985. Participants make contributions to their individual accounts in the form of Regular Allotments, Salary Deferral Allotments, and Supplemental Salary Deferral Allotments. Regular Allotments are made in "after-tax" dollars based on a percentage of the participant's base pay. Salary Deferral Allotments are made in "pre-tax" dollars pursuant to salary reduction elections under section 401(k) of the Code. Employer contributions to the Plan are based on the total of the participant's Regular and Salary Deferral Allotments. All allotments and contributions are held in trust by the Trustee and are currently used to purchase the Stock.

5. The Applicants state that prior to any distribution of Units to the Plan, each participant was provided with a brochure describing the options available with respect to the Units. Units attributable to a participant's Salary Deferral Allotments and non-vested employer contributions were sold by the Trustee on the open market and the proceeds were reinvested in the Stock and credited to the participant's account in the Plan. Each participant was allowed to elect one of two options with respect to the distribution of Units attributable to the participant's Regular Allotments and vested employer contributions. Under the first option, a participant could elect to have the Units sold by the Trustee with the proceeds to such sale reinvested in the Stock. Under the second option, a participant could elect to have the Units distributed in kind from the Plan to the Enserch Exploration Partners, Ltd. Distribution Reinvestment Plan (the Reinvestment

Plan) for deposit in a separate account under the participant's name. The Applicants state that the Reinvestment Plan is not a qualified plan and any distributions made to the Reinvestment Plan are taxable as income to the participant.[3] MBank, N.A. is the custodian of the Reinvestment Plan (the Custodian). If a participant elects to have the Units distributed to the Custodian, the participant executes a form certifying that he or she is a United States citizen. If a participant fails to elect either option, hir or her Units are sold by the Trustee on the open market and the proceeds are invested in the Stock and credited to the participant's account.

Therefore, the Applicants represent that as a result of these options, all Units received by the Plan to date have been either sold on the open market or distributed to the Reinvestment Plan in accordance with directions given to the Trustee by each participant for his or her account in the Plan.

6. The Applicants request that participants in the Plan be allowed to acquire and hold the Units for their accounts on an ongoing basis. Thus, the assets of the Plan will consist of the Stock, the Units, and cash. No other investments will be permitted by the Plan.

The Applicants represent that eligible participants will be able to elect one of three options with respect to the Units. Under the first option, a participant may elect to have the Units received as dividends for his or her account sold and the proceeds reinvested in the Stock. Under the second option, a participant may elect to receive as a distribution from the Plan the Units attributable to his or her vested employer contributions and Regular Allotments. These Units will be distributed to the Custodian of the Reinvestment Plan whereupon the participant will have the same rights as an individual shareholder with respect to the Units. Units received by the Plan with respect to a participant's non-vested employer contributions and Salary Deferral Allotments will be held by the Trustee for the participant in his or her account in the Plan. Under the third option, a participant may elect to hold all Units in his or her account in the Plan.

7. The Committee will provide each participant with a written description of the three options and a form on which the participant may elect one of these options. When a participant fails to elect an option, his or her Units, will be sold on the open market and the proceeds invested in the Stock.

Participants will be permitted to change their previous instructions with respect to the Units within a 30 day period after the end of each calendar quarter. Once a participant elects the manner in which the Units are to be handled, that election will remain in effect until the participant executes a new election form. A change of instruction will be effective for any Units received by the Plan after the date that the executed form is received by the Committee.

8. The Applicants represent that, in addition to the receipt of Units by the Plan as dividends, the Plan will be amended to allow a participant to elect each quarter whether to have all or part of his or her future Allotments and employer contributions invested in Units rather than in the Stock. Such Units will be purchased on the open market.

The Plan will recieve cash distributions on the Units held by the participants' accounts as part of the Partnership's cash distributions to all unitholders. The Plan provides that such Partnership cash distributions may be reinvested only in additional Units. The Plan also provides that cash dividends on the Stock may not be used to purchase additional Units. The acquisition of all additional Units through reinvestment of Partnership cash distributions will be accomplished through open market transactions.

The Applicants state that participants are not allowed to sell the Stock held in their accounts and reinvest the proceeds in other securities. The Applicants state further that participants who hold Units will be subject to essentially the same restrictions on the Units as on the Stock. Therefore, participants who elect to hold the Units in their accounts may not later sell the Units and reinvest the proceeds in the Stock. However, a participant who is holding Units will be able to withdraw such Units from the Plan in the same manner and to the same extent that he or she may withdraw the Stock. If the participant elects to sell the Units, the Plan will provide that the Trustee must sell the Units on the open market.

9. The Partnership Agreement provides that the Partnership may redeem Units held by a person if, in the opinion of the Partnership's counsel, there exists a substantial risk of cancellation or forfeiture concerning any property in which the Partnership has an interest because of the nationality or other status of such person. However, the Partnership Agreement requires the Partnership to withdraw its notice of redemption if it receives notice that the ineligible person has transferred the Units to a person who certifies that he or she is an eligible United States person. Therefore, the Applicants state that the Plan will provide that, within 15 days of receipt of a notice of redemption, the Committee will direct the Trustee to sell the Units allocated to such non-United States person on the open market.

10. The Applicants represent that the Units issued by the Partnership are "employer securities" as defined under section 407(d)(1) of the Act. However, the Applicants state that relief from section 406(a) and 407(a) of the Act for the acquisition and holding of the Units is necessary since the Units are not "qualifying employer securities" as defined under section 407(d)(5) of the Act.

11. In summary, the Applicants represent that the transactions satisfy the statutory criteria of section 408(a) of the Act because: (a) The acquisition and holding of the Units by the Plan is the result of Enserch's quarterly dividend distributions to all shareholders of the Stock; (b) the decision to acquire additional Units and the decision to hold or dispose of all Units is made by the participants in the Plan in accordance with directions given to the Trustee by each participant for his or her account; (c) the participants may change their previous instructions to the Trustee regarding the receipt or disposition of the Units; and (d) all transactions concerning the Units, other than the distribution of the Units by Enserch as dividends on the Stock, are conducted on the open market.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Blanton & Co., Architects and Engineers Profit Sharing Plan and Trust Agreement (the Plan) Located in Tucson, Arizona

[Applicant No. D-6665]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of a certain parcel

[3] The Applicants represent that the Reinvestment Plan is not an employee benefit plan subject to the Act

of unimproved real property (the Property) to Blanton & Co. Architects and Engineers (the Employer), the sponsor of the Plan, provided that the sales price is no less than the fair market value of the Property on the date of sale.

Summary of Facts and Representations

1. The Plan is a defined contribution plan which, as of December 31, 1984, had twenty participants and total assets of approximately $2,363,656. The trustees of the Plan are Rex E. Willoughby, Robert E. Smith, and Andrea P. Platt (the Trustees), who are the decision-makers with respect to Plan investments. The Trustees are officers and employees of the Employer. The Employer is an Arizona corporation engaged in the practice of architecture, engineering, surveying and land planning, with its principal offices located at 300 West Paseo Redondo, Tucson, Arizona.

2. The Property is a rectangularly shaped, fifty foot strip of land adjacent to the Employer's property at the above address. The Property is part of Block #2 of Paseo Redondo, east of Granada Avenue. The Plan acquired the Property from the Employer as a contribution for the year ending December 31, 1980.[4] The applicant represents that the original intent was to have the Plan sell the Property to the City of Tucson (the City). The Employer donated the Property to the Plan after the City threatened condemnation of Block #2, including the Property. The Employer anticipated that the Property would have much greater value and would yield a profit to the Plan if acquired by the City with the rest of Block #2. However, the City subsequently acquired only part of Block #2 and did not acquire the Property. The applicant states that the City's acquisition of the adjacent parcel and the construction of a street immeidately to the west of the Property has diminished the utility of the Property.

3. The Property is contigious to a parking lot on the Employer's property which is used by employees and visitors of the Employer. The applicant states that, generally, unimproved lots in the area, including the Property have traditionally been used by members of the public for free parking. The applicant admits that there may have been times when employees and visitors to the Employer have parked on the Property. The applicant acknowledges that use of the Property by employees and visitors of the Employer was a prohibited transaction. The applicant states further that the necessary excise tax forms will be filed to report the transaction to the Internal Revenue Service and that all appropriate excise taxes will be paid within 60 days of the date of a grant of an exemption for the proposed sale of the Property. In addition, the applicant has agreed to pay any back rent which is due the Plan for the past use of the Property, plus an appropriate rate of interest of such amount, based on the fair market rental value of the Property at the time of such use.

4. The Property was appraised on October 17, 1985 and June 27, 1986 by Sanders K. Solot, M.A.I. (Mr. Solot), an independent real estate appraiser in Tucson, Arizona, as having a fair market value of no more than $57,000. Mr. Solot states that the Property has no economic integrity as a free standing, independent parcel because of its use is limited by its size and shape. Mr. Solot states further that the Property does have a special value to the Employer, as the adjacent property owner, which has been taken into account in determining the Property's fair market value. Mr. Solot concludes that the highest and best use for the Property, due to the existing zoning of the site, is its present use as a parking lot.

5. The applicant represents that the Property is now an undesirable investment for the Plan because it is not appreciating in value and yields no current income. The applicant states that since condemnation of the adjacent parcels by the City, no attempts have been made to sell the Property to unrelated parties for fear that such an attempt would result in a below market sale. The Trustees believe that it would be in the Plan's best interest to sell the Property to the Employer for $57,000, in accordance with Mr. Solot's appraisal, because other potential buyers are not likely to pay as much for the Property. In addition, the transaction would increase the Plan's liquidity position and would allow the Plan to reinvest the proceeds of the sale in other investments that would increase the Plan's overall earnings. No commissions or other expenses would be charged to the Plan in connection with the sale of the Property.

6. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Plan will receive the fair market value for the Property as determined by an independent qualified appraiser; (c) the Plan will not pay any commissions or other expenses in connection with the transaction; and (d) the Trustees have determined that the sale of the Property is in the best interests of the Plan.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Reinhart, Boerner, Van Deuren, Norris & Rieselback, S.C. Employees' Profit Sharing Plan (the Plan) Located in Milwaukee, Wisconsin

[Application No. D-6681]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale of 500 shares of Lubar & Company Inc. common stock (the Stock) to Mr. Richard A. Van Deuren (Mr. Van Deuren) from his individually direct account in the Plan (the Account), provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 65 participants as of June 30, 1985. The Plan provides for segregated accounts and for participant direction of the investment of the accounts. Mr. Van Deuren is an employee, shareholder, director and officer of the Plan sponsor.

2. The Account holds 500 shares of the Stock, which was originally acquired pursuant to Mr. Van Deuren's direction on February 7, 1977, at a cost of $50,200. The Stock is not listed or traded on any exchange and currently represents 16.4% of the Account's assets.

3. Mr. Van Deuren desires to sell the Stock held in the Account to himself for a cash price equal to its current market value on the date of sale. Mr. Van Deuren will pay all costs involved in the proposed sale. Mr. Van Deuren had the Stock appraised by Mr. Michael H. White, an unrelated appraiser with the firm of Michael H. White & Co. (a company specializing in valuation of closely held equity securities, business

[4] The Department is expressing no opinion as to whether the acquisition of the Property by the Plan violated any provision of Part 4 of Title I of the Act.

enterprises and intangible assets) of Des Plaines, Illinois. Mr. White appraised the Stock as having a fair market value of $212,500 as of December 31, 1985. An updated appraisal will be performed, at Mr. Van Deuren's expense, to fix the value of the Stock on the date of sale.

4. In summary, Mr. Van Deuren represents that the proposed transaction satisfies the statutory criteria for exemption under section 408(a) of the Act because:

(a) The sale of the Stock will be a one-time transaction for cash;

(b) Mr. Van Deuren will pay all costs associated with the proposed sale;

(c) The Account will sell the Stock for its fair market value as determined by an independent appraiser; and

(d) Mr. Van Deuren is the only participant to be affected by the transaction and he desires that it be consummated.

Notice to Interested Persons

Because Mr. Van Deuren is the only participant in the Plan to be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing are due 30 days from the date of publication of the proposed exemption in the **Federal Register.**

For Further Information Contact: Mr. Alan H. Levitas of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

National Sales, Inc. Employee Profit Sharing Plan (the Plan) Located in Jackson, Mississippi

[Application No. D-6715]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b) (1) and (b) (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of a certain parcel of improved real property located in Bossier City, Louisiana (the Bossier City Property) and a leasehold interest in another parcel of improved real property in Memphis, Tennessee (the Memphis Property; collectively, the Properties) to Business Advisors and Investors, Inc., a party in interest with respect to the Plan, provided that the sales price for each of the Properties is not less than the higher of either the total cost of such Property to the Plan or the fair market value of such Property on the date of the sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which, as of December 31, 1985, had 190 participants and total assets of approximately $2,053,236. The Plan is sponsored by the National Prepared Foods, Inc. (the Employer), formerly known as National Sales, Inc., which was sold on April 11, 1986 to an unrelated party. The trustee of the Plan, and the decision-maker with respect to Plan investments, is the Sunburst Bank (the Trustee), located in Jackson, Mississippi. The Trustee represents that it is a qualified, independent fiduciary with respect to the Plan which is otherwise unrelated to the Employer or its affiliates.

The Plan was restated and reexecuted by the Employer on January 1, 1976 and was terminated effective January 1, 1984. The applicant states that Form 5310, Application for Determination of Qualification Upon Termination of the Plan, was filed with the Internal Revenue Service (the Service) on December 31, 1984 and that a favorable determination letter was issued on June 19, 1985.

2. The Bossier City Property, which consists of 9.0186 acres located on Industrial Drive, was purchased on October 21, 1977 from Kennon, Treat, Inc., an unrelated party, for $74,809.50. The Plan subsequently constructed a freezer storage facility on the property, which was completed on April 19, 1979 at a cost of $1,620,257.58.[5] The Plan leased the Bossier City Property and the improvements to Bill's Institutional Commissary Corporation of Mississippi (BIC) from April 19, 1979 until July 1, 1984. At the time of the transaction, BIC was an employer of employees covered by the Plan and a subsidiary of the Trend Line Corporation (Trend Line), which was the majority shareholder of both BIC and the Employer. Thus, BIC was a party in interest with respect to the Plan at the time of the lease. The applicant states that BIC was sold to Consolidated Companies, Inc., an unrelated party, on September 13, 1985. The applicant acknowledges that the lease of the Bossier City Property to BIC was a prohibited transaction. The applicant states further that the necessary excise tax forms were filed to report the transaction to the Service and that the appropriate taxes for the transaction were paid on June 26, 1986.

The Bossier City Property was leased to BIC in 1979 for an annual rental of $202,500. The rent was increased by $4,095 to $206,595 in 1980 when an additional building was placed on the property and leased to BIC. The applicant states that the amounts paid by BIC to the Plan under the lease represented the fair market rental value for the Bossier City Property. However, the applicant states further that BIC will pay any back rent and interest on such additional rent, which is determined to be due by the Trustee based on the difference between rental amounts paid under the lease and the fair market rental value for the property at the time of the transaction.

3. The Memphis Property consists of certain leasehold improvements in an industrial warehouse located at 237 Belz Boulevard. The Plan leased the building from Belz Enterprises on July 1, 1972. The Plan subsequently constructed the improvements, a freezer cooler facility, on the property at a cost of $229,779.05. The Plan leased the Memphis Property to BIC on July 8, 1974, subsequent to certain oral agreements between the parties which occurred prior to July 1, 1974, at an annual rental of $17,440. The applicant represents that the lease of the property to BIC expired on July 1, 1984. The applicant represents further that the lease satisfied the requirements of section 414(c)(2) of the Act.[6]

4. The Properties were appraised on January 10, 1986 by Jack K. Mann, M.A.I. (Mr. Mann), an independent real estate appraiser in Jackson, Mississippi. Mr. Mann determined that the fair market value of the Bossier City Property was $1,700,000 and the fair market value of the Plan's leasehold interest in the Memphis Property was $185,000, as of January 10, 1986. Mr. Mann represents that he has no present or future interest in the Properties and is unrelated to any of the parties involved in the proposed transaction. Mr. Mann states that the Properties are "special purpose" properties which cannot be easily adapted to an alternate use without excessive cost. Mr. Mann believes that the highest and best use for the Properties would be their use as freezer and warehouse storage facilities.

[5] The Department is expressing no opinion as to whether the use of Plan assets for the construction of a freezer storage facility on the Bossier City Property was in violation of any provisions of Part 4 of Title I of the Act.

[6] The Department expresses no opinion as to the applicability of section 414(c)(2) of the Act to this lease arrangement.

5. In order to provide the Plan with the immediate liquidity necessary for distribution of the assets to the participants, the Trustee proposes that the Plan sell the Properties for cash to Business Advisors and Investors, Inc. (Business Advisors). Business Advisors will pay the Plan for each of the Properties the greater of either the Plan's total costs with respect to such Property or the fair market value of such Property on the date of sale. The applicant states that Mr. Mann will update the appraisal of the Properties at the time of the proposed sale.

The applicant represents that the Business Advisors may be a party in interest with respect to the Plan since a trust for the grandchildren of W.T. Hogg, Jr. (Mr. Hogg), the majority shareholder of Trend Line and a fiduciary of the Plan, and a separate trust for each of Mr. Hogg's two daughters, collectively own approximately 69 percent of Business Advisors. The Trustee states that the sale to Business Advisors is necessary because all attempts to sell the Properties to an unrelated party have been unsuccessful. The Trustee states further that the Properties are both vacant and subject to deterioration. Therefore, the Trustee represents that the proposed transaction is in the best interests of the Plan. The proceeds from the sale of the Properties will be distributed to the participants.

The Plan will pay no commissions or other expenses with respect to the sale of the Properties to Business Advisors.

6. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Plan will receive the higher of either the Plan's total costs with respect to each of the Properties or the fair market value of each of the Properties on the date of sale; (c) no commissions or other expenses will be incurred by the Plan in connection with the sale; (d) the proposed sale will enable the Plan to dispose of the Properties and will facilitate the distribution of assets to the Plan participants; and (e) the Trustee, as an independent fiduciary of the Plan, had determined that the proposed transaction would be in the best interests of the Plan and its participants and beneficiaries.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Profit Sharing Plan for Employees of Regal Capital Company (the Plan) Located in Dallas, Texas

[Application No. D-6769]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1), 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale of a parcel of unimproved real property (the Property) by the Plan to Howard E. Rachofsky (Mr. Rachofsky), a party in interest with respect to the Plan; provided that the sales price is equal to the greater of the fair market value of the Property on the date of sale or the total expenditures incurred by the Plan in connection with the acquisition and holding of the Property by the Plan, as calculated on the day of the sale.

Summary of Facts and Representations

1. The Plan is a profit sharing established on October 6, 1977. As of September 30, 1985, the Plan had seven participants and estimated assets of approximately $15,834,677. The sponsor of the Plan is Regal Capital Company (the Employer). The Employer is located at 333 Lee Parkway, Suite 610, Dallas, Texas, and has for the last fifteen years been actively engaged in the business of trading in securities. Mr. Rachofsky, the president and sole shareholder of the Employer, is a participant in the Plan and the trustee of the Plan.

2. The Property which consists of approximately 1.28 acres of unimproved residential real estate located at 10040 Meadowbrook Drive, Dallas, Texas. The Property currently constitutes approximately 4.7% of the assets of the Plan. The Plan purchased the Property on October 24, 1983, from John E. and Marjorie O. Stitt, unrelated third parties, for $550,000 in cash. At the time of the Plan's purchase there was a one-story brick and wood residence (the Residence) on the Property.

3. The Residence was rented to an unrelated party from August 1984 through May 1985, at the rate of $450 per month for a total rental income of $4,500. Due to termite infestation and serious structural difficulties the Residence was razed in mid-1985. Consequently, although the Plan has, as of August 6, 1986, incurred a total of approximately $3,685 in expenses for maintenance, insurance, and taxes, the Property is no longer producing rental income. The applicant represents that significant expenditures would be required to construct another residence on the Property. Without such expenditures, it is uncertain whether the Property will appreciate in value as it has in the past. Further, in the currently soft real estate market in Dallas, it is represented that the Property has peaked in value. Accordingly, Mr. Rachofsky proposes to purchase the Property for cash from the Plan for the greater of the fair market value or the total expenditures as of the date of sale incurred by the Plan in connection with the acquisition and holding of the Property by the Plan, including the cost of acquiring the Property and any and all expenses associated with maintenance, insurance, or taxes on the Property. It is represented that no fees, commissions, or other expenses will be paid by the Plan with respect to the sale. All costs related to the sale of the Property will be paid by Mr. Rachofsky.

4. The Property has been appraised at a value of $890,000, as of February 17, 1986, by George E. Trojack (Mr. Trojack) and reviewed by Jack Simpson, SRPA, (Mr. Simpson) of Crossan Dannis, Inc., 5445 La Sierra, Suite 400, Dallas, Texas. Mr. Simpson is qualified in that since 1972 he has engaged in appraising commerical and residential real property. Also, Mr. Simpson is a senior real property appraiser, a member of the Society of Real Estate Appraisers, and a licensed real estate broker in Texas. Both Mr. Trojack and Mr. Simpson verify their independence in that they have no present or prospective interest in the Property, nor any personal interest or bias with respect to the parties involved. Mr. Trojack and Simpson indicate that their compensation in not contingent upon the conclusion in the appraisal report.

5. The applicant represents that the Plan can earn more income from investing the proceeds of the sale in alternative investments, than from holding the Property, because of the possibility of a reduced rate of appreciation for the Property in the volatile real estate market in Dallas and the lack of rental income from this asset.

6. In summary, the applicant represents that the proposed sale meets the statutory criteria for an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) The sale will be a one-time transaction for cash; (b) the sale price of the Property will be the higher of the fair market value as based on an appraisal

or the total expenditures incurred by the Plan in connection with the acquisition and holding of the Property by the Plan; (c) the Plan will incur no real estate commissions, fees, or expenses in connection with the sale; and (e) the sale will enable the Plan to sell a non-income producing asset and invest the proceeds in alternative higher yielding investments.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523-8196. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory of administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 9th day of September, 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86-20643 Filed 9-11-86; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 86-111; Exemption Application No. D-6149 et al.]

Grant of Individual Exemptions; PECA-IBEW Annuity Fund et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

PECA-IBEW Annuity Fund (the Annuity Fund) and the PECA-IBEW Pension Fund (the Pension Fund; Collectively, the Funds) Located in Honolulu, Hawaii

[Prohibited Transaction Exemption 86-111; Application Nos. D-6149 and D-6150]

Exemption

I. Effective June 15, 1979, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the past and proposed sale, exchange or transfer between First Interstate Bank (FIB), State Savings and Loan (SSL), other banking institutions (the Banks), and the Funds of multi-family residential and commercial mortgage loans (the Mortgages) or participation interests therein (the Participation Interests) which are originated by FIB, SSL and the Banks, provided that:

A. Such sale, exchange or transfer is (or has been) expressly approved by fiduciaries independent of FIB, SSL and the Banks who have authority to manage or control those assets of the Funds invested in the Mortgages or Participation Interests;

B. The terms of all transactions between the Funds, FIB, SSL and the Banks are (or have been) not less favorable to the Funds than the terms generally available in arm's-length transactions between unrelated parties;

C. No investment management, advisory, underwriting fee or sales commission or similar compensation is (or has been) paid to FIB, SSL and the Banks with regard to such sale, exchange or transfer;

D. The decision to invest in a Mortgage or Participation Interest is not (or has not been) part of an arrangement under which a fiduciary of a Fund, acting with the knowledge of either FIB, SSL or the Banks, causes a transaction to be made with or for the benefit of a party in interest [as defined in section 3(14) of the Act] with respect to the Funds; and

E. FIB, SSL and the Banks shall maintain (or have maintained) for the duration of any Mortgage or Participation Interest which is sold to a Fund pursuant to this exemption, records necessary to determine whether the conditions of this exemption have been met. The records above must be (or have been) unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Funds, during normal business hours by: any trustee, investment manager, employer of Fund participants, employee organization whose members are covered by a Fund, or any participant or beneficiary of a Fund.

II. Effective June 15, 1979, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply, to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to the Funds by virtue of providing services to the Funds (or who has a relationship to such service provider as described in section 3(14) (F), (G), (H), or (I) of the Act) solely because of the ownership of a Mortgage or Participation Interest by such Fund.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 18, 1986 at 51 FR 26069.

Effective Date: This exemption is effective June 15, 1979.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Bluff Medical Center, P.C. Profit Sharing Plan (the Plan) Located in Clinton, Iowa

[Prohibited Transaction Exemption 86–112; Exemption Application No. D–6360]

Exemption

The restrictions of section 406(a), 406 (b)(1), and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the purchase (the Purchase) of certain real property (the Property) by the Plan from the Bluff Boulevard Leasing Co. (the Seller), a party in interest with respect to the Plan for the lower of either $975,000 or the fair market value of the Property on the date of the sale, (2) the extension of credit by the Seller to the Plan in connection with the Purchase, and (3) the lease of the Property by the Plan to the Bluff Medical Center, P.C., a party in interest with respect to the Plan, provided that the terms and conditions of all three transactions are at least as favorable to the Plan as those obtainable from an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 25, 1986 at 51 FR 26777.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a tolle-free number.)

Freeman Companies Savings and Investment Plan and Trust Agreement (the Plan) Located in Nashville, Tennessee

[Prohibited Transaction Exemption 86–113; Exemption Application No. D–6411]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the purchases by Plan participants of units of certain real estate limited partnerships which are organized, underwritten, offered and operated by certain of the Freeman Companies, the sponsors of the Plan; provided that such purchases are on terms which are at least as favorable to the Plan participants as could be obtained in transactions with unrelated parties, and provided further that the investment in any such units by each Plan participant shall not exceed twenty-five percent of the individual account balance of such participant in the Plan and total investments by all Plan participants in such units shall not exceed ten percent of the units of any one of such partnerships.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 18, 1986 at 51 FR 26071.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

David L. Hicks Corporation Profit Sharing Plan and Retirement Trust (the Plan) Located in Fresno, California

[Prohibited Transaction Exemption 86–114; Exemption Application No. D–6575]

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale from the segregated account of David L. Hicks in the Plan to County Home Loans, a party in interest with respect to the Plan, of a parcel of real property located in Porterville, California, provided the Plan receives no less than fair market value for the property at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 24, 1986, at 51 FR 22999.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523–8196. (This is not a toll-free number.)

Bangs, McCullen, Butler and Foye Employees' Profit Sharing Retirement Plan (the Plan) Located in Rapid City, South Dakota

[Prohibited Transaction Exemption 86–115; Exemption Application No. D–6582]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the purchase by the Plan of a certain commercial office facility (the Addition) from Bangs, McCullen, Butler, Foye and Simmons (the Employer), the sponsor of the Plan; and (2) the lease by the Plan of the Addition and other property to the Employer; provided that such transactions are on terms at least as favorable to the Plan as those the Plan could obtain in arm's-length transactions with unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 18, 1986 at 51 FR 26073.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Niccoli & Holman, D.D.S., Inc. Money Purchase Pension Plan (the Plan) Located in Whittier, California

[Prohibited Transaction Exemption 86–116; Exemption Application No. D–6615]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the proposed ground lease (the Ground Lease) by the Plan of a certain parcel of unimproved real property to Niccoli and Holman Investments (the Partnership), a party in interest with respect to the Plan, provided that the terms of the Ground Lease are no less favorable to the Plan than an arm's-length transaction with an unrelated party; and (2) the personal guarantees of the obligations of the Partnership under the Ground Lease by Dominic J. Niccoli, D.D.S. and Charles M. Holman, D.D.S., parties in interest with respect to the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 18, 1986 at 51 FR 26074.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Telephone Real Estate Equity Trust (TREET) Located in New York, New York

[Prohibited Transcation Exemption 86–117; Exemption Application No. D–6671]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1 (A) through (D) of the Code, shall not apply, effective May 20, 1986, to the loan of $58.5 million by Equitable Life Assurance Society of the United States to TREET, provided that the terms of the transaction were no less favorable to TREET than those obtainable were no less favorable to TREET than those obtainable in an arm's-length transaction with an unrelated party at the time the transaction was consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 11, 1986 at 51 FR 25272.

Effective Date: This exemption is effective May 20, 1986.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemtion is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 9th day of September 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86–20644 Filed 9–11–86; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

RECORDFACTS, New Publication Availability

AGENCY: National Archives and Records Administration.

ACTION: Notice of availability of a new publication by the National Archives.

SUMMARY: The National Archives and Records Administration (NARA) is printing a publication titled "RECORDFACTS" which is meant to be used by all agencies to acquaint employees with recordkeeping responsibilities. The pamphlet is primarily intended for use during orientation of new employees, but is also suitable for employees already on board. Sample copies are available by calling the number shown below.

Agencies can ride the NARA requisition at GPO to receive copies at cost price. Agencies must submit their Standard Form 1, by October 15, 1986, to: Superintendent of Departmental Account Representative Division (CSD), Government Printing Office, Washington, DC 20401. NARA Requisition Number 600353, and GPO Jacket Number 161–436 must be included on the Standard Form 1.

FOR FURTHER INFORMATION CONTACT: Katherine Coram, National Archives (NIA), Washington, DC 20408 (202) 724–1474.

Dated: September 8, 1986.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 86–20594 Filed 9–11–86; 8:45 am]

BILLING CODE 7515–01–M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following application for an export license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of applications for licenses to export production or

utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The information concerning this application follows.

NRC EXPORT APPLICATIONS

Name of applicant, date of application, date received, application No.	Material Type	Material in Kilograms		End Use	Country of Destination
		Total Element	Total Isotope		
Aldrich Chemical Co. Inc., 08-29-86, 08-29-86, XMATO316, Amend.01.	Deuterium Oxide	add'l 10,000	add'l 2,000	Upgrading purposes only and R/T to US.	Canada.

Dated this 5th day of September 1986, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 86-20639 Filed 9-11-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of amendments to Facility Operating Licenses DPR-53 and DPR-69 issued to the Baltimore Gas and Electric Company (the licensee) for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, located in Calvert County, Maryland. The proposed amendments, submitted via the application dated April 14, 1986, would change Technical Specification 3/4.8.1, "A.C. Sources," to permit continued power operation of up to 72 hours with one inoperable diesel fuel oil storage tank.

Need for Environmental Impact Statement

The Commission has found that the proposed amendments constitute no additional significant environmental impact and as such, the Commission has determined that an environmental impact statement is not necessitated by the proposed amendments and shall not be prepared.

Environmental Assessment

Identification of the Proposed Amendments

Currently, both diesel fuel oil storage tanks must be operable or restored to operability within 2 hours to permit continued power operations. The licensee has proposed changes to Technical Specification 3/4.8.1, "A.C. Sources," to permit continued power operations of up to 72 hours with one diesel fuel oil storage tank inoperable. This extension of the permissible inoperability period to 72 hours would not be applicable to the inoperability of #21 diesel fuel oil storage tank, the bunkered storage tank, from April 1 to September 30 due to the high probability of tornado occurrences during this period. Only 2 hours of continued power operation would be permitted in this case.

In addition, the licensee must provide on site an alternate 8,000 gallon diesel fuel oil supply for continued power operations whenever a diesel fuel oil storage tank is inoperable.

Need for the Proposed Action

During normal power operations, the need may exist to conduct normal maintenance or minor repair activities on a diesel fuel oil storage tank and its associated piping systems. This maintenance or repairs may render it temporarily inoperable. Under present constraints, these activities must be completed within 2 hours or both units must be shut down to Hot Standby conditions within the next 6 hours. The issuance of these proposed amendments would allow for the performance of minor repairs and normal maintenance activities on a diesel fuel oil storage tank without requiring a dual-unit reactor shutdown.

Alternatives to the Proposed Action

Since we have concluded that the environmental effects of the proposed action are negligible, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested action. This would not significantly reduce the environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered by the Commission in the "Final Environmental Statement Relating to Operation of Calvert Cliffs Nuclear Power Plant, Units 1 and 2" dated April 1973.

Environmental Impact of the Proposed Amendments

The primary radiological environmental impact that could occur from allowing a 72-hour period of power operation with one diesel fuel oil storage tank inoperable would result from a loss of all A.C. power accident (station blackout). The mechanism of this station blackout would be a seismic event or a severe meteorological event (tornado) that caused a localized failure of all three offsite A.C. power supplies concurrently with the loss of the remaining operable diesel fuel oil storage tank.

The staff has reviewed the radiological consequences of this station blackout accident. The probability of these localized seismically or meteorologically induced station blackout events was found to be negligible when further mitigated by the following requisites: (1) The maintenance of an 8,000 gallon alternate diesel fuel supply on-site when a diesel fuel oil storage tank is inoperable and, (2) restriction of the period that the bunkered diesel fuel oil storage tank may be inoperable to those months in which tornadoes and hurricanes are unlikely to occur.

The primary non-radiological environmental impact of this proposal would result as the consequence of an oil spill or oil fire emanating from the alternate diesel fuel oil storage tank which is provided on-site when a diesel fuel oil storage tank is inoperable. The potential for an oil spill contaminating the Cheasapeake Bay waters would be minimized through use of the licensee's oil spill prevention countermeasures plan and through placing the alternate fuel tank in a depressed and/or bunkered area that does not drain towards the plant, the bay or into any water runoff areas or storm drains. Rather the site of the alternate fuel tank shall be located in an area which drains to the yard oil interceptor. The yard oil interceptor has more than sufficient volume to contain a spill of 8,000 gallons of diesel fuel oil.

Oil fires are mitigated by the low flammability of the diesel fuel oil combined with the presence of a trained site fire fighting brigade that could rapidly respond to any developing diesel fuel oil fire problem.

Therefore, with regard to diesel fuel oil spills and fires, there is no significant

increase in the probability of non-radiological environmental events.

The Commission has determined that these proposed amendments pose no significant environmental impact.

Agencies and Persons Consulted

U.S. Environmental Protection Agency
Dr. Sandy Williams and Mr. Jay Radstein
State of Maryland, Department of Natural Resources, Oil Control Division
Mr. Edwin Weber

Finding of No Significant Impact

Based on the aforementioned environmental assessment, the Commission has determined that the proposed amendments will not have a significant effect on the quality of the human environment.

for further details with respect to this action, see (1) the application for license amendments dated April 14, 1986 and (2) the licensee's supplemental letter dated July 24, 1986, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland, this 2nd day of September 1986.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, PWR Project Directorate #8, Division of PWR Licensing-B.

[FR Doc. 86-20640 Filed 9-11-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Maine Yankee Atomic Power Company (the licensee) to withdraw its May 5, 1986 application for proposed amendment to Facility Operating License No. DPR-36 for Maine Yankee Atomic Power Station, located in Lincoln County, Maine. The proposed amendment would have changed the Turbine Valve test frequencies from monthly when the turbine is operating to every 6 weeks when the turbine is operating. The Commission issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 2, 1986 (51 FR 24257). By letter dated August 28, 1986, the licensee withdrew its application for the proposed amendment.

For further details with respect to this action, see (1) the application for amendment dated May 5, 1986; (2) the licensee's letter dated August 28, 1986; and (3) the Commission's letter granting the withdrawal dated September 8, 1986. All of the above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the Wiscassett Public Library Association, High Street, Wiscassett, Maine 04578.

Dated at Bethesda, Maryland this 8th day of September 1986.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, PWR Project Directorate #8, Division of PWR Licensing-B.

[FR Doc. 86-20641 Filed 9-11-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549.

Revision

Rule 17a-3

No. 270-26

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for OMB approval a revision of a currently approved collection under Rule 17a-3 (17 CFR 240.17a-3) under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) which requires the maintenance of certain books and records by registered brokers or dealers. The potential by affected persons are approximately 6000 registered broker-dealers per year.

Submit comments to OMB Desk Officer: Ms. Sheri Fox, (202) 395-3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, DC 20503.

Shirley E. Hollis

Assistant Secretary.

September 4, 1986.

[FR Doc. 86-20561 Filed 9-11-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23600; File No. SR-BSE-85-11]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Amendments to BSE Chapter II, Section 15 Concerning Execution of Good-Till-Cancelled Orders

The Boston Stock Exchange, Inc. ("BSE") submitted on December 19, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend Chapter II, Section 15 of the BSE Rules to provide enhanced standardized procedures for the confirmation of Good-Till-Cancelled ("GTC") orders. The proposal provides that the entering broker must confirm or renew existing GTC orders with the specialist on the last business day of each month. Previously, the rule required that the confirmation or renewal procedure occur on the last business day of the "confirmation period," the time of which was determined by the Exchange. The proposal has no effect on the present provision in the BSE Rules that provides that GTC orders not renewed or confirmed nevertheless are to be executed according to their terms.[1] It is anticipated that these modifications will improve record-keeping by providing uniformity in GTC confirmation procedures, and therefore reduce the risk that member organizations will have to accept an executed transaction on a GTC order that they did not know existed.

Notice of the proposed rule change, together with the terms of substance of the proposal, was given by the issuance of a Commission release (Securities Exchange Act Release No. 22986, March 7, 1986) and by publication in the **Federal Register** (51 FR 9560, March 19, 1986). No comments were received regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the

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[1] The proposal, however, changes the language, if not the content, of that provision. Originally, the provision read: "GTC orders not so confirmed or renewed shall be retained on the specialist's book. However, if executed according to their terms, these orders must be accepted by the entering firm." Pursuant to the rule change proposal and a subsequent amendment, the proposed provision now reads: "GTC orders not so confirmed or renewed nevertheless shall be retained on the specialist's book and executed according to their terms." *See* File No. SR-BSE-85-11; Letter from Joseph P. Carmichael, Vice President, BSE, to Michael Cavalier, Branch Chief, Division of Market Regulation, SEC, dated July 18, 1986.

rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rule and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 5, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-20564 Filed 9-11-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23599; File No. SR-NYSE-86-18]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Amendments to Rule 134 of the NYSE Rules To Provide Procedures for Resolving "Questioned Trades" in Listed Bonds, Except United States Government Bonds

The New York Stock Exchange, Inc. ("NYSE") submitted on June 20, 1986, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend Rule 134 of the NYSE Rules to provide a procedure forresolving "Questioned Trades" ("QT") (uncompared trades) by members who execute orders on the floor of the Exchange in all listed bonds except United States Government bonds.[1]

In its present form, Rule 134 does not distinguish between procedures for stocks and bonds, but has come to apply to listed stock only. Further, the Rule 134 procedure is not suitable for bonds due to certain operational procedures unique to bond trading.[2] The Exchange, therefore, has developed a bond comparison procedure different from the Rule 134 stock procedures, and is now proposing to adopt it as a formal rule.[3] The proposed rule provides for the timely resolution of uncompared trades by requiring them to be closed out if they cannot be resolved by the fifth business day of the trade date.

Notice of the proposed rule change, together with the terms of substance of the proposal, was given by the issuance of a Commission release (Securities Exchange Act Release No. 23433, July 14, 1986), and by publication in the **Federal Register** (51 FR 26325, July 22, 1986). No comments were received regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 5, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-20565 Filed 9-11-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15290(812-6391)]

PVNGS Funding Corp., Inc.; Application Exempting Finance Subsidiary From All Provisions of the Act

Notice is hereby given that PVNGS Funding Corp., Inc. ("Applicant"), 1209 Orange Street, Wilmington, Delaware 19081, filed an application on May 22, 1986, and an amendment thereto on August 26, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "act"), exempting Applicant from all provision of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for the text of its relevant provisions.

Applicant has been created to participate as lender in one or more leveraged lease transactions ("Leases"), in which Arizona Public Service Company, an Arizona corporation is the lessee (the "Company" or "Lessee"). The Company is engaged principally in providing electricity in the State of Arizona and is subject to the reporting requirements of the Securities Exchange Act of 1934.

Applicant expects to have all of its shares of common stock owned by The Corporation Trust Company or a company controlled by it. Applicant represents that there has been, and undertakes that in the future there will be, no public offering of Applicant's common stock or of any other equity security. Applicant also represents that there is, and in the future will be, no class of equity securities of Applicant other than its common stock.

Applicant states that its sole purpose is to assist the Company in the financing and refinancing, in whole or in part, of the Company's 29.1% undivided ownership interest in the Palo Verde Nuclear Generating Station ("PVNGS"). PVNGS located near Phoenix, Arizona, consists primarily of three 1,270 megawatt electric generating units, each containing a pressurized water nuclear steam supply system and, certain related common facilities. Ownership of PVNGS is governed by the Arizona Nuclear Power Project Participating Agreement, dated August 23, 1973, as amended, and pursuant thereto, the Company is authorized to act as agent for the owners of PVNGS, and has responsibility and control over construction, operation and maintenance of PVNGS. Applicant states that it is subject to regulation by The Arizona Corporation Commission and the Federal Energy Regulatory Commission.

Applicant states that its participation as lender in the Leases will be limited to making loans pursuant to a Loan and Security Agreement or a Trust Indenture and Security Agreement (in either case, a "Lease Indenture") to certain lessors ("Lessors") under such Leases which will be payable primarily from rentals and other payments by the Lessee. Applicant states that the Lessors under each lease will be The First National Bank of Boston acting as trustee for one

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[1] Exchange trades in United States Government bonds have not been included within the scope of the propsoed amendment to Rule 134 because all trades in these bonds are compared and settled through a separate central clearing agency.

[2] Approximately 65% of all listed bonds on the Exchange are traded through the Automated Bonds Systems ("ABS"). A computerized order processing system, the ABS captures trade details automatically, and therefore generates no Questioned Trades. The remaining 15% of listed bonds are too active to be traded on the ABS, and therefore are traded through the auction market process. This process includes the manual reporting of trade details, which occasionally results in uncompared trades, which must be resolved through a Questioned Trade procedure.

[3] The basic structure for the resolution of questioned trades for bonds is not dissimilar to the existing structure for the resolution of stock trades, with the exception of the inclusion of a provision for two-dollar brokers on the stock side. Both processes commence with attempts to resolve the questioned trade through telephone inquiries and appropriate back office procedures. If the trade is still unresolved by the second business day, a QT form is prepared by the firm with the open trade. In both processes, the QT form is circulated to the executing broker, the contra broker, and finally the fim for whom the contra broker acted, in an attempt to resolve the trade. Both processes provide that if the trade is still unresolved, it shall be closed out under the provisions of NYSE Rule. 282.

or more beneficiaries pursuant to a trust agreement formed exclusively for the purpose of the lease financing. Applicant states that a portion of the purchase price of the property owned by the Lessors and leased to the Lessee ("Leased Property") will be paid by the beneficiaries of the grantor trust that acts as Lessor and that amount will constitute their equity investment in the Leased Property. The loans by Applicant will be without recourse to the general credit of the Lessors or their respective beneficiaries, and will be evidenced by non-recourse obligations of the respective Lessors ("Lessor Notes"). Applicant states that under each Lease the Lessee will be obligated to make rental payments sufficient to pay principal of and premiums, if any, and interest on the Lessor Notes issued in connection therewith. Applicant further states that such obligations of the Lessee will be absolute and unconditional, without right of counterclaim, setoff, deduction or defense. Applicant expects to enter into an agreement (the "Commitment Agreement") with the Company pursuant to which Applicant will agree to make loans to one or more Lessors designated by the Company from time to time.

Applicant intends to acquire the funds necessary for the purchase of the Lessor Notes through the issuance of its debt securities in one or more series with differing maturities ("Lease Obligation Bonds"), which will be secured on a parity basis by a first lien on, and security interest in, all of the assets of the Applicant, consisting primarily of the Lessor Notes so acquired and previously acquired and which may include a lien or security interest in the Leased Property. Lessor Notes held by Applicant may only consist of Lessor Notes issued in connection with any Leases to which the Company is a party, as lessee, in conjunction with its ownership interest in PVNGS.

Applicant states that the Lease Obligation Bonds will be issued under a common indenture and a separate supplemental indenture for each series other than the initial series (collectively, the Collateral Trust Indenture), which will establish the terms of the Lease Obligation Bonds of that series. It is expected that the trustee under the Collateral Trust Indenture ("Trustee") will be a bank or trust company not affiliated with any of the Lessors and will not be a trustee under any indenture of the Company or its subsidiaries. At each Lease closing, the Lessor Notes will be pledged and assigned directly to the Trustee. Applicant expects that the Lessor Notes will be issued under circumstances making such transactions exempt from the registration requirements under the Securities Act of 1933 (the "Securities Act").

Applicant states that the Lease Indentures will set forth the terms and conditions under which the Lessor Notes will be issued. Applicant represents that each Lease Indenture will require the Lessor to grant to the Applicant (if the Lease Indenture is a Loan and Security Agreement) or a trustee under the Lease Indenture ("Lease Indenture Trustee") (if the Lease Indenture is a Trustee Indenture and Security Agreement), an assignment of rents, including basic rentals and certain other payments, to be made by the Lessee under the applicable Lease. The Lease Indenture Trustee or the Applicant may have a lien on or security interest in, the Leased Property. In the event no such lien or security interest is created, the Lessor will covenant that, so long as any Lessor Note is outstanding, it will not incur any other debt constituting Lessor Notes or otherwise in connection with the Leased Property, and except for certain limited permitted liens, it will not create any lien or security interest in such property. Applicant states that these two covenants combined insure that, if a Lessor defaults on a Lessor Note, the Leased Property will be available to satisfy the claims of the Trustee, acting for the benefit of holders of Lease Obligation Bonds. Applicant states that it will be precluded from purchasing any Lessor Note unless (i) such Lessor Note is issued in respect of Leased Property having a fair market sales value at the time of purchase at least equal to 110% of the original principal amount of such Lessor Note or, (ii) such Lessor Note and all other Lessor Notes (if any) issued by the relevant Lessor are issued in respect of Leased Property having an aggregate fair market value (measured, in each case, as of the date such Leased Property was first financed under the Lease) at least equal to 110% of the original principal amount of such Lessor Note and such other Lessor Notes. Further, Applicant states that each Lease Indenture will include as events of default, without limitation: (a) Payment defaults on the Lessor Notes issued thereunder and (b) events of default under the related Lease.

According to the application, the various series of Lease Obligation Bonds will have terms which may differ as to interest rates, sinking fund obligations of Applicant, the right of Applicant to redeem such Bonds and other matters. The interest rates, maturities and principal amounts of of each series of Lease Obligation Bonds will be established based on prevailing market conditions, thereby giving Applicant the flexibility to take advantage of changing market conditions. If the maturity dates and cash flow of the Lessor Notes exceed the cash requirements of Applicant's obligations under the Lease Obligation Bonds, the resulting funds ("Temporary Funds") will be invested by Applicant in certain investments described in the application ("Permitted Investments"), in each case maturing at such time as necessary to pay Applicant's obligations under the Lease Obligation Bonds. Applicant states that Lease Obligation Bonds, which may include commercial paper and intermediate-term and long-term obligations, will be issued in the private or public markets in the United States, and in offerings outside the United States under circumstances reasonably designed to assure that such Lease Obligation Bonds are not offered or sold to citizens and/or residents of the United States.

Applicant proposes that the initial issuance of Lease Obligation Bonds will be through an underwritten public offering or private placement of one or more series having an aggregate principal amount of approximately $1.1 billion (assuming a total sales price for the Company's 29.1% interest in PVNGS Unit 2 and the common facilities of $1.3 billion). Applicant represents that, although the Company will not be the actual issuer of the Lease Obligation Bonds, it will be considered the "issuer" thereof for purposes of the Securities Act. Any registration statement filed under the Securities Act relating to the Lease Obligation Bonds will name the Company as the sole registrant.

Applicant represents that it will assign and pledge to the Trustee under the Collateral Trust Indenture, as security for the payment of the principal of and premium, if any, and interest on all Lease Obligation Bonds, the Lessor Notes and other assets held by the Applicant, including any lien or security interest it may have in the Leased Property. Each such Lessor Note will in turn be secured by the assigned rentals and other assigned payments under such Lease and may be secured by a lien or security interest in the Leased Property. Applicant states that the Trustee will give immediate notice to the Lease Obligation Bondholders of any rights granted by the Collateral Trust Indenture to it, which will include the right to exercise voting powers in respect of the Lessor Notes, to give any consents or waivers or the exercise of any rights and remedies thereunder. The

Collateral Trust Indenture will authorize the Lease Obligation Bondholders to direct by notice to the Trustee within a specific period of time, that it take any action or cast any vote in its capacity as a holder of the Lessor Notes. As a result of this pass-through voting mechanism, the rights and remedies of Lessor Noteholders will be exercisable directly by the Lease Obligation Bondholders through their fiduciary, the Trustee. The principal amount of Lessor Notes directing any action or being voted for or against any proposal will be the principal amount of the Lease Obligation Bondholders taking the corresponding position. To the extent the Trustee does receive instruction, it will take such action with respect to the Lessor Notes as a prudent man would in the care of his own property.

Applicant states that in the event the Company defaults in the payment of rent or otherwise under any Lease Indenture, the Applicant or the Lease Indenture Trustee, as the case may be, would have the right to exercise, subject to the provisions of the Lease Indenture, all of the rights and remedies against the Company provided in the related Lease. The exercise of such rights and remedies would be at the direction of the Lease Obligation Bondholders through the Trustee's instructions to the Lease Indenture Trustee or as pledgee of Applicant's interest in such Lease Indenture. Applicant states that among the Trustee's rights and remedies, as holder of Lessor Notes included under the Lease Indenture, is the right to demand, after a specified grace period, that the Company pay all unpaid basic rent plus a stipulated amount which, in all cases, will be sufficient to pay the principal of, preimum, if any, and interest on the related Lessor Notes and that such amounts will be paid directly to the Trustee for distribution to the Lease Obligation Bondholders. Applicant thus asserts that the Lease Obligation Bondholders will have access under the Collateral Trust Indenture and the Lease Indentures to the credit of the Company. Moreover, Applicant asserts that the Lease Obligation Bondholders will be entitled to realize on the security afforded by the assignment of rentals in an amount up to the aggregate unpaid amount of the relevant Lessor Notes secured by such assignments of rentals. The combination of Lessor Notes and the obligation of the Company under the Leases, Applicant asserts, grants the Lease Obligation Bondholders access to the general credit of the Company and is thus the equivalent of a general unsecured obligation of the Company without limitation as to source of payment. The Lessor Notes and the Lease Idenure will provide that, upon the occurrence of certain casualty events, and certain other events which require the collapsing of the lease transaction, either (i) the Company shall assume the obligations represented by the Lessor Notes or (ii) the Company shall purchase from the beneficiaries of the trusts issuing the Lessor Notes the beneficial interest in such trusts and the Lessors will grant a lien and security interest in the Leased Property to secure the Lessor Notes. The assumption or purchase described in the preceding sentence will be in partial satisfaction of the Company's obligation to make payments required of it upon early termination of the Leases in consequence of any such event. Applicant asserts that in circumstances where the Lessor Notes are not secured by the Leased Property, there will be no need to prepay the Lessor Notes in the event of a casualty. The Company's right to assume the Lessor Notes in certain circumstances assures that it will not be faced with an accelerated obligation to prepay the Lessor Notes under the provisions of the Leases.

Applicant states that the issue, sale and delivery of a particular series of Lease Obligation Bonds may be effected, at maximum, two months prior to the date for the consummation of the Leases ("Lease Closing Date") applicable to the Leased Property financed with the Lease Obligation Bonds proceeds. Pending the Lease Closing Date, the net proceeds of the Lease Obligation Bonds will be held by the Trustee, pursuant to the terms of the Collateral Trust Indenture. The Trustee may invest proceeds in Permitted Investments, which include direct obligations of the United States or obligations fully guaranteed by the United States, certificates of deposit issued by or bankers' acceptances of, or time deposits with, banks organized under United States law and limited to amounts of less than $15 million in principal amount at any one time from any one bank, or commercial paper of companies doing business in the United States in amounts less than $15 million at any one time from any one company. The commercial paper will also have the highest rating by a nationally recognized rating organization. Permitted Investments, Applicant states, also include repurchase agreements, fully collateralized by the Permitted Investments, pursuant to which a United States bank, trust company or national banking association having a net worth of at least $200 million is obligated to repurchased the obligation not later than 90 days after its purchase.

Except to the extent payable from the proceeds of refunding the Lease Obligation Bonds, proceeds of Temporary Investments or the proceeds of the initial issuance of the Lease Obligation Bonds, where the relevant Lease Closing Date does not occur simultaneously, due to the nonrecourse nature of Lessor Notes and the limited scope of Applicant's activities, payment of the principal of, premium, if any, and interest on the Lease Obligation Bonds will be made exclusively from amounts paid by the Lessee under the Leases.

Applicant asserts that its proposed activities are approrpiate in the public interest because the proposed issuance of Lease Obligation Bonds would provide a convenient mechanism for the Company to obtain access to segments of the debt capital market other than the institutional private placement market. Applicant further asserts that an exemption would be consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act because, among other things, investors will be protected under the proposed arrangements to the same extent as under equivalent arrangements where the Act is inapplicable.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 30, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange of Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Dated: September 5, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-20567 Filed 9-11-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 15289; (812-6435)]

The Scandinavia Fund, Inc.; Application to Permit Purchases From Affiliated Underwriting Syndicates

September 5, 1986.

Notice is hereby given that The Scandinavia Fund, Inc. ("Applicant"), c/o Stephen R. Rusmisel, Esq., Winthrop, Stimson, Putnam & Roberts, 40 Wall Street, New York, NY 10005, registered under the Investment Company Act of 1940 ("Act") as a diversified, closed-end management investment company, filed an application on July 16, 1986, requesting an order pursuant to section 10(f) of the Act, granting an exemption, to the extent necessary, to permit Applicant to purchase securities in public offerings in Sweden in which affiliates of its investment adviser participate as principal underwriters. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act and rules thereunder for the text of the relevant provisions.

Applicant states its investment objective is long-term capital appreciation through investment primarily in "Scandinavian equity securities", including (i) securities principally traded on Scandinavian stock exchanges, (ii) securities of companies that derive 50 percent or more of their total revenue from either goods or services produced in Scandinavia or sales made in Scandinavia or (iii) securities of companies organized under the laws of a Scandinavian country which are publicly traded in recognized securities markets outside of Scandinavia. Applicant further states that at least 65 percent of its total assets will normally be invested in publicly traded Scandinavian equity securities. According to the application, the remainder of Applicant's assets will be invested in (i) debt securities of Scandinavian companies rated A or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation, or which, in the judgment of Applicant's investment adviser, are of equivalent quality, (ii) securities issued or guaranteed by a Scandinavian government, its agencies or instrumentalities, and (iii) for cash management purposes, certain short-term instruments.

Applicant states that it has entered into an investment advisory agreement with Skandifond Fiduciary AB ("Skandifond") under which, subject to the supervision of Applicant's Board of Directors, Skandifond will manage Applicant's investments and investment decisions, including the selection of, and placement of orders with, brokers, dealers and banks to execute portfolio transactions on behalf of Applicant. According to the application, Skandifond is organized under the laws of Sweden, and is an indirect, wholly-owned subsidiary of Skandinaviska Enskilda Banken ("S-E-Banken"). Applicant states that S-E-Banken is the largest commercial bank in Scandinavia based on total assets, and that its affiliates participate as principal underwriters in a substantial number of underwriting syndicates for public offerings made in Sweden. Applicant represents that it has been advised that during the year ended December 31, 1985, S-E-Banken and its affiliates were principal underwriters for approximately one-third of the total amount of new issues of equity offerings in Sweden, representing SEK 1.3 billion of SEK 1.7 billion raised in such offerings. Applicant represents that because of the affiliations described above, Skandifond is an "affiliated person" of S-E-Banken within the meaning of section 2(a)(3) of the Act.

Applicant states that under section 10(f) of the Act, it may not purchase securities from any underwriting syndicate in which S-E-Banken and its affiliates participate as principal underwriter because S-E-Banken is an affiliated person of Applicant's investment adviser, Skandifond. Applicant further states that it cannot satisfy all of the conditions of Rule 10f-3 under the Act which would permit the purchase of securities in circumstances otherwise prohibited by section 10(f) of the Act. One such condition is that the securities to be purchased are part of an issue registered under the Securities Act of 1933 ("Securities Act"). Applicant states that the securities offerings in which it will participate are not required to be, and will not be, registered under the Securities Act. Another condition of Rule 10f-3 is that the securities to be purchased be offered pursuant to a "firm commitment" underwriting agreement. According to the application, although in practice, underwriting in Sweden are not undertaken unless all of the offered securities are placed, there is no practice by which the underwriters bind themselves to purchase all of the securities as in firm commitment underwritings in the United States. Applicant intends to invest in equity securities of Swedish companies, which securities typically trade immediately after the initial public offering at substantial premiums over the initial offering price. Applicant states that because it is unable to satisfy all of the conditions of Rule 10f-3 it will be precluded from purchasing Swedish equity securities at the lower initial offering price in offerings where S-E Banken or its affiliates participate as principal underwriters.

Applicant represents that it has reviewed all of the conditions set forth in Rule 10f-3 and that, with the exception of the registration requirement and the firm commitment underwriting requirement contained in subsections (a)(1) and (a)(3) of Rule 10f-3, respectively, it will be able to satisfy each of the other conditions of said Rule. Consequently, in order to be able to participate in Swedish public offerings on a broad basis, Applicant requests an exemption from Section 10(f) of the Act, subject to the condition that (i) all securities purchased in reliance on the requested order be subject to the disclosure provisions of the Swedish Companies Act of 1975 ("Companies Act") and (ii) with the exception of subsections (a)(1) and (a)(3) of Rule 10f-3, Applicant will satisfy all other conditions of Rule 10f-3 with respect to each purchase made pursuant to the requested order.

In support of the requested relief, Applicant asserts that the disclosure required by the Companies Act is adequate disclosure and is the "substantial equivalent" of the disclosure requirements of the Securities Act for purposes of Rule 10f-3(a)(1). Applicant also asserts that the condition in Rule 10f-3(a)(3) requiring that the securities be offered pursuant to a firm commitment underwriting is substantially satisfied by the practical realities of the Swedish securities markets. Applicant states that a firm commitment underwriting ensures that all securities are sold. Applicant also states, however, that because Swedish securities offerings are typically oversubscribed, there is no practical necessity for firm commitment underwritings in Sweden. Applicant represents that it is aware of only one instance where a public offering of securities in Sweden was not oversubscribed. Further, Applicant and Skandifond believe that public offerings of securities in Sweden will continue to be oversubscribed in the future.

Applicant submits that, given the significant role of S-E-Banken in underwritten public offerings in Sweden, Applicant's shareholders might be prejudiced in the absence of the requested relief because Applicant will be precluded from purchasing, at the lower initial offering price, any

securities for which S-E-Banken or any of its affiliates participate as a principal underwriter. In this respect, Applicant represents that Swedish common stocks typically trade at a substantial premium (average 35.5% for the two year period ended December 31, 1985) over the initial offering price. Applicant asserts that the granting of this requested exemptive order is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any person wishing to request a hearing on the application may, not later than September 30, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest and the specific issues, if any, of fact or law that are disputed to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-20566 Filed 9-11-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15288 (812-6378)]

The Alger Fund; Application for an Order Permitting a Contingent Deferred Sales Charge

September 5, 1986.

Notice is hereby given that The Alger Fund ("Applicant"), 75 Maiden Lane, New York, NY 10038, filed an application on May 8, 1986, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") exempting Applicant from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit Applicant to assess (waiver and vary) a contingent deferred sales charge on redemptions of its initial and future series of shares, and of any other registered investment company organized in the future that employs a subsidiary of Alger Associates, Inc. ("Associates") as investment adviser or principal underwriter ("Funds"). Applicant represents that all the Funds will be operated in a manner substantially similar to the manner described herein with respect to the Applicant. All interested persons are referred to the application of file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable statutory provisions.

According to the Application, Applicant is an open-end, diversified, management investment company that was organized as a business trust under the laws of the Commonwealth of Massachusetts on March 20, 1986. Applicant states that it is a series company that is currently composed of eight series—the Alger Money Market Portfolio, the Alger Tax-Exempt Money Portfolio, (collectively, the "Non-Charge Portfolios"), the Alger Fixed Income Portfolio, the Alger Government Securities Portfolio, the Alger High Yield Portfolio, the Alger Income and Growth Portfolio, the Alger Small Capitalization Portfolio and the Alger Growth Portfolio (collectively, the "Charge Portfolios"; the Charge Portfolios and the Non-Charge Portfolios collectively referred to as the "Portfolios"). Applicant further states that shares of each of the Portfolios will be distributed by Fred Alger & Company, Incorporated ("Alger Inc."), and that Fred Alger Management, Inc. ("Alger Management") will serve as the investment manager to each of the Portfolios. Applicant further represents that Alger Management is a wholly owned subsidiary of Alger Inc., which in turn is a wholly owned subsidiary of Associates.

According to the application, Applicant proposes to (1) offer shares of the Charge Portfolios subject to a contingent deferred sales charge ("Charge") and (2) institute a plan of distribution in accordance with Rule 12b-1 under the Act ("Plan"). Under Applicant's proposal, shares of each of the Portfolios would be offered and sold without the deduction of a sales load at the time of the purchase. Applicant represents that certain redemptions of shares of the Portfolios, however, would be subject to the Charge. Applicant states that the proceeds of the Charge would be paid to Alger Inc. and would be used by Alger Inc. to defray costs incurred in connection with the sale of applicant's shares.

Applicant represents that the Charge would only be imposed on a redemption of shares of the Charge Portfolios that cause the current value of the shares of such Charge Portfolio held by a shareholder to fall below the total dollar amount of payments for the purchase of shares of the Portfolio made by the shareholder during the preceding six years. Applicant states that no charge would be imposed on the redemption of shares purchased and retained in the Non-Charge Portfolios, however, the Charge would be imposed on redemptions of shares of the Non-Charge Portfolios that are acquired in exchange for shares of the Charge Portfolios. Applicant further states that no Charge would be imposed to the extent that the net asset value of the shares redeemed by a shareholder does not exceed (1) the current net asset value of shares of the Portfolio purchased more than six years prior to the redemption ("Old Shares Value"), plus (2) the current net asset value of shares of the Portfolio purchased through reinvestment of dividends or capital gains distributions ("Reinvestment Shares Value"), plus (3) increases in the net asset value of the shares of the Portfolio above purchase payments made with respect to the Portfolio during the Preceding six years ("Appreciation Value").

Applicant states that in effecting a particular redemption request, Applicant would first redeem an amount that represents Appreciation Value. If the amount of the requested redemption exceeded Appreciation Value, Applicant would next redeem an amount that represents Reinvestment Shares Value. If the amount of the redemption exceeded the sum of Appreciation Value and Reinvestment Shares Value, Applicant would then redeem an amount that represents Old Shares Value. The amount by which a redemption exceeds the total of Appreciation Value, Reinvestment Shares Value and Old Shares Value would be subject to the Charge. Applicant represents that the amount of the Charge imposed would depend on the number of years that the shareholder has held the shares from which an amount is being redeemed. Such charge would be 5% in the first year, 4% in the second year, 3% in the third year, 2% in the fourth and fifth years, 1% in the sixth year and no charge thereafter. Applicant states that the amount of the Charge (if any) would be calculated by first determining the date on which the purchase that is the source of the redemption was made, and then applying the appropriate percentage to the amount of the redemption subject to the Charge.

Applicant states that it will assess no Charge on exchanges of shares between Portfolios. In addition, as mentioned above, no Charge would be imposed on the redemption of shares purchased and retained in the Non-Charge Portfolios.

However, the Charge would be imposed on redemptions of shares of the Non-Charge Portfolios that are acquired in exchange for shares of the Charge Portfolios. An exchange of shares between Portfolios would not affect the running of the six year holding period.

Applicant further proposes to waive the Charge under circumstances enumerated in the application. Applicant also proposes to institute a one-time only reinvestment privilege under which a shareholder who redeems shares subject to the Charge and reinvests the proceeds of the redemption within 30 days after the redemption would receive a credit against the amount of the Charge paid. Under the proposed reinvestment privilege, the percentage of the Charge credited to the shareholder would be the same as the percentage of the redemption proceeds that are reinvested. Applicant intends, when providing for waivers from or credits against the Charge, to meet all of the conditions set forth in Rule 22d–1 promulgated by the Commission under Section 22(d) of the Act.

In addition, Applicant proposes to finance its distribution expenses pursuant to a Plan adopted to Rule 12b–1 under the Act. Under the Plan, Applicant will pay a distribution fee to Alger Inc. for expenses incurred by Alger Inc. in connection with the offering of shares of the Charge Portfolios. Applicant states that Alger Inc.'s distribution fee will be accrued daily and paid monthly by Applicant with respect to the Charge Portfolios at the annual rate of one percent of the average daily net assets of each of those Charge Portfolios for which the Plan is in effect. Applicant further states that amounts of its shares redeemed, including amounts upon which the Charge is waived, will be removed from the base upon which the distribution fee under the Plan is calculated.

Applicant submits that its imposition of the Charge is consistent with the policies underlying the Act, and believes that the Charge is fair and in the best interests of Applicant's shareholders. Applicant further submits that neither its waiving the Charge nor its crediting amounts against the Charge will result in the occurrence of any of the abuses which section 22(d) of the Act is designed to prevent. Applicant also believes that the waiver from and credits against the Charge will not harm Applicant or its shareholders or unfairly discriminate among shareholders or purchasers.

Notice is further given that any interested person wishing to request a hearing on the Applicant may, not later than September 30, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-in-law, by certificate) shall be filed with the request. After said date, an order disposing of the Application will be issued, unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86–20562 Filed 9–11–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15286; 813–59]

PB–SB 1983 Investment Partnership I et al.; Application

Notice is hereby given that PB–SB 1983 Investment Partnership I, PB–SB 1983 Investment Partnership IA and PB–SB 1984 Investment Partnership I ("Realty Partnerships"), PB–SB Investments Inc. ("Investments"), the general partner of each Realty Partnership; PB–SB 1983 Investment Partnership III ("Venture Capital Partnership"), and its general partner, PB–SB Ventures Inc ("Ventures," and together with Investments, "General Partners"); and PB–SB 1983 Investment Partnership IV ("Equity Partnership"), and its general partner, Ventures; and PB–SB 1984 Investment Partnership V, PB–SB 1984 Investment Partnership V–A ("Municipal Bond Partnerships," and together with Realty Partnerships, Venture Capital Partnership and Equity Partnership, the "Partnerships," which, together with the General Partners, are referred to as "Applicants") and Ventures, the general partner of each Municipal Bond Partnership; One New York Plaza, New York, N.Y. 10004, filed an application on May 4, 1984, and amendments thereto on July 18, 1984, January 7, 1985 and July 15, 1986, pursuant to sections 6(b) and 6(e) of the Investment Company Act of 1940 ("Act"), requesting orders amending certain previous orders issued by the Commission, in the manner hereinafter described. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable provisions.

Applicants state that the Partnerships are limited partnerships formed under the laws of the State of New York, and registered under the Act as non-diversified, closed-end, management investment companies. The Partnerships have been sponsored by Salomon Inc. ("SI") and its affiliates ("Employers") in order to enable participating employees to pool their investment resources and make real estate, real estate-related, venture capital, equity, or municipal bond investments. Interests in the Partnerships are to be offered to a class of investors ("Eligible Persons"), who will form the body of limited partners ("Limited Partners") upon admission to any of the Partnerships. To be an Eligible Person, an employee of an Employer must qualify as an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, and have received an income of at least $150,000 in the calendar year preceding his acquisition of a Partnership interest. The Eligible Person category includes senior traders at Salomon Brothers, Inc. ("Salomon") and Phillipp Brothers, Inc. ("Phillipp Brothers"), both wholly-owned subsidiaries of SI; senior analysts and salesmen and senior members of the corporate finance, municipal finance and real estate finance departments of Salomon; executive officers of SI, Salomon and Phillipp Brothers; department heads of Phillipp Brothers and heads of the operations departments of Salomon; and non-management directors of SI. It is asserted that these persons have substantial knowledge of and experience in financial matters, including investments of the type represented by interests in the Partnerships.

On October 12, 1982, an order was issued (Investment Company Act Release No. 12726) exempting the Realty Partnerships, and any subsequent entities of this class which the Employers may sponsor in the future ("Subsequent Realty Partnerships") from sections 10(a), 10(b), 10(f), 14(a), 15(a), 16(a), 17(a), 17(d), 17(g), 18(i), 23(c), 30(a), 30(b), 30(d), and 32(a) of the Act, further providing that confidential treatment under section 45(a) would be accorded to filings with the Commission pursuant to section 30 of the Act made by the Realty Partnerships, or Subsequent Realty Partnerships. Similarly, on September 27, 1983, an order was issued (Investment Company Act Release No. 13539), exempting the

Venture Capital Partnership and any subsequent entities of this class which the Employers may sponsor in the future, ("Subsequent Venture Capital Partnerships") from sections 10(a), 10(b), 10(f), 15(a), 16(a), 17(a), 17(d), 17(e)(1), 17(g), 18(i), 19(b), 23(c), 30(a), 30(b), 30(d), and 32(a) of the Act, further providing for confidential treatment under section 45(a) of the Act to the extent filings under Section 30 of the Act should be made by the Venture Capital Partnerships, or Subsequent Venture Capital Partnerships.

Another order was issued (Investment Company Act Release No. 13693) on December 29, 1983, which, as amended on April 2, 1984 (Investment Company Act Release No. 13860), exempted the Equity Partnership, and any subsequent entities of this class which the Employers may sponsor in the future ("Subsequent Equity Partnerships"), from all provisions of the Act, other than sections 9, 17(a), 17(d) (subject to certain exceptions), 36(a), 36(b) and 38 through 53 of the Act, providing as well for confidential treatment under section 45(a), and for certain other relief. On August 24, 1984, an order was issued (Investment Company Act Release No. 14110) exempting the Municipal Bond Partnerships, and any subsequent entities of this class which the Employers may sponsor in the future ("Subsequent Municipal Bond Partnerships") from all provisions of the Act, other than sections 9, 17(a), 17(d), 36(a), 36(b), and 37 through 53 of the Act, providing as well for confidentiality for certain Partnership reports under section 45(a), and certain other relief.

Applicants seek to amend the orders pertaining to the Realty Partnerships and the Venture Capital Partnership, to conform them to the structure of the orders granted the Equity Partnership and the Municipal Bond Partnerships. As amended, the orders would exempt the Realty Partnerships (and Subsequent Realty Partnerships), and the Venture Capital Partnership (and Subsequent Venture Capital Partnerships) from all provisions of the Act other than sections 9, 17(a), 17(d), 36(a), 26(b), and 38 through 53 of the Act, to which they would remain subject except to the extent provided for by the previous orders, and in the case of sections 17(a) and 17(d), and Rule 17d–1 thereunder, as further provided by the amended orders herein requested. Additionally, with respect to section 17(a) of the Act, *all* Partnerships would attain expanded relief under the amended orders requested, for the specific purpose of enabling them to establish customer brokerage accounts with Salomon.

Finally, the Realty and Venture Capital Partnerships would be authorized to engage in joint transactions with certain "upstream affiliates," subject to conditions, without the necessity of obtaining Commission approval in advance of each such transaction.

I. Amended Relief To Apply Ony to the Realty and Venture Capital Partnerships

As a result of the requested amendments, the Realty Venture Capital Partnerships (and any Subsequent Realty or Venture Capital Partnerships) would be exempted from the registration provisions of Section 8 of the Act. It is asserted that registration statements would not provide investors with material information which they would not otherwise receive from the detailed periodic reports and other communications provided directly by the Realty and Venture Capital Partnerships in formats specifically designed for the real estate, or venture capital businesses. Applicants represent that the issuers in which the Realty and Venture Capital Partnerships are expected to invest typically will have been organized as limited partnerships and these entities will furnish the Partnerships with financial statements prepared on the basis of federal income tax reporting requirements, rather than ones prepared in accordance with Regulation S–X. Therefore, Applicants assert, the Realty and Venture Capital Partnerships' auditors cannot, as a practical matter, prepare the financial statements required by Regulation S–X. As a condition to the granting of the requested exemption from section 8 of the Act, the Realty and Venture Capital Partnerships agree to file with the Commission, within 120 days after the end of each annual reporting period, a copy of the annual report of each of the Realty and Venture Capital Partnerships, which are sent to Limited Partners. Further, each Realty and Venture Capital Partnership will file with the Commission reports on Form N–SAR and will make copies available to Limtied Partners. Applicants request that, with the exception of reports on Form N–SAR, partnership reports be afforded confidential treatment under section 45(a) of the Act. Confidentiality is requested on the grounds that since the Limited Partners will have all such information provided to them directly, maintaining the confidentiality of such information would be consistent with the protection of investors.

The requested amendments would modify the relief from section 17(d) and Rule 17d–1 accorded the Realty and Venture Capital Partnerships by the previous orders. The previous orders permit the Realty and Venture Capital Partnerships to make joint investments with their affiliates, provided that no director, officer, or employee of a General Partner, or an entity owned beneficially by any such person, or members of their immediate families (i.e., a "Special Affiliate"), is a participating investor (other than in the capacity of a Limited Partner of the applicable Realty or Venture Capital Partnership). Applicants represent that the Special Affiliates are substantial private investors (or entities they own), that have economic interests which accord with those of the Realty and Venture Capital Partnerships. Applicants note that the Special Affiliates are presently the only class of affiliated persons not permitted to participate in investments jointly with the Realty and Venture Capital Partnerships. Applicants submit that the criteria which determine the class of Eligible Persons will assure the Limited Partners will be capable of evaluating the efficacy of the procedures and restrictions upon which the additional relief from section 17(d) and Rule 17d–1 is being sought. It is further submitted that if the requested relief were denied, the Realty and Venture Capital Partnerships might be unable to participate in certain attractive investment opportunities because of their inability to commit funds to investments in the requisite amounts in a timely manner.

Applicants also request a modification of the previous order to make it clear that any Realty or Venture Capital Partnership may participate in joint investments with an affiliated person if the basis upon which it is participating is found to be *more* advantageous than that of the affiliated person. It is also requested that any exemptive relief from Section 17 granted the Realty and Venture Capital Partnerships under the previous orders be extended to affiliated persons of affiliated persons.

Applicants request that the exemptions granted by the previous orders from section 17(d), and Rule 17d–1 thereunder, respecting concurrent investments by the Realty and Venture Capital Partnerships, be amended in accordance with the following:

Each Realty and Venture Capital Partnership undertakes not to make any joint investment in which a Special Affiliate of such Partnership, is a participant, or plans concurrently or otherwise, directly or indirectly, to become a participant (other than through an investment in or a relationship with such Partnership),

except that this undertaking shall not be applicable to (a) 25% of the total assets of each such Partnership, and (b) as to the remaining 75% of the total assets of such Partnership, other investments by such Partnership in any other companies, partnerships, or other investment vehicles which are not sponsored, managed, or underwritten on a principal basis by SI, or any of its affiliates, if the amount invested by such Realty or Venture Capital Partnership in any given investment does not exceed 20% of such Partnership's total assets. For purposes of the foregoing, total assets shall be determined as of the time of investment. Any investments made concurrently with a Special Affiliate will be made by such Realty or Venture Capital Partnership on the basis not less advantageous than that of the Special Affiliate. The amended exemptions requested, however, will permit joint investments by a Realty or Venture Capital Partnership and by individual Special Affiliates of the Partnership, who are making their own individual investment decisions apart from any Employer, subject to the following limitations: (i) The conditions as to joint investments stated above in this paragraph would apply if one or more Special Affiliates, who hold in the aggregate 15% or more of the equity interest in SI, make a joint investment with a Realty or Venture Capital Partnership; and (ii) in the case of a joint investment with a Realty or Venture Capital Partnership by any Special Affiliate the General Partner will obtain a commitment from each Special Affiliate that such person will not dispose of his or her investment in the joint investment without giving at least one day's notice to the General Partner so that the Realty or Venture Capital Partnership has the opportunity to dispose of its investment in the joint investment prior to, or concurrently with, such person and on the same terms as such person. In addition, each General Partner expressly represents that it will maintain the records required by section 57(f)(3) of the Act and will comply with the provisions of section 57(h) of the Act; all resolutions of the boards of directors of the General Partners will be available for inspection by Limited Partners.

II. Amended Exemptions Requested for All Partnerships

Applicants are seeking an exemption, to the extent necessary, from section 17(a)(3) of the Act, to permit any Partnership to earn interest on its uninvested cash balances in a customer brokerage account which the Partnership would maintain with Salomon. Salomon asserts that the most efficient and cost-effective means of managing the Partnerships' cash balances would be to allow them to remain in Salomon customer brokerage accounts pending investment, or reinvestment, as the case may be. It is stated that cash balances in customer brokerage accounts at the end of each day are utilized by Salomon on an overnight basis in the course of its trading activities, and that Salomon pays interest on those cash balances at a rate, determined weekly according to the rate of return on certain money market instruments. That interest rate, Applicants state, is determined for all of Salomon's clients as a general category. Because Salomon is a registered broker-dealer, each customer receives the protection of the minimum net capital rules that are applicable to Salomon under the Securities Exchange Act of 1934, as well as the protections afforded by the Securities Investors Protection Act.

Applicants request a blanket exemption from section 17(a)(3) of the Act, which prohibits affiliated persons from borrowing from an investment company, to implement the arrangement. Only the Equity and Municipal Bond Partnerships are expected to have significant cash balances on hand on a regular basis, and those Partnerships have been granted exemptions to enter into repurchase agreements with Salomon. Applicants submit that it would be consistent with these precedents, as well as with the purposes and policies of the Act generally, to exempt all of the Partnerships from the prohibition of section 17(a)(3) to allow them to achieve a fair rate of return on idle funds in the most convenient way available to them.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 30, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Dated: September 5, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-20563 Filed 9-11-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 23-C]

Inspector General; Delegation of Authority and Line of Succession

Delegation of authority No. 23-C is hereby made to effect a delegation of authority, and provide for a line of succession, from the Inspector General to the Assistant Inspector General for Audit, the Assistant Inspector General for Investigations, and the Counsel to the Inspector General, as follows:

I. Pursuant to authority vested in me by the Inspector General Act of 1978, 92 Stat. 1101, authority is hereby delegated to the following officials in the following order:

1. Assistant Inspector General for Audit
2. Assistant Inspector General for Investigations
3. Counsel to the Inspector General

to perform, in the event of the absence or incapacity of the Inspector General, or a vacancy in the position of Inspector General, any and all acts which the Inspector General is authorized to perform.

II. Anyone designated by the Inspector General as acting due to a vacancy in one of the positions listed above remains in the line of succession; otherwise, in the absence of one of the above, the authority moves to the next position.

III. This delegation is not in derogation of any authority residing in the above officials relating to the operations of their respective programs nor does it affect the validity of any delegations currently in force and effect and not specifically cited as revoked or revised herein.

IV. The authorities delegated herein may not be redelegated.

Effective Date: September 5, 1986.

Dated: September 5, 1986.

Mary F. Wieseman,

Inspector General.

[FR Doc. 86-20541 Filed 9-11-86; 8:45 am]

BILLING CODE 8025-01-M

Loan Guarantees; Pilot Project in the State of Illinois

Summary: The Small Business Administration authorized a pilot program that is designed to increase the access of Illinois small businesses to fixed rate loans. This program is fully described at 48 FR 36533 (August 11, 1983) and amended at 49 FR 16916 (April 20, 1984).

At the request of local and Regional SBA officials and representatives of the Illinois Department of Commerce and Community Affairs, SBA will extend the pilot program in the State of Illinois through September 30, 1987.

For Further Information Contact: James W. Hammersley, Financial Economist, Small Business Administration, Room 800, 1441 L St. NW., Washington DC 20416 (202–653–5954)

(Catalog of Federal Domestic Assistance Programs, 59.012, Small Business Loans)

Dated: August 29, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86–20542 Filed 9–11–86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended September 5, 1986

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 44326

Date Filed: September 5, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 3, 1986.

Description: Application of Inter City Airways, Inc. pursuant to Section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit to conduct scheduled Oshawa—Buffalo service.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86–20570 Filed 9–11–86; 8:45 am]

BILLING CODE 4910-62-M

Federal Railroad Administration

Petitions for Exemption or Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for an exemption from or waiver of compliance with certain requirements of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST–84–21) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before October 29, 1986, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

Houston Belt and Terminal Railway Company

(Waiver Petition Docket Number PB–86–3)

The Houston Belt and Terminal Railway Company (HBT) seeks a permanent waiver of compliance with certain provisions of the Power Brakes Regulation (49 CFR Part 232). The HBT seeks a permanent waiver of compliance with § 232.13(e)(1) of the Power Brakes Regulation which requires that transfer train and yard train movements not exceeding 20 miles, must have the air brake hose coupled between all cars, and after the brake system is charged to not less than 60 pounds, a 15-pound service brake pipe reduction must be made to determine that the brakes are applied on each car before releasing and proceeding. The HBT seeks a waiver to move trains between Settegest Yard and Pierce Yard without the benefit of a train air brake test. These movements could be in the general area of ½-mile to 4 miles and trains would traverse and crossover the HBT east and west main tracks. The train movements in this area are controlled by signal indication. There are three highway grade crossings that could be involved during these train movements. Each highway grade crossing is protected by flashers, crossing gates and alarm bells which signal when the circuit area is occupied by a train. At this time, an overpass is being constructed over the main tracks and Pierce Yard lead at Homestead Road. There is a possibility that an overpass will be constructed at Lockwood Drive and at Kilpatrick Boulevard, but no authority has been granted at this time.

Hartwell Railway Company

(Waiver Petition Docket Number RSGM–86–15)

The Hartwell Railway Company seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for two locomotives. The locomotives operate over approximately 10 miles of track between Hartwell and Bowersville, Georgia. The Hartwell Railway Company states that the area of operation is rural and they have not experienced any problems with vandalism that would warrant the use of certified glazing. The petitioner, therefore, feels that replacing the existing glazing with FRA certified glazing would impose an unneeded burden on them to protect against situations which they do not encounter.

Indiana and Ohio Railroad

(Waiver Petition Docket Number RSGM–86–16)

The Indiana and Ohio Railroad (INOH) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for three locomotives. The INOH states that the locomotives are

operated over approximately 39 miles of trackage largely rural in nature between Valley Junction, Ohio, and Brookville, Indiana, and Monroe, Ohio, and Mason, Ohio. The petitioner indicates that they have been operating for 8 years with no incidents of stoning of trains or other vandalism. They currently operate one locomotive under an existing FRA glazing waiver and feel that the installation of certified glazing in the three additional units would be an unnecessary cost.

Issued in Washington, DC on September 5, 1986.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 86-20521 Filed 9-11-86; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1986 Rev., Supp. No. 3]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; Allianz Insurance Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Allianz Insurance Company, of Los Angeles, California, under the United States Code, Title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective August 31, 1986.

The Company was last listed as an acceptable surety on Federal bonds at 51 FR 23925, July 1, 1986.

With respect to any bonds currently in force with Allianz Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20226, telephone (202) 634–2298.

Dated: September 5, 1986.

Mitchell A. Levine,

Assistant Commissioner, Comptroller Financial Management Service.

[FR Doc. 86-20533 Filed 9-11-86; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 177
Friday, September 12, 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

	Item
Federal Communictions Commission...	1
Federal Deposit Insurance Corporation	2–4
Securities and Exchange Commission.	5, 6

1

FEDERAL COMMUNICATIONS COMMISSION

September 9, 1986.

The following item has been deleted from the list of agenda items scheduled for consideration at the September 10, 1986, Open Meeting, and previously listed in the Commission's Notice of September 3, 1986.

Agenda, Item No., and Subject

Private Radio—1—Title: Amendment of Part 90 Subparts M and S of the Commission's Rules. Summary: The Commission will consider whether to adopt a Notice of Proposed Rule Making which addresses the elimination of Subpart M and the modification of Subpart S as it applies to trunked Specialized Mobile Radio systems.

Additional information concerning this item may be obtained from Maureen Peratino, FCC Office of Congressional and Public Affairs, telephone number (202) 254–7674.

Issued: September 9, 1986.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 20755 Filed 9–10–86; 2:44 pm]

BILLING CODE 6712-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:40 p.m. on Thursday, September 4, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Fairview State Bank of Fairview, Okla., Fairview, Oklahoma, which was closed by the Bank Commissioner for the State of Oklahoma on Thursday, September 4, 1986; (2) accept the bid for the transaction submitted by Community National Bank of Okarche, Okarche, Oklahoma; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

(B) consider matters relating to Western Bank, Midland, Texas, which was closed by the Banking Commissioner for the State of Texas on Thursday, September 4, 1986.

In calling the meeting, the Board determined, on motion of Director C.C. Hope Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters or less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 4:55 p.m., and at 6:20 p.m. on Friday, September 5, 1986, the meeting was reconvened, by telephone conference call, at which time the Board of Directors: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Western Bank, Midland, Texas, which was closed by the Banking Commissioner for the State of Texas on Thursday, September 4, 1986; (2) accepted the bid for the transaction submitted by United Bank, National Association, Midland, Texas; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In reconvening the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9((A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 9, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86–20756 Filed 9–10–86; 2:45 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, September 9, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of the Islamorada Bank, Monroe County (P.O. Islamorada), Florida, an insured State nonmember bank, for consent to merge, under its charter and with the title "T.I.B. State Bank of the Florida Keys," with Florida Keys First State Bank, Key West, Florida, and for consent to establish the four offices of Florida Keys First State Bank as branches of the resultant bank.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: September 9, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86–20757 Filed 9–10–86; 2:46 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, September 9, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the Corporation's corporate activities.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: September 9, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-20758 Filed 9-10-86; 2:46 pm]

BILLING CODE 6714-01-M

5

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission held a closed meeting on Thursday, August 28, 1986, at 450 5th Street, NW., Washington, DC, to consider the following items.

Regulatory matter bearing enforcement implications.

Regulatory matter regarding disclosure of nonpublic information.

Commissioner Peters, as duty officer, determined that Commission business required the above changes 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 Schy at (202) 272-2014.

Shirley E. Hollis,

Assistant Secretary.

September 9, 1986.

[FR Doc. 86-20795 Filed 9-10-86; 3:57 pm]

BILLING CODE 8010-01-M

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of September 15, 1986:

A closed meeting will be held on Tuesday, September 16, 1986, at 1:00 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, September 16, 1986, at 1:00 p.m., will be:

Formal order of investigation.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Litigation matter.

Institution of injunctive action.

Regulatory matter regarding financial institution.

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: Douglas Michael at (202) 272-2467.

Shirley E. Hollis,

Assistant Secretary.

September 9, 1986.

[FR Doc. 86-20796 Filed 9-10-86; 3:58 pm]

BILLING CODE 8010-01-M

federal register

Friday
September 12, 1986

Part II

Department of Agriculture

Animal and Plant Health Inspection Service

9 CFR Parts 51, 71, 78, 80, and 92

Brucellosis Regulations; Interstate Movement of Cattle, Bison, and Swine; Final Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 85-132]

9 CFR Parts 51, 71, 78, 80, and 92

Brucellosis Regulations; Interstate Movement of Cattle, Bison, and Swine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations governing the interstate movement of cattle, bison, and swine as related to brucellosis. The amendments clarify definitions and interstate movement requirements, impose additional restrictions on the interstate movement of cattle to reduce the risk of interstate spread of brucellosis, and provide alternative methods of moving cattle and bison interstate that will not increase the risk of spreading brucellosis.

EFFECTIVE DATE: October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Hugh E. Metcalf, Senior Staff Veterinarian, Program Planning Staff, VS, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8713.

SUPPLEMENTARY INFORMATION:

Background

In a document published in the Federal Register on September 12, 1985 [50 FR 37201-37229], the Department proposed to amend the regulations governing the interstate movement of cattle, bison, and swine as related to brucellosis. The amendments were to clarify definitions and interstate movement requirements, impose additional restrictions on the interstate movement of cattle to reduce the risk of spreading brucellosis interstate, and provide alternative methods of moving cattle and bison interstate that would not increase the risk of spreading brucellosis.

Comments were solicited concerning the proposal for a 90-day period ending December 12, 1985. The Department received comments from 62 sources. These included veterinarians, health technicians, cattle producers, stockyard owners, and representatives of 8 trade associations, 6 State government agencies, and 1 Veterinary Services regional office. Thirty-five of those responding were from Alabama, with the rest from 16 other States. These comments were carefully considered, and any which raised objections to the proposed rule are discussed in this supplementary information. Except as explained below, the provisions of the proposed rule have been adopted in the final rule based on the reasons set forth in the proposal.

Changes to the Proposed Rule

The Department received 7 comments requesting deletion from the proposal of the modified card test as an official test for brucellosis because the specificity and sensitivity of this test have proven unsatisfactory to accurately classify the brucellosis disease status of cattle and bison. The Department agrees and has deleted all references to the modified card test.

The Department received 8 comments objecting to the definition of "standard card test" under "official test" in proposed § 78.1. The commentors stated that the proposed definition implies the standard card test cannot be used in the field. This test can be used under field conditions to determine the brucellosis disease status of animals. Therefore, this document revises the definition of "standard card test" to provide for the use of the standard card test in the field in certain specified situations.

The Department received 1 comment citing an omission in the definition of "official vaccinate" in proposed § 78.1. The commentor stated that the definition should include a requirement that vaccinations be reported to an official recordkeeping agency. The Department agrees and has revised the definition to conform with current practice. This final rule requires vaccinations to be reported to the State animal health official of the State in which the animal was vaccinated.

The Department received 1 comment that the definition of "official calfhood vaccinate" in proposed § 78.1 should allow individual animal registered breed association registration tattoos, as well as individual animal registered breed association registration brands, to be substituted for official eartags. The Department agrees and has added individual animal registered breed association registration tattoos as an acceptable means of identification for any "official adult vaccinate" or "official calfhood vaccinate" as defined in § 78.1.

The Department received 1 comment pointing out a typographical error in proposed § 78.1 under the definition of "official calfhood vaccinate." The phrase "at least 3 billion and not more than 10 billion live cells per ml. dose" should read "at least 3 billion and not more than 10 billion live cells per 2 ml. dose." The correction has been made.

The Department received 1 comment stating that the words "cooperative agreement" in the definition of "State representative" in proposed § 78.1 should be changed to "memorandum of understanding." The proposed definition was in error, and this change has been made.

The Department received 1 comment suggesting that the definition of "test-eligible cattle and bison" in proposed § 78.1 be revised to make it clear that such cattle and bison are test-eligible for purposes of interstate movement. The Department agrees, since cattle and bison also may be eligible for herd blood tests and for testing at slaughter, and these tests have different eligibility requirements. This document revises the proposed definition of "test-eligible cattle and bison" by adding an introduction as follows: "For purposes of interstate movement, test-eligible cattle and bison are:"

The Department received 20 comments opposing the definition of "directly" in proposed § 78.1. "Directly" was defined as "without unloading en route if moved in a means of conveyance, or without stopping if moved in any other manner." The definition was intended to clear up ambiguity about the meaning of "directly," which previously was undefined. All 20 commentors indicated that under the proposed definition they could not consolidate shipments of slaughter cattle. They stated that if they could not offload and combine such cattle, it would be too expensive to take the animals to slaughter.

The Department does not wish to place undue burdens on owners who may need to combine small shipments of cattle or bison for slaughter. Therefore, two changes have been made in the requirements for direct movement.

First, the final rule will allow cattle and bison to stop for up to 7 days at an "approved intermediate handling facility" before proceeding directly to a recognized slaughtering establishment, provided the cattle or bison do not change ownership during this time. This will allow owners to condense shipments of cattle and bison without increasing the risk of spreading brucellosis.

Approved intermediate handling facilities, as defined in the final rule, shall be premises approved by the Deputy Administrator and the State animal health official for receiving and handling cattle and bison for release to recognized slaughtering establishments. Cattle and bison, except those from a farm of origin, must be accompanied to an approved intermediate handling

facility by either a permit or "S" brand permit, but may not enter if moving in a sealed vehicle. No cattle or bison shall be permitted to leave an approved intermediate handling facility unless they are accompanied by a permit or "S" brand permit which lists a recognized slaughtering establishment as the point of destination. To qualify for and retain approval, an intermediate handling facility must meet the following conditions: (1) The facility must be separate and apart from other livestock handling facilities; (2) Serviceable equipment for cleaning and disinfection must be furnished and maintained with adequate disinfection on hand; (3) The facility must be cleaned and disinfected in accordance with 9 CFR Part 71.4(a); (4) Any document relating to cattle or bison which are or have been in the facility shall be maintained by the facility for a period of 1 year; (5) State representatives and Veterinary Services representatives shall be granted, at reasonable hours, access to all documents required to be maintained by the facility and authority to reproduce the documents; and (6) Each entrance and exit to the facility must prominently display a sign bearing the following words: "All cattle and bison entering this facility must go directly to slaughter". These requirements are necessary to prevent the interstate spread of brucellosis.

The provision to allow cattle and bison to stop at an approved intermediate handling facility before moving directly to a recognized slaughtering establishment has been added to appropriate sections of the regulations. The definition of "directly" remains as proposed.

The second change in the proposed requirements for direct movement relieves certain other direct movement provisions which Department officials now believe to constitute an unnecessary burden.

Specifically, proposed §§ 78.9(c)(1)(i)(B) and 78.9(d)(1)(i)(B) provide that test eligible cattle from herds not known to be affected which originate in Class B and Class C States or areas may be moved for slaughter directly from a farm of origin or a nonquarantined feedlot to a specifically approved stockyard and then directly to a recognized slaughtering establishment if, among other things, (1) such cattle are subjected to an official test at the specifically approved stockyard and found negative and are accompanied by a certificate which shows the test dates and the results of the official tests; or (2) such cattle originate from a certified brucellosis-free herd and identity to the certified brucellosis-free herd is maintained; or (3) such cattle are moved from the specifically approved stockyard in vehicles closed with official seals and are accompanied by an "S" brand permit. Department officials believe that under these circumstances the risk of such cattle having brucellosis or spreading brucellosis is not great enough to warrant requiring that the movement from the specifically approved stockyard to the recognized slaughtering establishment be "direct". Therefore, this document removes the word "directly" from these provisions (see §§ 78.9(c)(1)(iv) and 78.9 (d)(1)(iv) in this document).

Further, proposed §§ 78.9(c)(1)(ii) and 78.9(d)(1)(ii) provide that test eligible cattle from herds not known to be affected which originate in Class B and Class C States or areas may be moved from other than a farm of origin or a nonquarantined feedlot interstate directly to a recognized slaughtering establishment if, among other things, (1) such cattle are subjected to an official test and found negative within 30 days prior to the interstate movement and are accompanied by a certificate which shows the test dates and the results of the official tests; or (2) such cattle originate from a certified brucellosis-free herd and identity to the certified brucellosis-free herd is maintained; or (3) such cattle are moved in vehicles closed with official seals and are accompanied by an "S" brand permit. Department officials believe that under these circumstances the risk of such cattle having brucellosis or spreading brucellosis is not great enough to warrant requiring that the movement from other than a farm of origin or a nonquarantined feedlot to a recognized slaughtering establishment be "direct". Therefore, this document removes the word "directly" from these provisions (see §§ 78.9(c)(1)(vi) and 78.9(d)(1)(vi) in this document).

Further, proposed §§ 78.9(c)(2)(i) and 78.9(d)(2)(ii) provide that test eligible cattle from herds not known to be affected which originate in Class B and Class C States or areas may be moved interstate from other than a farm of origin directly to a quarantined feedlot if, among other things, such cattle are subjected to an official test and found negative within 30 days prior to such movement and are accompanied by a certificate which shows the test dates and results of the official tests. Department officials believe that under these circumstances the risk of such cattle having brucellosis or spreading brucellosis is not great enough to warrant requiring that the movement from other than a farm of origin to a quarantined feedlot be "direct". Therefore, this document removes the word "directly" from these provisions (see §§ 78.9(c)(2)(ii) and 78.9(d)(2)(ii) in this document).

The Department received one comment suggesting clarification of the phrase "if feral swine are not in contact with domestic swine" in the definition of "validated brucellosis-free State" in proposed § 78.1. The Department has revised that phrase to say "if feral swine are not in physical contact with domestic swine."

The Department received 8 comments objecting to a requirement in proposed § 78.2(b) that copies of certificates be forwarded to the State animal health official of the State of destination. The commentors pointed out that current practice in some States is to send copies of certificates to the State animal health official of the State of origin for forwarding to the State animal health official of the State of destination. Although proposed § 78.2(b) was not a change in the regulations, the Department does not wish to disrupt the standing procedure in some States for State of origin review of certificates. The Department also realizes that those responsible for forwarding copies of certificates may not have the addresses for State animal health officials of States of destination. For these reasons, final § 78.2(b) requires copies of certificates to be forwarded either to the State animal health official of the State of destination or to the State animal health official of the State of origin for forwarding to the State animal health official of the State of destination. Copies of permits shall continue to be forwarded to the State animal health official of the State of destination.

The Department received 8 comments opposing a provision in the proposal concerning the interstate movement of brucellosis exposed cattle from herds known to be affected and for which no claim for indemnity is being made. Proposed § 78.8(c)(1)(iii) would permit the interstate movement of such cattle which are official vaccinates under 1 year of age and from a herd known to be affected which is following an approved individual herd plan, provided the official vaccinates are individually identified with a hole at least ¾ inch in diameter in the left ear. The commentors argued that the hole was ineffective identification. The Department agrees that the hole is not easily recognized. For this reason and for humane reasons, the requirement for the ¾ inch hole has been deleted from the final rule. The

Department is considering other identification and restrictions.

The Department received 3 comments objecting to a proposed amendment requiring a certificate for certain cattle consigned to slaughter. This amendment was in three places in the proposed regulations: §§ 78.9(c)(1)(i)(B)(*1*) and 78.9(d)(1)(i)(B)(*1*), governing the interstate movement from a specifically approved stockyard to a recognized slaughtering establishment of test-eligible cattle which originate in Class B and Class C States or areas, respectively, are not brucellosis exposed, and are from a herd not known to be affected; and § 78.12(d)(1), governing the interstate movement to a recognized slaughtering establishment of cattle from qualified herds in quarantined areas. The proposal would have provided for the movement of such cattle directly to a recognized slaughtering establishment if, among other things, they were accompanied by a certificate which showed, in addition to the items specified in § 78.1, the test dates and results of the official tests. The Department's intention in requiring a certificate in these instances was to maintain the identity of the cattle to slaughter. Since an "S" brand permit also would accomplish this, the final rule allows such cattle to be accompanied by either a certificate or "S" brand permit.

The Department received 4 comments objecting to proposed § 78.9(d)(3)(vi). This was a new proposed provision concerning the interstate movement of test-eligible cattle which originate in Class C States or areas, are not brucellosis exposed, and are from a herd not known to be affected. The proposed amendment was intended to permit such cattle from a farm of origin and from a herd to which no cattle have been added for 120 days or more to move interstate within 30 days after a single negative herd blood test, or within one year of a negative herd blood test if the cattle are negative to an official test within 30 days prior to interstate movement, provided no cattle are added to the herd between the time of the herd blood test and movement. The requirement that such cattle be from a herd to which no cattle have been added for 120 days or more was discussed in the supplementary information to the proposed rule but, as one commentor pointed out, was not included in the text of proposed § 78.9(d)(3)(vi), creating confusion. One commentor said proposed § 78.9(d)(3)(vi) would place more restrictions on cattle from a farm of origin than proposed § 78.9(d)(3)(ii) would place on dealer cattle. Two commentors indicated that proposed § 78.9(d)(3)(vi) repeated proposed § 78.9(d)(3)(ii). Neither assertion is correct. Proposed § 78.9(d)(3)(ii) would require cattle to be negative to 2 official tests conducted at least 60 days apart. In light of these comments, the Department has revised proposed § 78.9(d)(3)(vi) to clarify the requirements for interstate movement and to correct the omission of the 120 day requirement.

The Department received 3 comments opposing proposed § 78.11. This section concerns cattle, except brucellosis reactors and brucellosis exposed cattle, which are moved interstate to a specifically approved stockyard but fail to comply with the requirements of Part 78 for release from the stockyard. Proposed § 78.11 provides that such cattle could be moved from the specifically approved stockyard directly to a recognized slaughtering establishment or quarantined feedlot or, with the concurrence of the State animal health officials of the States of origin and destination, returned to the farm of origin. The proposal would require such cattle to be accompanied by an "S" brand permit and either "S" branded or moved in vehicles closed with official seals. The three commentors indicated that there is no need to return such properly permitted cattle to a farm of origin in a sealed vehicle. The Department agrees. Cattle moving pursuant to § 78.11 are not brucellosis reactors or brucellosis exposed animals and, therefore, do not pose the type of disease risk which would warrant requiring that such animals be "S" branded or that they be moved in sealed vehicles. In this regard, it should be noted that cattle from a farm of origin which are moved to a specifically approved stockyard and then determined to be brucellosis exposed may be returned to the farm of origin under permit but without being "S" branded or transported in vehicles closed with official seals. Therefore, § 78.11 in this document provides that such cattle may, with the concurrence of the State animal health officials of the States of origin and destination, be moved directly back to the farm of origin if accompanied by a permit. The final rule also stipulates that such cattle may be moved directly to a quarantined feedlot only if they are "S" branded and accompanied by an "S" brand permit. The provision for cattle to be moved in a sealed vehicle is retained in the final rule only for such cattle moving directly to a recognized slaughtering establishment.

The Department received 19 comments objecting to the requirement in proposed § 78.44 for separate penning of cattle from each class of State or area. Each stockyard agreement in proposed § 78.44 would require cattle from each class of State or area to be penned apart from any other cattle until they have met the requirements of Title 9, Code of Federal Regulations, for release from the stockyard. One commentor said that his stockyard tests cattle before they leave the yard, and that it would be impossible to lot stocker and feeder cattle under the same system if the cattle have to be penned separately by class of State or area. Two commentors stated that most markets have neither the facilities nor the pen arrangements to comply with the requirement for separate pens. Others who gave reasons for objecting said the requirement would place a severe financial burden on livestock markets. One commentor suggested separating only test-eligible cattle from Class C States or areas. Another objected to separating slaughter cattle.

The Department agrees that separate pens should be required only for test-eligible cattle. Furthermore, after reviewing the cost to market owners versus the disease risk, the Department has agreed to exempt cattle from Class Free and Class A States or areas from this requirement. The Department believes, however, that mixing of cattle from the lower classes of States or areas would seriously undermine efforts to prevent the spread of brucellosis. Thus, the final rule requires separate penning only of test-eligible cattle from Class B and C States or areas and quarantined areas. As in the proposal, such cattle must be penned separately only until they meet the requirements for release from the stockyard. This modification of the proposed rule is expected to make compliance easier and less costly for all stockyards. Stockyards which test cattle as they enter the premises should feel very little impact.

The Department received 1 comment suggesting different names for the two types of specifically approved stockyards in proposed § 78.44. The Department wishes to retain the term specifically approved stockyard but agrees that a way of referring to one or the other is necessary. In the final rule, whenever cattle or bison may only be moved to a specifically approved stockyard authorized to receive brucellosis reactors or brucellosis exposed animals, the text of the rule specifies "specifically approved stockyard approved to receive brucellosis reactors," "specifically approved stockyard approved to receive brucellosis exposed cattle," or

"specifically approved stockyard approved to receive brucellosis exposed bison," whichever is appropriate. In the final rule, whenever cattle or bison may be moved to either type of specifically approved stockyard, the text of the rule specifies "specifically approved stockyard".

The Department received 1 comment suggesting that footnote 2 in proposed § 78.33 be revised to require rather than request certain actions by operators of establishments where swine are identified on arrival. As proposed, this footnote requested the operator of each place of business where such swine are identified on arrival in accordance with this section to enter such identification on the yarding receipt, sale ticket, invoice, waybill, or similar document relating to the swine; maintain such documents on file at the place of business for at least 1 year; and make such documents available for inspection during ordinary business hours upon request by a Veterinary Services representative or State representative. The Department agrees and this final rule requires that the operator of each place of business where such swine are identified on arrival in accordance with this section shall perform these functions. This change is necessary to ensure that these records are made and are available for inspection. Such records are the only means by which brucellosis in swine can be traced. As such, they are a critical tool in eradicating and preventing the spread of brucellosis in swine.

The Department also made the following changes for the reasons discussed below:

The terms " 'B' branded," "designated epidemiologist," "market swine test program," and "official vaccination eartag" are defined in final § 78.1 to clarify their meanings. A new term, "approved intermediate handling facility," also is defined in final § 78.1.

"Individual animal registered breed association registration brand" has been added as an acceptable means of individual identification under the definitions of "certificate," "permit," and " 'S' brand permit" in final § 78.1. Such identification is permitted by the present regulations and was inadvertently omitted from the proposed rule.

The definitions of "permit" and " 'S' brand permit" in proposed § 78.1 also have been amended to clarify the requirement that a new permit or "S" brand permit is required for each change in destination.

A new paragraph 13 has been added to both stockyard agreements under proposed § 78.44 (c) and (d) as follows: "Test-eligible cattle penned with test-eligible cattle from a lower class State or area, in violation of this agreement, shall have the status of the State or area of lower class for any subsequent movement." This amendment is necessary to regulate movement of test-eligible cattle from Class B or C States or areas which may be mixed with cattle from a lower class State or area before meeting the requirements for release from the specifically approved stockyard.

As a result of the above amendment to proposed § 78.44, the definition of "originate" in proposed § 78.1 also has been changed. A new paragraph (c) has been added as follows: "Cattle penned in a specifically approved stockyard with cattle from a lower class State or area, in violation of the requirements set forth in § 78.44, shall have the status of the State or area of lower class for any subsequent movement."

Proposed § 78.41, "State/area classifications," has been revised to reflect changes in classification for the States of Mississippi and Nevada and for 12 Counties in the State of Florida. Mississippi previously was listed as a Class C State. Its status was changed to Class B State by an interim rule published on November 4, 1985 [50 FR 45808–45809]. Nevada previously was listed as a Class B State. Its status was changed to Class A State by an interim rule published on February 13, 1986 [51 FR 5309–5311]. Florida is divided into a Class B area and a Class C area. An interim rule published on October 7, 1985, amended the regulations to change the status of 12 Counties in Florida from Class C to Class B. These Counties are Alachua, Baker, Bradford, Clay, Columbia, Duval, Gilchrist, Nassau, Putnam, Saint Johns, Suwannee, and Union.

This document also makes numerous nonsubstantive changes only for clarification, and such changes are not addressed in this supplemental information.

Other comments

Except as noted below, other comments supported the proposed rule.

The Department received 1 comment suggesting a change to the definition of "brucellosis exposed" in proposed § 78.1. The proposed definition provides that animals are brucellosis exposed if they have been in contact with a brucellosis reactor for less than 24 hours if the brucellosis reactor has aborted, calved, or farrowed within the past 30 days. Noting that it is not always possible to determine whether and when an animal has aborted, calved, or farrowed, the commentor suggested removing this provision. The Department disagrees since without this provision an animal penned with a reactor known to have aborted, calved, or farrowed within the past 30 days could not be classified as brucellosis exposed.

The Department received 5 comments objecting to the definition of "moved" in proposed § 78.1. Present § 78.1 defines "moved" as "Shipped, transported, or otherwise moved, or delivered, or received for movement." Proposed § 78.1 added the phrase "or otherwise aided, induced or caused to be moved." One commentor wanted the phrase "received for movement" deleted from the definition. This phrase is not a change in the regulations. Three commentors said the proposed definition is too broad. The Department disagrees, pointing out that the amendment is necessary to extend legal responsibility for violations to persons indirectly responsible for unauthorized movement, i.e., a veterinarian who prepares false documents or a seller who promises to have animals tested but does not. The final rule retains the definition as proposed.

The Department received 1 comment objecting to a proposed amendment to the definition of "certificate" in § 78.1. This amendment would permit ownership brands to be used as identification on certificates for cattle being moved interstate when no official test for brucellosis is required, provided the ownership brands are registered with the official brand recording agency and the cattle being moved are accompanied by official brand inspection certificates. The commentor said ownership brands should not be permitted because brand laws are not uniform and don't exist in some States. Since the Department is permitting, but not requiring, use of ownership brands, no change has been made in the definition.

The Department received 1 comment suggesting a change to the definition of "certified brucellosis-free herd" in proposed § 78.1. The proposed definition would allow a dairy herd to qualify as a certified brucellosis-free herd by testing negative to a minimum of four consecutive brucellosis ring tests at not less than 90-day intervals, followed by a negative herd blood test conducted within 90 days after the last brucellosis ring test. The commentor suggested intervals of 75–105 days between the brucellosis ring tests. The intent of the provision is to have a herd under surveillance for 12 months prior to certification. An interval of less than 90 days would not accomplish this and

would increase the risk of spreading brucellosis interstate. The definition has been retained as proposed.

The Department received 1 comment opposing the proposed change in dosage for official calfhood vaccination. The present regulations require "at least 300 million and not more than 3 billion live cells per 2 ml. dose." The definition of "official calfhood vaccinate" in proposed § 78.1 would change that to at least "3 billion and not more than 10 billion live cells per 2 ml. dose." The commentor feels that the new dosage will increase the number of brucellosis reactors. As discussed in the proposal, little difference has been observed in persistence of blood serum titers between calves vaccinated with 1 billion live cells and calves vaccinated with 10 billion live cells. In most cases, the higher dosage resulted in blood serum titers for only 1–2 additional weeks. Some research also suggests that calves in the 4–6 month age group develop better resistance to brucellosis following use of the higher dosage. Therefore, no change has been made based on this comment.

The Department received 1 comment objecting to the definition of "official eartag" in proposed § 78.1. The proposal amended the present definition of "official metal eartag" by removing the word "metal" so that plastic tags can be used as well as metal tags. The commentor argued that plastic could be tampered with and said the word "metal" should be returned to the definition.The Department has made no change to the proposed definition; the definition requires use of "Veterinary Services approved" eartags, which are tamper resistant.

The Department received 3 comments objecting to a provision in the definition of "official adult vaccinate" in proposed § 78.1. The provision would permit official adult vaccinates to be permanently identified by a "V" hot brand on the right jaw or high on the hip near the tailhead. The commentors opposed using a "V" hot brand on the hip. They stated that such a brand may be illegal in some States, that States with brand laws already have brands on the hip, and that a brand located on the hip might not be observed. The Department has retained this provision in the final rule for the following reasons. The "V" hot brand on the hip is not required. And, although it may be harder to recognize adult vaccinates with the brand located on the hip, the Department feels the benefit to owners of not having to restrain the head to get a good brand outweighs this disadvantage. In addition, personnel will be informed of this procedure and advised to check for the brand on the hip.

The Department received 1 comment objecting to the definition of "approved individual herd plan" in proposed § 78.1. The present definition requires an approved individual herd plan to be designed by the herd owner, the owner's veterinarian if requested, and a veterinarian of the Cooperative Brucellosis Eradication Program. The plan must be approved by the State animal health official and the Veterinarian in Charge. Proposed § 78.1 replaced "veterinarian of the Cooperative Brucellosis Eradication Program" with "a State representative or Veterinary Services representative." The commentor objected to requiring plans to be approved by both the Veterinarian in Charge and the State animal health official. This is not a change in the regulations. The commentor also said that the State or Federal representative should be a veterinarian. The Department disagrees and has retained the definition as proposed for the following reasons. State and Veterinary Services representatives are qualified to design individual herd plans and in most cases work under the supervision of a State or Federal veterinarian. Using such representatives to perform this function will enhance brucellosis eradication efforts in States where State or Federal veterinarians are not readily available. Furthermore, any individual herd plan must be approved by both the Veterinarian in Charge and the State animal health official.

The Department received 2 comments opposing proposed § 78.2(a), which would amend the requirements for handling certificates and permits required for interstate movement. Present § 78.3(a) requires that whenever animals are moved interstate by a transportation company issuing waybills or other forms of billing covering the movement, certificates or permits must be attached to and accompany the billing to the animals' destination. Present § 78.3(b) requires that whenever a transportation agency does not issue waybills or other forms of billing, certificates or permits must accompany animals moving interstate. Proposed § 78.2(a) would require certificates or permits to accompany animals to destination in all instances of interstate movement and be delivered to the consignee or the person receiving the animals. This amendment has been retained as proposed for the following reasons, which were set forth in the proposal. Present § 78.3 (a) and (b) and proposed § 78.2(a) require certificates or permits to provide animal health officials with a means of tracing animal movement and the spread of brucellosis. There appears to be no reason to limit the requirements set forth in present § 78.3 (a) and (b) to instances in which transportation companies are involved.

The Department received 3 comments objecting to proposed § 78.44, which would establish two types of specifically approved stockyards. Proposed § 78.44(c) sets forth the requirements for a "Specifically Approved Stockyard for Handling Cattle and Bison Pursuant to Title 9 of the Code of Federal Regulations," and proposed § 78.44(d) sets forth the requirements for a "Specifically Approved Stockyard for Handling Cattle and Bison Except to Receive Brucellosis Reactor, Brucellosis Suspect and Brucellosis Exposed Cattle and Bison Pursuant to Title 9 of the Code of Federal Regulations." The commentors stated that they saw little need for market approval other than for markets handling restricted cattle. However, both types of specifically approved stockyards may handle restricted cattle and bison. The latter type of stockyard is prohibited from receiving known brucellosis reactor, suspect or exposed cattle and bison, but cattle and bison may be found to be infected after arrival at such stockyard. Therefore, the final rule retains this provision as proposed.

The Department received 2 comments opposing an amendment to the requirements for moving cattle interstate in the course of normal ranching operations without change of ownership to another premises belonging to the same owner. Present §§ 78.9(a), 78.9(b)(3)(iv), and 78.9(c)(3)(v) require that premises from which and to which cattle are moved interstate during the course of normal ranching operations be owned by the same person. The proposal would allow the two premises to be owned, leased or rented by the same person. The commentors expressed concern that some ranchers may lease property in order to get around the restrictions on interstate movement of cattle. One suggested limiting the provision for lease or rental to owners whose land straddles 2 States; the other suggested limiting this provision to owners who have had the land as part of their operations in previous years. The Department feels the commentors have raised a valid concern but has insufficient information to change the regulations. Changes will be considered, however, after further review and discussion.

The Department received comments from 8 individuals objecting to proposed § 78.10, which would require certain cattle to be official vaccinates to move into or out of Class B or C States or areas, unless they are moved directly to a recognized slaughtering establishment or quarantined feedlot. Six commentors argued that the requirement would infringe on States' rights. Two commentors objected to requiring vaccinations for cattle moving to slaughter; one objected to requiring vaccinations for cattle moving to slaughter or a quarantined feedlot; and one objected to requiring vaccinations for cattle without regard to purpose of movement. As stated in the proposal, vaccinations are not required for cattle moving directly to a recognized slaughtering establishment or quarantined feedlot. The final rule also exempts cattle moving directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment. The six comments concerning States' rights are from individuals in 2 States. Several large groups, including the United States Animal Health Association (USAHA), however, support the proposed amendment, which parallels USAHA recommendations. The Department believes this amendment is necessary to prevent the interstate spread of brucellosis. Officially vaccinated cattle are more resistant to infection and are less likely to transmit the disease to other animals. Vaccination would protect cattle entering areas of high infection and cattle potentially in contact with infected cattle prior to interstate movement.

The Department received 6 comments objecting to the requirement in proposed § 78.44 that stockyards requesting approval enter into an agreement with Veterinary Services. Present § 78.25 requires a Memorandum of Understanding between Veterinary Services and the States in which such stockyards are located. The requirement has been retained as proposed for the reason set forth in the proposal: Since those legally responsible for operating the stockyard are in a position to ensure that the standards for approval are met, it appears appropriate to have stockyard operators enter into any agreement with Veterinary Services. Furthermore, both agreements in proposed § 78.44 contain provisions requiring specifically approved stockyards to grant State representatives, as well as Veterinary Services representives, access to stockyard premises and facilities to ensure compliance with the regulations.

The Department received 1 comment stating that proposed § 78.44 does not require the presence of a veterinarian in the marketplace. Proposed § 78.44 (c)(1) and (d)(1) require "an accredited veterinarian, State representative, or Veterinary Services representative" to be on the stockyard premises on the sale days to perform duties in accordance with State and Federal regulations. The commentor suggested substituting the terms "accredited veterinarian, State veterinarian or Veterinary Services veterinarian." It was not the Department's intention to require the presence of a veterinarian in the stockyard on all sale days since there are Veterinary Services representatives and State representatives qualified to perform the work under the Brucellosis Eradication Program. Therefore, no change has been made to this proposed requirement.

The Department received 22 comments objecting to the provision in proposed § 78.44(c) requiring impervious floors in quarantined pens used to confine brucellosis reactors and suspects in specifically approved stockyards authorized to receive such cattle and bison. The commentors cited the cost of installing concrete floors and questioned whether such floors would reduce the disease risk. Porous floors, such as soil floors or floors of untreated wood, cannot be properly disinfected because the organic material in such floors interferes with the action of the disinfectant. Impervious floors are necessary for proper cleaning and disinfecting to minimize the risk of spreading brucellosis to animals using the pens after use by brucellosis reactors or suspects. The cost of these impervious floors will be minimized because they are required only for quarantined pens used to confine brucellosis reactors or suspects, and only in specifically approved stockyards authorized to receive such cattle and bison. Brucellosis exposed cattle or bison, which might come into such a stockyard in large numbers, are not required to be confined in pens with impervious floors. Requiring impervious floors in certain quarantined pens is necessary to ensure that brucellosis reactors and suspects, which pose a known threat of spreading brucellosis, are handled in a manner which will reduce the likelihood of that happening. The requirement is retained as proposed.

The Department received 1 comment that the definition of the word "interstate" be amended to delete the movements between two locations in the same State but through another State when there is no offloading of livestock during such movements. The Department disagrees. Movement between two points in the same State but through another State is an interstate movement which must be regulated to prevent the interstate spread of brucellosis.

In addition, the Department received 4 comments which raised issues not addressed in the proposal. These included a proposal for an inspection and approval form that would apply to a centrally organized stockyard; a recommendation that test-eligible animals entering quarantined feedlots in Class A States be tested prior to or upon arrival; a recommendation to require first point-of-concentration testing of test-eligible animals in Class B States; and a proposal to amend interstate movement requirements so that brucellosis suspects would be required to follow Part II, M, of the Brucellosis Uniform Methods and Regulations. Because these issues were not addressed in the proposed rule, these comments were not considered as part of this rulemaking.

Paperwork Reduction Act

Information collection requirements contained in this document have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and have been assigned OMB control numbers 0579–0047, 0579–0051, and 0579–0064.

Executive Order 12291

This action is issued in conformance with Executive Order 12291 and has been determined not to be a "major rule." Based on information compiled by the Department, it has been determined that this action would have an annual effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; would not have a significant adverse effect on competition, employment or investment, productivity, innovation, or the ability of United States-based enterprises to compete in domestic or export markets.

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 because both direct and indirect cost to producers should be minimal. Approximately 22 million female calves are born in the United States each year. Nine million calves were officially

vaccinated against brucellosis in Fiscal Year 1984. Only those female cattle moving into or out of Class C States or areas and those dairy cattle moving into or out of Class B States or areas will require vaccination under this rule. It is estimated that a maximum of 2 million more calves may be vaccinated in order to move interstate under the provisions of this rule at a cost of approximately $5.0 million. The $2.50 cost per animal is relatively small in comparison to the other costs of production and to the value of the cattle vaccinated.

List of Subjects

9 CFR Part 51

Animal diseases, Bison, Brucellosis, Cattle, Hogs, Indemnity payments.

9 CFR Part 71

Animal diseases, Livestock and livestock products, Poultry and poultry products, Quarantine, Transportation.

9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

9 CFR Part 80

Animal diseases, Livestock and livestock products, Transportation.

9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, Parts 51, 71, 78, 80, and 92 are amended as follows:

1. Part 78 is revised to read:

PART 78—BRUCELLOSIS

Sec.

Subpart A—General Provisions

78.1 Definitions.
78.2 Handling of certificates, permits, and "S" brand permits for interstate movement of animals.
78.3 Handling in transit of cattle and bison moved interstate.
78.4 [Reserved]

Subpart B—Restrictions on Interstate Movement of Cattle Because of Brucellosis

78.5 General restrictions.
78.6 Steers and spayed heifers.
78.7 Brucellosis reactor cattle.
78.8 Brucellosis exposed cattle.
78.9 Cattle from herds not known to be affected.
78.10 Official vaccination of cattle moving into and out of Class B and Class C States or areas.
78.11 Cattle moved to a specifically approved stockyard not in accordance with this part.
78.12 Cattle from quarantined areas.
78.13 Other movements.
78.14–78.19 [Reserved]

Subpart C—Restrictions on Interstate Movement of Bison Because of Brucellosis

78.20 General restrictions.
78.21 Bison steers and spayed heifers.
78.22 Brucellosis reactor bison.
78.23 Brucellosis exposed bison.
78.24 Bison from herds not known to be affected.
78.25 Other movements.
78.26–78.29 [Reserved]

Subpart D—Restrictions on Movement of Swine Because of Brucellosis

78.30 General restrictions.
78.31 Brucellosis reactor swine.
78.32 Brucellosis exposed swine.
78.33 Sows and Boars.
78.34 Other movements.
78.35–78.39 [Reserved]

Subpart E—Designation of Brucellosis Areas, and Specifically Approved Stockyards.

78.40 Designation of States/areas.
78.41 State/area classification.
78.42 Quarantined areas
78.43 Validated brucellosis-free States.
78.44 Specifically approved stockyards.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Subpart A—General Provisions

§ 78.1 Definitions.

The following terms are defined in this section:

Accredited veterinarian
Animals
Approved brucella vaccine
Approved individual herd plan
Approved intermediate handling facility
Area
"B" branded
Boar
Brucellosis
Brucellosis exposed
Brucellosis negative
Brucellosis reactor
Brucellosis ring test
Brucellosis suspect
Certificate
Certified brucellosis-free herd
Class A State or area
Class B State or area
Class C State or area
Class Free State or area
Dairy cattle
Deputy Administrator
Designated epidemiologist
Directly
Epidemiologist
Epidemiology
Farm of origin
Finished fed cattle
Herd
Herd blood test
Herd known to be affected
Herd not known to be affected
Herd of origin of swine
Interstate
Market cattle identification test cattle
Market swine test swine
Moved
Moved (movement) in interstate commerce
Official adult vaccinate
Official brand inspection certificate
Official brand recording agency
Official calfhood vaccinate
Official eartag
Official seal
Official test
Official vaccinate
Official vaccination eartag
Originate
Parturient
Permit
Permit for entry
Person
Postparturient
Qualified herd
Quarantined area
Quarantined feedlot
Quarantined pasture
Recognized slaughtering establishment
"S" branded
"S" brand permit
Sow
Specifically approved stockyard
State
State animal health official
State representative
Test-eligible cattle and bison
Validated brucellosis-free herd
Validated brucellosis-free State
Veterinarian in Charge
Veterinary Services
Veterinary Services representative
Whole herd vaccination

As used in this part, the following terms shall have the meanings set forth in this section.

Accredited veterinarian. An accredited veterinarian as defined in Part 160 of this chapter.

Animals. Cattle, bison, and swine.

Approved brucella vaccine. A *Brucella abortus* Strain 19 product approved by and produced under license of the United States Department of Agriculture for injection into cattle and bison to enhance their resistance to brucellosis.

Approved individual herd plan. A herd management and testing plan designed by the herd owner, the owner's veterinarian if so requested, and a State representative or Veterinary Services representative to determine the disease status of animals in the herd and to control and eradicate brucellosis within the herd. The plan must be jointly approved by the State animal health official and the Veterinarian in Charge.

Approved intermediate handling facility. Premises approved by the Deputy Administrator and the State animal health official for receiving and handling cattle and bison for release only to recognized slaughtering establishments. Cattle and bison may be held at an approved intermediate handling facility for a maximum of 7 days and may not change ownership during this time. No cattle or bison, except cattle or bison moved directly

from a farm of origin, shall be permitted to enter an approved intermediate handling facility unless they are accompanied by a permit or "S" brand permit. Cattle or bison transported in vehicles closed with official seals are prohibited from entering the approved intermediate handling facility. No cattle or bison shall be permitted to leave an approved intermediate handling facility unless they are accompanied by a permit or "S" brand permit which lists a recognized slaughtering establishment as the point of destination. To qualify for and retain approval, the following conditions must be met: (a) The facility must be separate and apart from other livestock handling facilities; (b) Serviceable equipment for cleaning and disinfection shall be furnished and maintained with adequate disinfectant on hand; (c) The facility must be cleaned and disinfected in accordance with § 71.4(a) of this chapter; (d) Any document relating to cattle or bison which are or have been in the facility shall be maintained by the facility for a period of 1 year; (e) State representatives and Veterinary Services representatives shall be granted, at reasonable hours, access to all documents required to be maintained by the facility and authority to reproduce the documents; and (f) Each entrance and exit to the facility must prominently display a sign bearing the following words: "All cattle and bison entering this facility must go directly to slaughter". The Deputy Administrator may withdraw or deny approval of any intermediate handling facility in accordance with § 78.44(b).

Area. That portion of any State which has a separate brucellosis classification under this part.

"B" branded. Branding with a hot iron the letter "B" at least 5 sq. cm. (2 x 2 inches) in size on the left jaw.

Boar. An uncastrated male swine 6 months of age or over which is or has been capable of being used for breeding purposes.

Brucellosis. The contagious, infectious, and communicable disease caused by bacteria of the genus *Brucella.* It is also known as Bangs disease, undulant fever, and contagious abortion.

Brucellosis exposed. Except for brucellosis reactors, animals that are part of a herd known to be affected, or are in a quarantined feedlot or a quarantined pasture, or are brucellosis suspects, or that have been in contact with a brucellosis reactor for a period of 24 hours or more, or for a period of less than 24 hours if the brucellosis reactor has aborted, calved, or farrowed within the past 30 days or has a vaginal or uterine discharge.

Brucellosis negative. An animal subjected to one or more official tests resulting in a brucellosis negative classification or reclassified as brucellosis negative by a designated epidemiologist as provided for in the definition of official test.

Brucellosis reactor. An animal subjected to an official test resulting in a brucellosis reactor classification or subjected to a bacteriological examination for field strain *Brucella abortus* and found positive or reclassified as a brucellosis reactor by a designated epidemiologist as provided for in the definition of official test.

Brucellosis ring test. The brucellosis ring test is conducted on composite milk or cream samples from dairy herds and is interpreted as either negative or suspicious (positive). Herds which are negative to the brucellosis ring test and which are not quarantined as brucellosis affected are classified as brucellosis negative for public health ordinances and surveillance purposes. Herds classified as suspicious require a herd blood test to determine animal and herd status.

Brucellosis suspect. An animal subjected to an official test resulting in a brucellosis suspect classification or reclassified as a brucellosis suspect by a designated epidemiologist as provided for in the definition of official test.

Certificate. An official document issued by a Veterinary Services representative, State representative, or accredited veterinarian at the point of origin of a movement of animals. It must show the official eartag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, individual animal registered breed association registration number, or similar individual identification of each animal to be moved; the number of animals covered by the document; the purpose for which the animals are to be moved; the points of origin and destination; the consignor; and the consignee. Ownership brands may be used as identification on certificates for cattle moved interstate when no official test is required under this part, provided the ownership brands are registered with the official brand recording agency and the cattle are accompanied by official brand inspection certificates.

Certified brucellosis-free herd. A herd of cattle or bison which has qualified for and whose owner has been issued a certified brucellosis-free herd certificate signed by the appropriate State animal health official and the Veterinarian in Charge.

(a) Certification. Either of the following two methods may be used to qualify a herd:

(1) In the case of dairy cattle, by conducting a minimum of four consecutive negative brucellosis ring tests at not less than 90-day intervals, followed by a negative herd blood test within 90 days after the last negative brucellosis ring test; or

(2) By conducting at least two consecutive negative herd blood tests not less than 10 months nor more than 14 months apart.

(b) Maintaining certification. Certified brucellosis-free herd status will remain in effect for 1 year beginning with the date of issuance of the certified brucellosis-free herd certificate. A negative herd blood test must be conducted within 10 to 12 months of the last certification date for continuous status. Lapsed certification may be reinstated if a herd blood test is conducted within 14 months of the last certification date. A new recertification test date may be established if requested by the owner and if the herd is negative to a herd blood test on that date, provided that date is within 1 year of the previous certification date. A herd decertified because a brucellosis reactor is found may be recertified only by repeating the entire certification process.

Class A State or area. A State or area which meets standards for classification as a Class A State or area and is certified as such on initial classification or on reclassification by the State animal health official, the Veterinarian in Charge, and the Deputy Administrator. Reclassification to a lower class may be made by the Deputy Administrator after notice and opportunity to be heard is given to the State animal health official. The following are the standards to attain and maintain Class A status.

(a) Surveillance.

(1) Brucellosis ring test. The brucellosis ring test shall be conducted in the State or area at least four times per year at approximately 90-day intervals. All herds producing milk for sale shall be included in at least three of the four brucellosis ring tests per year.

(2) Market Cattle Identification (MCI) program. (i) Coverage. All recognized slaughtering establishments in the State or area must participate in the MCI program. Blood samples shall be collected from at least 95 percent of all cows and bulls 2 years of age or over at each recognized slaughtering establishment and subjected to an

official test; (ii) Brucellosis reactors. At least 90 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin and an epidemiologic investigation conducted by State representatives or Veterinary Services representatives within 15 days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. When required by the results of the epidemiologic investigation, herd blood tests must be conducted or the herds must be confined to the premises under quarantine within 30 days after notification that brucellosis reactors were found on the MCI test.

(3) Epidemiologic surveillance. (i) Adjacent herds. All adjacent herds or other herds having contact with cattle in a herd known to be affected shall have an approved individual herd plan in effect within 15 days of notification of brucellosis in the herd known to be affected; (ii) Epidemiologically traced herds. All herds from which cattle are moved into a herd known to be affected and all herds which have received cattle from a herd known to be affected shall have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd.

(b) Herd infection rate.

(1) Percentage of herds affected. States or areas must not exceed a cattle herd infection rate, based on the number of herds found to have brucellosis reactors within the State or area during any 12 consecutive months due to field strain *Brucella abortus*, of 0.25 percent or 2.5 herds per 1,000, except in States with 10,000 or fewer herds. A special review by the Deputy Administrator will be made to determine if such small herd population States would qualify for Class A status. Locations of herds, sources of brucellosis, and brucellosis control measures taken by the State will be considered.

(2) Epidemiologic investigation. Within 15 days after notification by the cooperative State-Federal laboratory that brucellosis reactors have been found in any herd, State representatives or Veterinary Services representatives shall investigate that herd to identify possible sources of brucellosis. All possible sources of brucellosis identified shall be contacted within an additional 15 days to determine appropriate action.

(c) MCI reactor prevalence rate. The State or area must maintain a 12 consecutive month MCI reactor prevalence rate not to exceed 1 brucellosis reactor per 1,000 cattle tested (0.10 percent). For purposes of State or area classification, cattle which are not official vaccinates and are positive to the standard card test and officially vaccinated cattle positive to the rivanol test at 1:25 serum titer or greater will be counted as MCI reactors. The MCI reactor prevalence rate is a rate of infection in the cattle population based on the percentage of brucellosis reactors found in the MCI test cattle. The MCI reactor prevalence rate is adjusted for out-of-State and out-of-area cattle, recordkeeping errors, and cattle traced to herds known to be affected or to herds with negative herd blood tests. Special consideration of a State or area MCI reactor prevalence rate will be permitted when it is affected by unusual marketing conditions.

Class B State or area. A State or area which meets standards for classification as a Class B State or area and is certified as such on initial classification or on reclassification by the State animal health official, the Veterinarian in Charge, and the Deputy Administrator. Reclassification to a lower class can be made by the Deputy Administrator after notice and opportunity to be heard is given to the State animal health official. The following are the standards to attain and maintain Class B status.

(a) Surveillance.

(1) Brucellosis ring test. The brucellosis ring test shall be conducted in the State or area at least four times per year at approximately 90-day intervals. All herds producing milk for sale shall be included in at least three of the four brucellosis ring tests per year.

(2) Market Cattle Identification (MCI) program. (i) Coverage. All recognized slaughtering establishments in the State or area must participate in the MCI program. Blood samples shall be collected from at least 95 percent of all cows and bulls 2 years of age or over at each recognized slaughtering establishment and subjected to an official test; (ii) Brucellosis reactors. At least 80 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin and an epidemiologic investigation conducted by State representatives or Veterinary Services representatives within 30 days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. When required by the results of the epidemiologic investigation, herd blood tests must be conducted or the herds must be confined to the premises under quarantine within 30 days after notification that brucellosis reactors were found on the MCI test.

(3) Epidemiologic surveillance. (i) Adjacent herds. All adjacent herds or other herds having contact with cattle in a herd known to be affected shall have an approved individual herd plan in effect within 45 days of notification of brucellosis in the herd known to be affected; (ii) Epidemiologically traced herds. All herds from which cattle are moved into a herd known to be affected and all herds which have received cattle from a herd known to be affected shall have an approved individual herd plan in effect within 45 days of locating the source herd or recipient herd.

(b) Herd infection rate.

(1) Percentage of herds affected. States or areas must not exceed a cattle herd infection rate, based on the number of herds found to have brucellosis reactors within the State or area during any 12 consecutive months due to field strain *Brucella abortus*, of 1.5 percent or 15 herds per 1,000, except in States with 1,000 or fewer herds. A special review by the Deputy Administrator will be made to determine if such small herd population States would qualify for Class B status. Locations of herds, sources of brucellosis, and brucellosis control measures taken by the State will be considered.

(2) Epidemiologic investigation. Within 45 days after notification by the cooperative State-Federal laboratory that brucellosis reactors have been found in any herd, State representatives or Veterinary Services representatives shall investigate that herd to identify possible sources of brucellosis. All possible sources of brucellosis identified shall be contacted within an additional 30 days to determine appropriate action.

(c) MCI reactor prevalence rate. The State or area must maintain a 12 consecutive month MCI reactor prevalence rate not to exceed 3 brucellosis reactors per 1,000 cattle tested (0.30 percent). For purposes of State or area classification, cattle which are not official vaccinates and are positive to the standard card test and officially vaccinated cattle positive to the rivanol test at 1:25 serum titer or greater will be counted as MCI reactors. The MCI reactor prevalence rate is a rate of infection in the cattle population based on the percentage of brucellosis reactors found in the MCI test cattle. The MCI reactor prevalence rate is adjusted for out-of-State and out-of-area cattle, recordkeeping errors, and cattle traced to herds known to be affected or to herds with negative herd blood tests. Special consideration of a State or area MCI reactor prevalence rate will be permitted when it is affected by unusual marketing conditions.

Class C State or area. A State or area which meets standards for classification as a Class C State or area and is

certified as such on initial classification or on reclassification by the State animal health official, the Veterinarian in Charge, and the Deputy Administrator. Reduction in status to "quarantined area" can be made by the Deputy Administrator after notice and opportunity to be heard is given to the State animal health official. The following are the standards to attain and maintain Class C status.

(a) Surveillance.

(1) Brucellosis ring test. The brucellosis ring test shall be conducted in the State or area at least four times per year at approximately 90-day intervals. All herds producing milk for sale shall be included in at least three of the four brucellosis ring tests per year.

(2) Market Cattle Identification (MCI) program. (i) Coverage. All recognized slaughtering establishments in the State or area must participate in the MCI program. Blood samples shall be collected from at least 95 percent of all cows and bulls 2 years of age or over at each recognized slaughtering establishment and subjected to an official test; (ii) Brucellosis reactors. At least 80 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin and an epidemiologic investigation conducted by State representatives or Veterinary Services representatives within 30 days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. When required by the results of the epidemiologic investigation, herd blood tests must be conducted or the herds must be confined to the premises under quarantine within 30 days of the official notification that brucellosis reactors were found on the MCI test.

(3) Epidemiologic surveillance. (i) Adjacent herds. All adjacent herds or other herds having contact with cattle in a herd known to be affected shall have an approved individual herd plan in effect within 45 days of notification of brucellosis in the herd known to be affected; (ii) Epidemiologically traced herds. All herds from which cattle are moved into a herd known to be affected and all herds which have received cattle from a herd known to be affected shall have an approved individual herd plan in effect within 45 days of locating the source herd or recipient herd.

(b) Herd infection rate.

(1) Percentage of herds affected. States or areas exceed a cattle herd infection rate, based on the number of herds found to have brucellosis reactors within the State or area during any 12 consecutive months due to field strain *Brucella abortus*, of 1.5 percent or 15 herds per 1,000, except in States with 1,000 or fewer herds. A special review by the Deputy Administrator will be made to determine if such small herd population States should be classified as a Class C State. Locations of herds, sources of brucellosis, and brucellosis control measures taken by the State will be considered.

(2) Epidemiologic investigation. Within 45 days after notification by the cooperative State-Federal laboratory that brucellosis reactors have been found in any herd, State representatives or Veterinary Services representatives shall investigate that herd to identify possible sources of brucellosis. All possible sources of brucellosis identified shall be contacted within an additional 30 days to determine appropriate action.

(c) MCI reactor prevalence rate. The State or area maintains a 12 consecutive month MCI reactor prevalence rate exceeding 3 brucellosis reactors per 1,000 cattle tested (0.30 percent). For purposes of State or area classification, cattle which are not official vaccinates and are positive to the standard card test and officially vaccinated cattle positive to the rivanol test at 1:25 serum titer or greater will be counted as MCI reactors. The MCI reactor prevalence rate is a rate of infection in the cattle population based on the percentage of brucellosis reactors found in the MCI test cattle. The MCI reactor prevalence rate is adjusted for out-of-State and out-of-area cattle, recordkeeping errors, and cattle traced to herds known to be affected or to herds with negative herd blood tests. Special consideration of a State or area MCI reactor prevalence rate will be permitted when it is affected by unusual marketing conditions.

(d) Compliance with minimum procedural standards.

(1) A State must implement and maintain minimum procedural standards.

(2) A State or area must make continued progress over a 2-year period in reducing the prevalence of brucellosis as determined by epidemiologic evaluation or it will be placed under Federal quarantine.

Class Free State or area. A State or area which meets standards for classification as a Class Free State or area and is certified as such on initial classification or on reclassification by the State animal health official, the Veterinarian in Charge, and the Deputy Administrator. Reclassification to a lower status can be made by the Deputy Administrator after notice and opportunity to be heard is given to the State animal health official. All cattle herds in the State or area in which brucellosis has been known to exist must be released from any State or Federal brucellosis quarantine prior to classification. In addition, if any herds of other species of domestic livestock have been found to be affected with brucellosis, they must be subjected to an official test and found negative, slaughtered, or quarantined so that no known foci of brucellosis in any species of domestic livestock are left uncontrolled. The following are the standards to attain and maintain Class Free status.

(a) Surveillance.

(1) Brucellosis ring test. The brucellosis ring test shall be conducted in the State or area at least four times per year at approximately 90-day intervals. All herds producing milk for sale shall be included in at least three of the four brucellosis ring tests per year.

(2) Market Cattle Identification (MCI) program. (i) Coverage. All recognized slaughtering establishments in the State or area must participate in the MCI program. Blood samples shall be collected from at least 95 percent of all cows and bulls 2 years of age or over at each recognized slaughtering establishment and subjected to an official test; (ii) Brucellosis reactors. At least 90 percent of all brucellosis reactors found in the course of MCI testing must be traced to the farm of origin and an epidemiologic investigation conducted by State representatives or Veterinary Services representatives within 15 days after notification by the cooperative State-Federal laboratory that brucellosis reactors were found on the MCI test. When required by the results of the epidemiologic investigation, herd blood tests must be conducted or the herds must be confined to the premises under quarantine within 30 days of notification that brucellosis reactors were found on the MCI test.

(3) Epidemiologic surveillance. (i) Adjacent herds. All adjacent herds or other herds having contact with cattle in a herd known to be affected shall be placed under quarantine and have an approved individual herd plan in effect within 15 days after notification of brucellosis in the herd known to be affected; (ii) Epidemiologically traced herds. All herds from which cattle are moved into a herd known to be affected and all herds which have received cattle from a herd known to be affected shall be placed under quarantine and have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd.

(b) Herd infection rate.

(1) Percentage of herds affected. All cattle herds in the State or area must

remain free of field strain *Brucella abortus* for 12 consecutive months. States or areas must have a cattle herd infection rate, based on the number of herds found to have brucellosis reactors within the State or area during any 12 consecutive months due to field strain *Brucella abortus* of 0.0 percent or 0 herds per 1,000.

(2) Epidemiologic investigation. Within 15 days after notification by the cooperative State-Federal laboratory that brucellosis reactors have been found in any herd, State representatives or Veterinary Services representatives shall investigate that herd to identify possible sources of brucellosis. All possible sources of brucellosis identified shall be contacted within an additional 15 days to determine appropriate action.

(c) MCI reactor prevalence rate. The State or area must maintain a 12 consecutive month MCI reactor prevalence rate not to exceed 1 brucellosis reactor per 2,000 cattle tested (0.050 percent). For purposes of State or area classification, cattle which are not official vaccinates and are positive to the standard card test and officially vaccinated cattle positive to the rivanol test at 1:25 serum titer or greater will be counted as MCI reactors. The MCI reactor prevalence rate is a rate of infection in the cattle population based on the percentage of brucellosis reactors found in the MCI test cattle. The MCI reactor prevalence rate is adjusted for out-of-State and out-of-area cattle, recordkeeping errors, and cattle traced to herds known to be affected or to herds with negative herd blood tests. Special consideration of a State or area MCI reactor prevalence rate will be permitted when it is affected by unusual marketing conditions.

Dairy cattle. A bovine animal of a recognized dairy breed.

Deputy Administrator. The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other Veterinary Services official delegated to act in the Deputy Administrator's stead.

Designated epidemiologist. An epidemiologist selected by the State animal health official and the Veterinarian in Charge to perform the functions required. The regional epidemiologist and the Veterinary Services brucellosis staff must concur in the selection and appointment of the designated epidemiologist.

Directly. Without unloading en route if moved in a means of conveyance, or without stopping if moved in any other manner.

Epidemiologist. A veterinarian who has received a master's degree in epidemiology or completed a course of study in epidemiology sponsored by the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture.

Epidemiology. A branch of medical science that deals with the incidence, distribution, and control of disease in the animal population.

Farm of origin. (a) Premises where cattle or bison are born and remain prior to movement from the premises but which are not used to assemble cattle or bison from any other premises for 4 months before such movement; or (b) premises where cattle or bison remain for not less than 4 months immediately before movement from the premises but which are not used to assemble cattle or bison from any other premises for 4 months before such movement.

Finished fed cattle. Cattle fattened on a ration of feed concentrates to reach a slaughter condition equivalent to that which would be attained on full feed with a high concentrate grain ration for 90 days.

Herd. (a) All animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm or ranch); or (b) All animals under common ownership or supervision on two or more premises which are geographically separated but on which animals from the different premises have been interchanged or had contact with each other.

Herd blood test.

(a) Cattle and bison. A blood test for brucellosis conducted in a herd on all cattle or bison which are (1) 6 months of age or over and not official vaccinates, except steers and spayed heifers; (2) Official calfhood vaccinates of any age which are parturient or postparturient; (3) Official calfhood vaccinates of beef breeds or bison with the first pair of permanent incisors fully erupted (2 years of age or over); and (4) Official calfhood vaccinates of dairy breeds with partial eruption of the first pair of permanent incisors (20 months of age or over).

(b) Swine. A blood test for brucellosis conducted in a herd on all swine 6 months of age or over maintained in the herd for breeding purposes.

Herd known to be affected. Any herd in which any animal has been classified as a brucellosis reactor and which has not been released from quarantine.

Herd not known to be affected. Any herd in which no animal has been classified as a brucellosis reactor or any herd in which one or more animals have been classified as brucellosis reactors but which has been released from quarantine.

Herd of origin of swine. Any herd in which swine are farrowed and remain until movement or any herd in which swine remain for 30 days immediately prior to movement.

Interstate. From any State into or through any other State.

Market cattle identification test cattle. Cows and bulls 2 years of age or over which have been moved to recognized slaughtering establishments, and test-eligible cattle which are subjected to an official test for the purposes of movement at farms, ranches, auction markets, stockyards, or other assembly points. Such cattle shall be identified by an official eartag and/or United States Department of Agriculture backtag prior to or at the first market, stockyard, or slaughtering establishment they reach.

Market swine test swine. Sows and boars which have been moved to slaughtering establishments and sows and boars which are subjected to an official test for the purposes of movement at farms, ranches, auction markets, stockyards, or other assembly points.

Moved. Shipped, transported, delivered, or received for movement, or otherwise aided, induced, or caused to be moved.

Moved (movement) in interstate commerce. Moved from the point of origin of the interstate movement to the animals' final destination, such as a slaughtering establishment or a farm for breeding or raising, and including any temporary stops for any purpose along the way, such as at a stockyard or dealer premises for feed, water, rest, or sale.

Official adult vaccinate.

(a) (1) Female cattle or female bison older than the specified ages defined for official calfhood vaccinate and vaccinated by a Veterinary Services representative, State representative, or accredited veterinarian with a reduced dose approved brucella vaccine, diluted so as to contain at least 300 million and not more than 1 billion live cells per 2 ml. dose, as part of a whole herd vaccination plan authorized jointly by the State animal health official and the Veterinarian in Charge; or (2) Female cattle or female bison vaccinated prior to December 31, 1984, in accordance with the definition of an official adult vaccinate in this part at the date of vaccination; and

(b) (1) Permanently identified by a "V" hot brand on the right jaw or high on the hip near the tailhead, or by an official AV (adult vaccination) tattoo in the right ear preceded by the quarter of the year and followed by the last digit of

the year; and (2) Identified with an official eartag or individual animal registered breed association registration brand or individual animal registered breed association tattoo.

Official brand inspection certificate. A document issued by an official brand inspection agency in any State which requires such documents for movement of cattle.

Official brand recording agency. The duly constituted body authorized by a State or governmental subdivision thereof to administer laws, regulations, ordinances or rules pertaining to the brand identification of cattle.

Official calfhood vaccinate.

(a) (1) Female cattle or female bison vaccinated while from 4 through 12 months of age by a Veterinary Services representative, State representative, or accredited veterinarian with a reduced dose approved brucella vaccine containing at least 3 billion and not more than 10 billion live cells per 2 ml. dose; or (2) Female cattle or female bison vaccinated prior to December 31, 1984, in accordance with the definition of an official vaccinate in this part at the date of vaccination; and

(b) Permanently identified by a tattoo and by an official vaccination eartag in the right ear. However, if already identified with an official eartag prior to vaccination, an additional tag is not required. The tattoo must include the U.S. Registered Shield and "V," preceded by the quarter of the year and followed by the last digit of the year of vaccination. Individual animal registered breed association registration brands or individual animal registered breed association registration tattoos may be substituted for official eartags.

Official eartag. A Veterinary Services approved identification eartag conforming to the nine-character alpha-numeric National Uniform Eartagging System which provides unique identification for each animal.

Official seal. A serially numbered, metal or plastic strip, consisting of a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged and which cannot be reused if opened, or a serially numbered, self-locking button which can be used for this purpose.

Official test.

(a) Classification of cattle and bison.

(1) Standard card test (standard sensitivity pH 3.8).

(i) A test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by Veterinary Services and the State in which the test is to be conducted and when conducted under the following circumstances:

(A) When conditions and time are such that no other test is available; or

(B) When the owner or the owner's agent requests it because of time or situation constraints; or

(C) In specifically approved stockyards when the State animal health official designates the standard card test as the official test in all specifically approved stockyards in the State. In such States, no other test except the BAPA shall be used as an official test in specifically approved stockyards; or

(D) To test market cattle identification (MCI) program test samples. Cattle and bison which test positive to the BAPA test or RST under the MCI program must be retested using the standard card test or the standard plate or tube agglutination test.

(ii) Results of the standard card test also may be used to supplement the results of other official tests conducted in the cooperative State-Federal laboratory to give the designated epidemiologist additional information when classifying cattle and bison.

(iii) Standard card test results are interpreted as either negative or positive. A moderate to marked clumping agglutination reaction is a positive result. Test-eligible cattle and bison positive to the standard card test are classified as brucellosis reactors. Test-eligible cattle and bison negative to the standard card test are classified as brucellosis negative.

(2) Standard tube test (STT) or standard plate test (SPT). A test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by Veterinary Services and the State in which the test is to be conducted. Cattle and bison are classified according to the following agglutination reactions:

SPT OR STT CLASSIFICATION—OFFICIAL VACCINATES

Titer			Classification
1:50	1:100	1:200	
—	—	—	Negative.
I	—	—	Do.
+	—	—	Do.
+	I	—	Suspect.
+	+	—	Do.
+	+	I	Do.
+	+	+	Reactor.

— No agglutination.
I—Incomplete agglutination.
+—Complete agglutination.

ALL CATTLE AND BISON WHICH ARE NOT OFFICIAL VACCINATES

Titer			Classification
1:50	1:100	1:200	
—	—	—	Negative.
I	—	—	Suspect.
+	—	—	Do.
+	I	—	Do.
+	+	—	Reactor.
+	+	I	Do.
+	+	+	Do.

— No agglutination.
I—Incomplete agglutination.
+—Complete agglutination.

(3) Manual complement-fixation (CF) test. A test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by Veterinary Services and the State in which the test is to be conducted. Cattle and bison are classified according to the following reactions:

(i) Cattle and bison which are not official vaccinates:

(A) Fifty percent fixation (2 plus) in a dilution of 1:20 or higher—brucellosis reactor;

(B) Fifty percent fixation (2 plus) in a dilution of 1:10 but less than 50 percent fixation (2 plus) in a dilution of 1:20—brucellosis suspect;

(C) Less than 50 percent fixation (2 plus) in a dilution of 1:10—brucellosis negative;

(ii) Official vaccinates:

(A) Twenty-five percent fixation (1 plus) in a dilution of 1:40 or higher—brucellosis reactor;

(B) Fifty percent fixation (2 plus) in a dilution of 1:10 but less than 25 percent fixation (1 plus) in a dilution of 1:40—brucellosis suspect;

(C) Less than 50 percent fixation (2 plus) in a dilution of 1:10—brucellosis negative.

(4) Technicon automated complement-fixation test. A test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by Veterinary Services and the State in which the test is to be conducted. Cattle and bison are classified according to the following reactions:

(i) Cattle and bison which are not official vaccinates:

(A) Fixation in a dilution of 1:10 or higher—brucellosis reactor;

(B) Fixation in a dilution of 1:5 but no fixation in a dilution of 1:10—brucellosis suspect;

(C) No fixation in a dilution of 1:5 or lower—brucellosis negative;

(ii) Official vaccinates:

(A) Fixation in a dilution of 1:20 or higher—brucellosis reactor;

(B) Fixation in a dilution of 1:10 but no fixation in a dilution of 1:20—brucellosis suspect;

(C) Fixation in a dilution of 1:5 or less but no fixation in a dilution of 1:10—brucellosis negative.

(5) Rivanol test. A test to determine the brucellosis disease status of test-eligible cattle and bison when conducted according to instructions approved by Veterinary Services and the State in which the test is to be conducted. Cattle and bison are classified according to the following agglutination reactions:

(i) Cattle and bison which are not official vaccinates:

(A) Complete agglutination at a titer of 1:25 or higher—brucellosis reactor;

(B) Less than complete agglutination at a titer of 1:25—brucellosis negative;

(ii) Official adult vaccinates more than 5 months after vaccination and official calfhood vaccinates:

(A) Incomplete agglutination at a titer of 1:100 or higher—brucellosis reactor;

(B) Complete agglutination at a titer of 1:25 or higher when the manual or technicon automated complement-fixation test is not conducted—brucellosis reactor;

(C) Complete agglutination at a titer of 1:50 or less when the manual complement-fixation test or the technicon automated complement-fixation test is conducted and results in a classification of brucellosis suspect or brucellosis negative—brucellosis suspect;

(D) Less than complete agglutination at a titer of 1:25—brucellosis negative;

(iii) Official adult vaccinates less than 5 months after vaccination: Less than complete agglutination at the 1:50 titer—brucellosis negative.

(6) Semen plasma test. A test to determine the brucellosis disease status of bulls used for artificial insemination when conducted in conjunction with an official serological test and according to instructions approved by Veterinary Services and the State in which the test is to be conducted. The classification of such bulls shall be based on the maximum agglutination titer of either the official serological test or the semen plasma test.

(7) Buffered acidified plate antigen (BAPA) test. A test to determine the brucellosis disease status of test-eligible cattle and bison at recognized slaughtering establishments and specifically approved stockyards when conducted according to instructions approved by Veterinary Services and the State in which the test is to be conducted. BAPA test results are interpreted as either negative or positive. Cattle and bison negative to the BAPA test are classified as brucellosis negative. Cattle and bison positive to the BAPA test shall be subjected to other official tests to determine their brucellosis classification.

(8) Rapid screening test (RST). A test to determine the brucellosis disease status of test-eligible cattle and bison in cooperative State-Federal laboratories when conducted according to instructions approved by Veterinary Services and the State in which the test is to be conducted. RST results are interpreted as either negative or positive. Cattle and bison negative to the RST are classified as brucellosis negative. Cattle and bison positive to the RST shall be subjected to other official tests to determine their brucellosis classification.

(9) The evaluation of test results for all cattle and bison shall be the responsibility of a designated epidemiologist in each State. The designated epidemiologist shall consider the animal and herd history and other epidemiologic factors when determining the brucellosis classification of cattle and bison. Deviations from the brucellosis classification criteria as provided in this definition of official test are acceptable when made by the designated epidemiologist.

(b) Classification of swine.

(1) Standard card test. A test to determine the brucellosis disease status of swine. Standard card test results are interpreted as either negative or positive. A moderate to marked clumping agglutination reaction is a positive result. Swine negative to the standard card test are classified as brucellosis negative. Swine positive to the standard card test in a herd not known to be affected but negative to any other official test or bacteriological culture for *brucella* are classified as brucellosis suspects. Other swine positive to the standard card test are classified as brucellosis reactors.

(2) Standard tube test. A test to determine the brucellosis disease status of swine.

(i) If all of the following apply: (A) The swine are part of a herd not known to be affected; (B) No swine tested, individually or as part of a group, has a complete agglutination reaction at a dilution of 1:100 or higher; and (C) the swine are tested as part of a herd blood test or are part of a validated brucellosis-free herd, then the swine are classified according to the following agglutination reactions:

Titer		Classification	
1:25	1:50	1:100	
I	-	—	Negative.
+	—	—	Do.
+	I	—	Do.
+	+	—	Do.
+	+	I	Do.

— No agglutination.
I—Incomplete agglutination.
+—Complete agglutination.

(ii) If any of the following apply: (A) The swine are part of a herd known to be affected; (B) Any swine tested, individually or as part of a group, has a complete agglutination reaction at a dilution of 1:100 or higher or; (C) The swine are not part of a validated brucellosis-free herd and are not being tested as part of a herd blood test, then the swine are classified according to the following agglutination reactions:

Titer		Classification	
1:25	1:50	1:100	
I	—	—	Negative.
+	—	—	Reactor.
+	I	—	Do.
+	+	—	Do.
+	+	I	Do.
+	+	+	Do.

— No agglutination.
I—Incomplete agglutination.
+—Complete agglutination.

Official vaccinate. An official calfhood vaccinate or an official adult vaccinate. The accredited veterinarian, State representative or Veterinary Services representative who performs the vaccination must forward a completed official vaccination certificate for each animal vaccinated to the State animal health official of the State in which the animal was vaccinated.

Official vaccination eartag. A Veterinary Services approved identification eartag conforming to the alpha-numeric National Uniform Eartagging System which provides unique identification for each animal. The eartag shall have a "V" followed by 2 letters and 4 numbers. States which require more official vaccination eartags than the number of combinations available in the "V" series of tags shall use a "T" or "S" followed by 2 letters and 4 numbers. Duplicate reissue of official vaccination eartags shall not be made more often than once each 15 years.

Originate.

(a) Animals will have the status of the herd from which they are moved if:

(1) They were born and maintained in the herd since birth; or

(2) They have been in the herd for at least 120 days.

(b) Animals will have the status of the State or area from which they are moved if:

(1) They were born and maintained in the State or area since birth; or

(2) They were previously moved from a State or area of equal or higher class to the State or area; or

(3) They were previously moved from a State or area of lower class to the State or area where they are now located and have been in the new State or area for at least 120 days.

(c) Cattle penned in a specifically approved stockyard with cattle from a lower class State or area, in violation of the requirements set forth in §78.44, shall have the status of the State or area of lower class for any subsequent movement.

Parturient. Visibly prepared to give birth or within 2 weeks of giving birth (springers).

Permit. An official document (VS Form 1–27 or a State form which contains the same information but not a "permit for entry" or " 'S' brand permit") issued by a Veterinary Services representative, State representative, or accredited veterinarian which lists the owner's name and address, points of origin and destination, number of animals covered, purpose of the movement, any reactor tag number, and one of the following: the official eartag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, United States Department of Agriculture backtag (when applied serially, only the beginning and the ending numbers need be recorded), individual animal registered breed association registration number, or similar individual identification. (A new permit is required for each change in destination. However, permits accompanying cattle or bison to an approved intermediate handling facility may list either the approved intermediate handling facility or a recognized slaughtering establishment as the point of destination. If such a permit lists a recognized slaughtering establishment as the point of destination, then the permit must list the approved intermediate handling facility as a temporary stopping point, and no additional permit is required for the subsequent movement of the cattle or bison to the recognized slaughtering establishment.)

Permit for entry. A premovement authorization for entry of cattle into a State from the State animal health official of the State of destination. It may be oral or written.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company or other legal entity.

Postparturient. Having given birth.

Qualified herd.

(a) Qualification. (1) Any herd of cattle or bison which is in a quarantined area, not known to be affected, and negative to two consecutive herd blood tests. The first of these two herd blood tests shall be conducted not more than 240 days nor less than 120 days prior to the date of classification as a qualified herd. The second herd blood test may not be conducted less than 90 days nor more than 150 days after the first test. Additionally, the second herd blood test must be within 120 days of the date of classification as a qualified herd; or (2) Any certified brucellosis-free herd in a quarantined area which is negative to a herd blood test 120 days before or after designation of the area as a quarantined area.

(b) Requalification. In order to remain a qualified herd, a herd must be negative to successive requalifying herd blood tests. Each requalifying test shall be conducted not more than 120 days from the date of the preceding herd blood test. All cattle or bison added to a qualified herd must be included in two successive herd blood tests of the qualified herd to qualify as cattle or bison from the qualified herd.

Quarantined area. An area in which brucellosis exists but in which control and eradication procedures are not adequate to prevent the interstate dissemination of brucellosis.

Quarantined feedlot.[1] A confined area under State quarantine approved jointly by the State animal health official and the Veterinarian in Charge. Approval will be granted only after a State representative or Veterinary Services representative inspects the confined area and determines that all cattle and bison are secure and isolated from contact with all other cattle and bison, that there are facilities for identifying cattle and bison, and that there is no possibility of brucellosis being mechanically transmitted from the confined area. The quarantined feedlot shall be maintained for feeding cattle and bison for slaughter, with no provisions for pasturing or grazing. All cattle and bison in a quarantined feedlot, except steers and spayed heifers, shall be treated as brucellosis exposed.

(a) All cattle and bison, except steers and spayed heifers, leaving the quarantined feedlot must (1) Be accompanied by a permit and move directly to a recognized slaughtering establishment; or (2) Be "S" branded and accompanied by an "S" brand permit and move directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment; or (3) Be accompanied by a permit issued by the State animal health official and move directly to another quarantined feedlot; or (4) After being "S" branded at the quarantined feedlot, be accompanied by an "S" brand permit and move directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and bison and then directly to a recognized slaughtering establishment or another quarantined feedlot; or (5) After being "S" branded at the quarantined feedlot, be accompanied by an "S" brand permit and move directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and bison and then directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment. However, finished fed cattle moving directly to a recognized slaughtering establishment are exempt from the permit/"S" brand permit requirement.

(b) The State animal health official and the Veterinarian in Charge shall establish procedures for accounting for all cattle and bison entering or leaving quarantined feedlots.

Quarantined pasture. A confined grazing area under State quarantine approved by the State animal health official, Veterinarian in Charge and the Deputy Administrator. A justification of the need for the quarantined pasture must be prepared by the State animal health official and/or Veterinarian in Charge and submitted to the Deputy Administrator. An intensified brucellosis eradication effort which produces large numbers of brucellosis exposed cattle or bison or official adult vaccinates needing the grazing period to reach slaughter condition would be an acceptable justification. Approval will be granted only after a State representative or Veterinary Services representative inspects the confined grazing area and determines that all cattle and bison are secure and isolated from contact with all other cattle and bison, that there are facilities for identifying the cattle and bison, and that there is no possibility of brucellosis being mechanically transmitted from the

[1] A list of quarantined feedlots in any State may be obtained from the State animal health official, a State representative, or a Veterinary Services representative.

confined grazing area. The quarantined pasture shall be for utilizing available forage for growth or to improve flesh condition of cattle or bison. No cattle or bison may be moved interstate into these quarantined pastures, which shall be restricted for use by cattle or bison originating within the State. All cattle or bison shall be of the same sex, except that neutered cattle and bison may share the quarantined pasture. All cattle and bison, except steers and spayed heifers, must be "S" branded upon entering the quarantined pasture. All cattle and bison, except steers and spayed heifers, leaving the quarantined pasture must move directly to a recognized slaughtering establishment or quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment. The movement shall be in accordance with established procedures for handling brucellosis exposed cattle and bison, including issuance of "S" brand permits prior to movement. The State animal health official and Veterinarian in Charge shall establish procedures for accounting for all cattle and bison entering and leaving the quarantined pasture. All brucellosis exposed cattle and bison must vacate the premises on or before the expiration of approval, which may not last longer than 10 months.

Recognized slaughtering establishment.[2] Any slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or a State meat inspection act.

"S" branded. Branding with a hot iron the letter "S" at least 5 sq. cm. (2×2 inches) in size on the left jaw or high on the tailhead (over the fourth to the seventh coccygeal vertebrae).

"S" brand permit. A document prepared at the point of origin which lists the points of origin and destination, the number of animals covered, the purpose of movement, and one of the following: The official eartag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, individual animal registered breed association registration number, United States Department of Agriculture backtag (when applied serially, only the beginning and the ending numbers need be recorded), or similar individual identification. If the document is prepared at a quarantined feedlot, it shall be prepared by an accredited veterinarian, a State representative, or an individual designated for that purpose by the State animal health official. If the document is prepared at any other point of origin, it shall be prepared by an accredited veterinarian, State representative, or Veterinary Services representative. (A new "S" brand permit is required for each change in destination. However, "S" brand permits accompanying cattle or bison to approved intermediate handling facilities may list either the approved intermediate handling facility or a recognized slaughtering establishment as the point of destination. If such an "S" brand permit lists a recognized slaughtering establishment as the point of destination, the "S" brand permit must list the approved intermediate handling facility as a temporary stopping point, and no additional "S" brand permit is required for the subsequent movement of the cattle or bison to the recognized slaughtering establishment.)

Sow. A female swine which is parturient or postparturient.

Specifically approved stockyard.[3] Premises where cattle or bison are assembled for sale or sale purposes and which meet the standards set forth in § 78.44 and are approved by the Deputy Administrator.

State. Any State, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, the Northern Mariana Islands or any other territory or possession of the United States.

State animal health official. The State official responsible for livestock and poultry disease control and eradication programs.

State representative. An individual employed in animal health work by a State or a political subdivision thereof and authorized by such State or political subdivision to perform the function involved under a memorandum of understanding with the United States Department of Agriculture.

Test-eligible cattle and bison. For purposes of interstate movement, test-eligible cattle and bison are:

(a) Cattle and bison which are not official vaccinates and which have lost their first pair of temporary incisors (18 months of age or over), except steers and spayed heifers;

(b) Official calfhood vaccinates 18 months of age or over which are parturient or postparturient;

(c) Official calfhood vaccinates of beef breeds or bison with the first pair of permanent incisors fully erupted (2 years of age or over); and

(d) Official calfhood vaccinates of dairy breeds with partial eruption of the first pair of permanent incisors (20 months of age or over).

Validated brucellosis-free herd. (a) Validation. A herd of swine in which all sows and boars maintained for breeding purposes are negative to an official test. (b) Revalidation. To remain a validated brucellosis-free herd, (1) All sows and boars maintained for breeding purposes in the herd must be negative to an official test within 10 to 14 months of the last validation test date; or (2) At least 20 percent of the sows and boars maintained for breeding purposes in the herd must be tested under a market swine test (MST) program during the year, with at least one-half of the MST sampling occurring during the last 6 months of the validation period; or (3) All sows and boars maintained for breeding purposes in the herd must be tested in groups according to an approved individual herd plan with each such sow and boar tested at least once during the 1-year validation period.

Validated brucellosis-free State. (a) Validation.

(1) The State has necessary authorities for classification as a validated brucellosis-free State for swine; and

(2) The State has:

(i) No known focus of swine brucellosis at the time of validation and has completed one of the following methods of surveillance: (A) All sows and boars maintained for breeding purposes in the State are subjected to an official test during the 18 months preceding validation and no more than 3 percent of the herds in the State are found to have brucellosis; (B) All swine maintained in herds for breeding purposes and sold are subjected to an official test; 90 percent of all sows and boars marketed for slaughter are subjected to an official test; and, during the 12 months preceding validation, at least 90 percent of the brucellosis reactors identified are traced to their herds of origin and no more than 3 percent of the herds in the State are found to have brucellosis; (C) During a 2-year period, all herds from which sows and boars maintained for breeding purposes are sold are subjected to a herd blood test; and at least 50 percent of the brucellosis reactors identified at slaughter are traced to their herd of

[2] A list of recognized slaughtering establishments in any State may be obtained from a Veterinary Services representative, the State animal health official or a State representative

[3] Notices containing lists of specifically approved stockyards are published in the **Federal Register.** Lists of specifically approved stockyards also may be obtained from the State animal health official, State representatives, or Veterinary Services representatives.

origin and no more than 3 percent of the herds in the State are found to have brucellosis; or

(ii) No diagnosed case of swine brucellosis in the preceding 12 months, and a statistical analysis of combined results of the Market Swine Testing (MST) program, change of ownership testing, farm validation tests, and diagnostic tests conducted during the period shows the testing to be equivalent to either complete herd testing or slaughter surveillance during a 1 or 2-year period, as chosen by the State as most appropriate to its marketing needs; and

(3) The State is certified as such by the appropriate State animal health official, the Veterinarian in Charge, and the Deputy Administrator. A State may qualify as a validated brucellosis-free State regardless of the brucellosis status of feral swine in that State if the feral swine are not in physical contact with domestic swine.

(b) Revalidation. Revalidation may be obtained by either herd testing, slaughter surveillance, or combined surveillance, as chosen by the State as most appropriate to its marketing needs.

Veterinarian in Charge. The veterinary official of Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is assigned by the Deputy Administrator to supervise and perform the official animal health work of the Animal and Plant Health Inspection Service in the State concerned.

Veterinary Services. Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture.

Veterinary Services representative. An individual employed by Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, and authorized to perform the function involved.

Whole herd vaccination. The vaccination of all female cattle and female bison 4 months of age or over in a herd when authorized by the State animal health official and the Veterinarian in Charge, and conducted in accordance with the definitions of official adult vaccinate and official calfhood vaccinate.

(Approved by the Office of Management and Budget under control numbers 0579–0047, 0579–0051, and 0579–0064)

§ 78.2 Handling of certificates, permits, and "S" brand permits for interstate movement of animals.

(a) Any certificate, permit, or "S" brand permit required by this part for the interstate movement of animals shall be delivered to the person moving the animals by the shipper or shipper's agent at the time the animals are delivered for movement and shall accompany the animals to their destination and be delivered to the consignee or the person receiving the animals.

(b) The Veterinary Services representative, State representative, or accredited veterinarian issuing a certificate or permit required for the interstate movement of animals under this part, except for permits for entry and "S" brand permits, shall forward a copy thereof as follows: (1) A copy of each certificate shall be forwarded to the State animal health official of the State of destination, or to the State animal health official of the State of origin for forwarding to the State of destination; or (2) a copy of each permit shall be forwarded to the State animal health official of the State of destination.

(Approved by the Office of Management and Budget under control numbers 0579–0051 and 0579–0064)

§ 78.3 Handling in transit of cattle and bison moved interstate.

Cattle and bison moving interstate, except cattle and bison moved directly to a recognized slaughtering establishment, approved intermediate handling facility, or quarantined feedlot, shall be moved only in a means of conveyance which has been cleaned in accordance with §§ 71.5, 71.7, 71.10, and 71.11 of this chapter and, if unloaded in the course of such movement, shall be handled only in pens cleaned in accordance with the provisions of §§ 71.4, 71.7, 71.10, and 71.11 of this chapter.

§ 78.4 [Reserved]

Subpart B—Restrictions on Interstate Movement of Cattle Because of Brucellosis

§ 78.5 General restrictions.

Cattle may not be moved interstate except in compliance with this subpart.

§ 78.6 Steers and spayed heifers.

Steers and spayed heifers may be moved interstate without restriction under this subpart.

§ 78.7 Brucellosis reactor cattle.

(a) *Destination.* Brucellosis reactor cattle may be moved interstate only for immediate slaughter as follows:

(1) Directly to a recognized slaughtering establishment; (2) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment; or (3) From a farm of origin directly to a specifically approved stockyard approved to receive brucellosis reactors and then (i) Directly to a recognized slaughtering establishment; or (ii) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment.

(b) *Identification.* Prior to moving interstate, brucellosis reactor cattle shall be (1) Individually identified by attaching to the left ear a metal tag bearing a serial number and the inscription, "U.S. Reactor," or a metal tag bearing a serial number designated by the State animal health official for identifying brucellosis reactors; and (2) "B" branded.

(c) *Permit.* Brucellosis reactor cattle moving interstate shall be accompanied to destination by a permit.

(d) *Marking of records.* Each person moving brucellosis reactor cattle interstate shall, in the course of interstate movement, plainly write or stamp the words "Brucellosis Reactor" upon the face of any document that person prepares in connection with such movement.

(e) *Segregation en route.* Brucellosis reactor cattle shall not be moved interstate in any means of conveyance containing animals which are not brucellosis reactors unless all the animals are for immediate slaughter or unless the brucellosis reactor cattle are kept separate from the other animals by a partition securely affixed to the sides of the means of conveyance.

(Approved by the Office of Management and Budget under control number 0579–0051)

§ 78.8 Brucellosis exposed cattle.

Brucellosis exposed cattle may be moved interstate only as follows:

(a) *Movement to recognized slaughtering establishments.* (1) Finished fed cattle from a quarantined feedlot may be moved interstate (i) Directly to a recognized slaughtering establishment without further restriction under this part; or (ii) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if accompanied by a permit or "S" brand permit.

(2) Brucellosis exposed cattle may be moved interstate directly to a recognized slaughtering establishment if such cattle are: (i) Individually identified by an official eartag or a United States Department of Agriculture backtag; (ii) Accompanied by a permit or "S" brand permit; and (iii) (A) "S" branded before leaving the premises from which they are to be moved interstate; or (B) "B"

branded when a claim for indemnity is made under Part 51 of this chapter; or (C) Official adult vaccinates; or (D) Moved in vehicles closed with official seals applied and removed by a Veterinary Services representative, State representative, accredited veterinarian, or an individual authorized for this purpose by a Veterinary Services representative. The official seal numbers must be recorded on the accompanying permit or "S" brand permit.

(3) Brucellosis exposed cattle may be moved interstate directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if such cattle are: (i) Individually identified by an official eartag or a United States Department of Agriculture backtag; (ii) Accompanied by a permit or "S" brand permit; and (iii) (A) "S" branded before leaving the premises from which they are to be moved interstate; or (B) "B" branded when a claim for indemnity is made under Part 51 of this chapter; or (C) Official adult vaccinates.

(4) Brucellosis exposed cattle moving to slaughter from a farm of origin may be moved directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and then directly to a recognized slaughtering establishment if such cattle are: (i) Individually identified by an official eartag or United States Department of Agriculture backtag; (ii) Accompanied by a permit or "S" brand permit; and (iii) (A) "S" branded before leaving the premises from which they are to be moved interstate; or (B) "B" branded when a claim for indemnity is made under Part 51 of this chapter; or (C) Official adult vaccinates; or (D) Moved in vehicles closed with official seals applied and removed by a Veterinary Services representative, State representative, accredited veterinarian, or an individual authorized for this purpose by a Veterinary Services representative. The official seal numbers must be recorded on the accompanying permit or "S" brand permit.

(5) Brucellosis exposed cattle moving to slaughter from a farm of origin may be moved directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and then directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if such cattle are: (i) Individually identified by an official eartag or United States Department of Agriculture backtag; (ii) Accompanied by a permit or "S" brand permit; and (iii) (A) "S" branded before leaving the premises from which they are to be moved interstate; or (B) "B" branded when a claim for indemnity is made under Part 51 of this chapter; or (C) Official adult vaccinates.

(b) *Movement to quarantined feedlots.* Brucellosis exposed cattle for which no claim for indemnity is being made by the owner under Part 51 of this chapter may be moved interstate directly to a quarantined feedlot or, from a farm of origin, directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and then directly to a quarantined feedlot if such cattle are:

(1) Individually identified by an official eartag or a United States Department of Agriculture backtag;

(2) Accompanied by a permit or "S" brand permit; and

(3)(i) "S" branded before leaving the premises from which they are to be moved interstate; or (ii) Official adult vaccinates.

(c) *Movement other than in accordance with paragraphs (a) and (b) of this section:* Brucellosis exposed cattle for which no claim for indemnity is being made by the owner under Part 51 of this chapter also may be moved interstate in accordance with § 78.10 and as follows:

(1) Such brucellosis exposed cattle from herds known to be affected may be moved interstate if the cattle are:

(i) Under 6 months of age and weaned from brucellosis reactors or brucellosis exposed cows not less than 30 days immediately preceding interstate movement; or

(ii) Under 6 months of age and nursing brucellosis exposed cows in a herd subjected to a herd blood test within 10 days prior to interstate movement; or

(iii) Official vaccinates under 1 year of age from a herd following an approved individual herd plan.

(2) Cattle moved interstate from a farm of origin directly to a specifically approved stockyard in accordance with §§ 78.9(b)(3)(iii), 78.9(c)(3)(iii), 78.9(d)(3)(iv), or 78.9(d)(3)(v) and subsequently determined to be brucellosis exposed may be moved interstate directly back to the farm of origin under the following conditions:

(i) Prior to interstate movement, State representatives of the State in which the cattle are located and the State of destination advise Veterinary Services that such movement would not be contrary to the laws and regulations of their respective States;

(ii) Prior to interstate movement, the State representative of the State of destination agrees to quarantine the cattle on arrival and to require that all test-eligible cattle on the farm of origin be subjected to an official test; and

(iii) The cattle are accompanied to the farm of origin by a permit.

(Approved by the Office of Management and Budget under control numbers 0579-0051 and 0579-0064)

§ 78.9 Cattle from herds not known to be affected.

Cattle which are not test-eligible and are from herds not known to be affected may be moved interstate without further restriction if officially vaccinated as required in section § 78.10. Test-eligible cattle which are not brucellosis exposed and are from herds not known to be affected may be moved interstate only in accordance with § 78.10 and as follows:

(a) *Class Free States/areas.* Test-eligible cattle which originate in Class Free States or areas, are not brucellosis exposed, and are from a herd not known to be affected may be moved interstate from Class Free States or areas only as specified below:

(1) *Movement to recognized slaughtering establishments.*

(i) Such cattle may be moved interstate directly to a recognized slaughtering establishment or directly to a specifically approved stockyard and then directly to a recognized slaughtering establishment without restriction under this subpart.

(ii) Such cattle may be moved interstate from a farm of origin directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if accompanied by a permit.

(iii) Such cattle may be moved interstate from other than a farm of origin directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if such cattle are accompanied by a permit.

(2) *Movement to quarantined feedlots.* Such cattle may be moved interstate directly to a quarantined feedlot or directly to a specifically approved stockyard and then directly to a quarantined feedlot without restriction under this subpart.

(3) *Movement other than in accordance with paragraphs (a) (1) and (2) of this section.* Such cattle may be moved interstate other than in accordance with paragraphs (a) (1) and (2) of this section only if:

(i) Such cattle are moved interstate from a farm of origin directly to a specifically approved stockyard; or

(ii) Such cattle are moved interstate from a farm of origin or returned interstate to a farm of origin in the

course of normal ranching operations, without change of ownership, directly to or from another premises owned, leased, or rented by the same individual; or

(iii) Such cattle are moved interstate accompanied by a certificate which states, in addition to the items specified in § 78.1, that the cattle originated in a Class Free State or area.

(b) *Class A States/areas.* Test-eligible cattle which originate in Class A States or areas, are not brucellosis exposed, and are from a herd not known to be affected may be moved interstate from Class A States or areas only as specified below:

(1) *Movement to recognized slaughtering establishments.* (i) Such cattle may be moved interstate from a farm of origin or nonquarantined feedlot directly to a recognized slaughtering establishment or directly to a specifically approved stockyard and then directly to a recognized slaughtering establishment without restriction under this subpart.

(ii) Such cattle may be moved interstate from a farm of origin directly to an approved intermediate handling facility without restriction under this subpart.

(iii) Such cattle from other than a farm of origin or nonquarantined feedlot may be moved interstate directly to a recognized slaughtering establishment or directly to a specifically approved stockyard and then directly to a recognized slaughtering establishment if identity to the Class A State or area is maintained by means of identification tag numbers appearing on sale records showing the consignor or by penning cattle from the farm or State or area apart from other animals.

(iv) Such cattle from other than a farm of origin may be moved interstate accompanied by a permit (A) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment; or (B) Directly to a specifically approved stockyard and then directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment.

(2) *Movement to quarantined feedlots.* (i) Such cattle may be moved interstate from a farm of origin directly to a quarantined feedlot or directly to a specifically approved stockyard and then directly to a quarantined feedlot if identity to the farm of origin is maintained by means of identification tag numbers appearing on sale records showing the consignor or by penning cattle from the farm of origin apart from other animals.

(ii) Such cattle from other than a farm of origin may be moved interstate directly to a quarantined feedlot or directly to a specifically approved stockyard and then directly to a quarantined feedlot if identity to the Class A State or area is maintained by means of identification tag numbers appearing on sale records showing the consignor or by penning cattle from one farm or State or area apart from other animals.

(3) *Movement other than in accordance with paragraphs (b) (1) and (2) of this section.* Such cattle may be moved interstate other than in accordance with paragraphs (b) (1) and (2) of this section only if:

(i) Such cattle originate in a certified brucellosis-free herd and are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1, that the cattle originated in a certified brucellosis-free herd; or

(ii) Such cattle are negative to an official test within 30 days prior to such interstate movement and are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(iii) Such cattle are moved interstate from a farm of origin directly to a specifically approved stockyard and are subjected to an official test upon arrival at the specifically approved stockyard prior to losing their identity with the farm of origin; or

(iv) Such cattle are moved interstate from a farm of origin or returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premises owned, leased, or rented by the same individual.

(c) *Class B States/areas.* Test-eligible cattle which originate in Class B States or areas, are not brucellosis exposed, and are from a herd not known to be affected may be moved interstate from Class B States or areas only under the conditions specified below:

(1) *Movement to recognized slaughtering establishments.* (i) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a recognized slaughtering establishment without restriction under this subpart.

(ii) Such cattle may be moved interstate from a farm of origin directly to an approved intermediate handling facility without restriction under this subpart.

(iii) Such cattle may be moved interstate from a nonquarantined feedlot directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if they are accompanied by a permit or "S" brand permit.

(iv) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a specifically approved stockyard and then to a recognized slaughtering establishment if: (A) They are negative to an official test conducted at the specifically approved stockyard and are accompanied to slaughter by a certificate or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or (B) They originate from a certified brucellosis-free herd and identity to the certified brucellosis-free herd is maintained; or (C) They are "S" branded at the specifically approved stockyard, accompanied by an "S" brand permit, and moved directly to a recognized slaughtering establishment; or (D) They are moved from the specifically approved stockyard accompanied by an "S" brand permit and in vehicles closed with official seals applied and removed by a Veterinary Services representative, a State representative, an accredited veterinarian, or an individual authorized for this purpose by a Veterinary Services representative. The official seal numbers must be recorded on the accompanying "S" brand permit.

(v) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a specifically approved stockyard and then to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if: (A) They are negative to an official test conducted at the specifically approved stockyard and are accompanied by an "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or (B) They originate from a certified brucellosis-free herd, identity to the certified brucellosis-free herd is maintained, and they are accompanied by an "S" brand permit; or (C) They are "S" branded at the specifically approved stockyard, accompanied by an "S" brand permit, and moved directly to an approved intermediate handling facility.

(vi) Such cattle from other than a farm of origin or a nonquarantined feedlot may be moved interstate to a recognized slaughtering establishment only if: (A) They are negative to an official test within 30 days prior to such interstate movement and are accompanied by a certificate or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or (B) They originate from a certified brucellosis-free herd and

identity to the certified brucellosis-free herd is maintained; or (C) They are "S" branded, accompanied by an "S" brand permit, and moved directly to a recognized slaughtering establishment; or (D) They are accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by a Veterinary Services representative, a State representative, an accredited veterinarian, or by an individual authorized for this purpose by a Veterinary Services representative. The official seal numbers must be recorded on the accompanying "S" brand permit.

(vii) Such cattle from other than a farm of origin or a nonquarantined feedlot may be moved interstate to an approved intermediate handling facility and then directly to a recognized slaughtering establishment only if: (A) They are negative to an official test within 30 days prior to such interstate movement and are accompanied by a permit or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or (B) They originate from a certified brucellosis-free herd, identity to the certified brucellosis-free herd is maintained, and they are accompanied by an "S" brand permit; or (C) They are "S" branded, accompanied by an "S" brand permit, and moved directly to an approved intermediate handling facility.

(2) *Movement to quarantined feedlots.* (i) Such cattle may be moved interstate from a farm of origin directly to: (A) A quarantined feedlot if such cattle are "S" branded upon arrival at the quarantined feedlot; or (B) A specifically approved stockyard and then directly to a quarantined feedlot if such cattle are "S" branded upon arrival at the specifically approved stockyard and are accompanied to the quarantined feedlot by an "S" brand permit.

(ii) Such cattle from other than a farm of origin may be moved interstate to a quarantined feedlot if: (A) They are negative to an official test within 30 days prior to such movement and are accompanied by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or (B) They are "S" branded, accompanied by an "S" brand permit, and moved directly to a quarantined feedlot.

(3) *Movement other than in accordance with paragraphs (c) (1) and (2) of this section.* Such cattle may be moved interstate other than in accordance with paragraphs (c) (1) and (2) of this section only if:

(i) Such cattle originate in a certified brucellosis-free herd and are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1, that the cattle originated in a certified brucellosis-free herd; or

(ii) Such cattle are negative to an official test within 30 days prior to interstate movement, have been issued a permit for entry, and are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(iii) Such cattle are moved interstate from a farm of origin directly to a specifically approved stockyard and are subjected to an official test upon arrival at the specifically approved stockyard prior to losing their identity with the farm of origin; or

(iv) Such cattle are moved interstate from a farm of origin or returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premises owned, leased or rented by the same individual, and (A) The cattle being moved originate from a herd in which (*1*) All the cattle were negative to a herd blood test within 1 year prior to the interstate movement; (*2*) Any cattle added to the herd after such herd blood test were negative to an official test within 30 days prior to the date the cattle were added to the herd; (*3*) None of the cattle in the herd have come in contact with any other cattle; and (B) The cattle are accompanied interstate by a document which states the dates and results of the herd blood test and the name of the laboratory in which the official tests were conducted.

(v) The State animal health officials of the State of origin and State of destination may waive the requirements of paragraph (c)(3)(iv) of this section in writing.

(d) *Class C States/areas.* Test-eligible cattle which originate in Class C States or areas, are not brucellosis exposed, and are from a herd not known to be affected may be moved interstate from Class C States or areas only under the conditions specified below:

(1) *Movement to recognized slaughtering establishments.* (i) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a recognized slaughtering establishment without restriction under this subpart.

(ii) Such cattle may be moved interstate from a farm of origin directly to an approved intermediate handling facility without restriction under this subpart.

(iii) Such cattle may be moved interstate from a nonquarantined feedlot directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if they are accompanied by a permit or "S" brand permit.

(iv) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a specifically approved stockyard and then to a recognized slaughtering establishment if: (A) They are negative to an official test conducted at the specifically approved stockyard and are accompanied by a certificate or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or (B) They originate from a certified brucellosis-free herd and identity to the certified brucellosis-free herd is maintained; or (C) They are "S" branded at the specifically approved stockyard, accompanied by an "S" brand permit, and moved directly to a recognized slaughtering establishment; or (D) They are moved from the specifically approved stockyard accompanied by an "S" brand permit and in vehicles closed with official seals applied and removed by a Veterinary Services representative, a State representative, an accredited veterinarian, or an individual authorized for this purpose by a Veterinary Services representative. The official seal numbers must be recorded on the accompanying "S" brand permit.

(v) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a specifically approved stockyard and then to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if: (A) They are negative to an official test conducted at the specifically approved stockyard and are accompanied by an "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or (B) They originate from a certified brucellosis-free herd, identity to the certified brucellosis-free herd is maintained, and they are accompanied by an "S" brand permit; or (C) They are "S" branded at the specifically approved stockyard, accompanied by an "S" brand permit, and moved directly to an approved intermediate handling facility.

(vi) Such cattle from other than a farm of origin or a nonquarantined feedlot may be moved interstate to a recognized slaughtering establishment only if: (A) They are negative to an official test within 30 days prior to such interstate movement and are accompanied by a certificate or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or (B) They originate from

a certified brucellosis-free herd and identity to the certified brucellosis-free herd is maintained; or (C) They are "S" branded, accompanied by an "S" brand permit, and moved directly to a recognized slaughtering establishment; or (D) They are accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by a Veterinary Services representative, a State representative, an accredited veterinarian, or by an individual authorized for this purpose by the Veterinary Services representative. The official seal numbers must be recorded on the accompanying "S" brand permit.

(vii) Such cattle from other than a farm of origin or a nonquarantined feedlot may be moved interstate to an approved intermediate handling facility and then directly to a recognized slaughtering establishment only if: (A) They are negative to an official test within 30 days prior to such interstate movement and are accompanied by a permit or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or (B) They originate from a certified brucellosis-free herd, identity to the certified brucellosis-free herd is maintained, and they are accompanied by an "S" brand permit; or (C) They are "S" branded, accompanied by an "S" brand permit, and moved directly to an approved intermediate handling facility.

(2) *Movement to quarantined feedlots.*

(i) Such cattle may be moved interstate from a farm of origin directly to: (A) A quarantined feedlot if such cattle are "S" branded upon arrival at the quarantined feedlot; or (B) A specifically approved stockyard and then directly to a quarantined feedlot if such cattle are "S" branded upon arrival at the specifically approved stockyard and are accompanied to the quarantined feedlot by an "S" brand permit.

(ii) Such cattle from other than a farm of origin may be moved interstate to a quarantined feedlot if: (A) They are negative to an official test within 30 days prior to such movement and are accompanied by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or (B) They are "S" branded, accompanied by an "S" brand permit, and moved directly to a quarantined feedlot.

(3) *Movement other than in accordance with paragraphs (d) (1) or (2) of this section.* Such cattle may be moved interstate other than in accordance with paragraphs (d) (1) or (2) of this section only if:

(i) Such cattle originate in a certified brucellosis-free herd and are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1, that the cattle originated in a certified brucellosis-free herd; or

(ii) Such cattle (A) Are negative to two consecutive official tests at least 60 days apart, with the first test not less than 60 days nor more than 1 year before interstate movement and the second test not more than 30 days before interstate movement; (B) Are accompanied by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; and (C) Have been issued a permit for entry; or

(iii) Such cattle (A) Are official vaccinates of the beef breeds 24 months of age or over, or of the dairy breeds 20 months of age or over; (B) Are negative to an official test within 30 days prior to the date of interstate movement; (C) Are accompanied by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; and (D) Have been issued a permit for entry; or

(iv) Such cattle (A) Are negative to an official test not less than 60 days nor more than 1 year before the interstate movement; (B) Are moved from a farm of origin directly to a specifically approved stockyard and are subjected to an official test upon arrival at the specifically approved stockyard prior to losing their identity with the farm of origin; and (C) Are accompanied by a document which states the test dates and results of the official tests conducted prior to the interstate movement; or

(v) Such cattle are official vaccinates of the beef breeds 24 months of age or over, or of the dairy breeds 20 months of age or over, are moved from a farm of origin directly to a specifically approved stockyard, and are subjected to an official test upon arrival at the specifically approved stockyard prior to losing their identity with the farm of origin; or

(vi) Such cattle are from a farm of origin and are negative to a herd blood test within 1 year prior to interstate movement, provided no cattle are added to the herd for at least 120 days before the herd blood test or between the time of the herd blood test and movement. If the herd blood test is not conducted within 30 days prior to interstate movement, such cattle must be negative to an official test within 30 days prior to movement. The cattle must have been issued a permit for entry and be accompanied by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests and that the cattle originated from a farm of origin. The cattle also must be accompanied by a written statement signed by the owner and an accredited veterinarian, or other documentation, which establishes that the cattle originated from a herd to which no cattle had been added for at least 120 days before the herd blood test or between the time of the herd blood test and movement; or

(vii) Such cattle are moved interstate from a farm of origin or are returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premises owned, leased or rented by the same individual, and (A) The cattle being moved originate from a herd in which (*1*) All the cattle were negative to a herd blood test within 1 year prior to the interstate movement; (*2*) Any cattle added to the herd after such a herd blood test were negative to an official test within 30 days prior to the date the cattle were added to the herd; (*3*) None of the cattle in the herd have come in contact with any other cattle; and (B) The cattle are accompanied interstate by a document which shows the dates and results of the herd blood test and the name of the laboratory in which the official tests were conducted.

(Approved by the Office of Management and Budget under control numbers 0579–0051 and 0579–0064)

§ 78.10 Official vaccination of cattle moving into and out of Class B and Class C States or areas.

(a) Female dairy cattle born after January 1, 1984, which are 4 months of age or over must be official vaccinates to move interstate into or out of a Class B State or area [4] unless they are moved interstate directly to a recognized slaughtering establishment or quarantined feedlot or directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment. Female cattle eligible for official calfhood vaccination and required by this paragraph to be officially vaccinated may be moved interstate from a farm of origin directly to a specifically approved stockyard and be officially vaccinated upon arrival at the specifically approved stockyard.

(b) Female cattle born after January 1, 1984, which are 4 months of age or over must be official vaccinates to move into

[4] Female cattle imported into the United States may be exempted from the vaccination requirements of this paragraph with the concurrence of the State animal health official of the State of destination. This concurrence is required prior to importation of the cattle into the United States.

or out of a Class C State or area [4] unless they are moved interstate directly to a recognized slaughtering establishment or quarantined feedlot or directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment. Female cattle eligible for official calfhood vaccination and required by this paragraph to be officially vaccinated may be moved interstate from a farm of origin directly to a specifically approved stockyard and be officially vaccinated upon arrival at the specifically approved stockyard.

§ 78.11 Cattle moved to a specifically approved stockyard not in accordance with this part.

Cattle, except brucellosis reactors and brucellosis exposed cattle, which are moved interstate to a specifically approved stockyard but fail to comply with the requirements of this part for release from the specifically approved stockyard may be moved from the specifically approved stockyard only as follows:

(a) With the concurrence of the State animal health officials of the State of origin and State of destination, directly back to the farm of origin accompanied by a permit; or

(b) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if such cattle are "S" branded and accompanied by an "S" brand permit; or

(c) Directly to a recognized slaughtering establishment if such cattle are (1) "S" branded and accompanied by an "S" brand permit; or (2) Accompanied by an "S" brand permit and moved in vehicles closed with official seals applied and removed by a Veterinary Services representative, State representative, an accredited veterinarian, or an individual authorized for this purpose by a Veterinary Services representative. The official seal numbers must be recorded on the "S" brand permit; or

(d) Directly to a quarantined feedlot if such cattle are "S" branded and accompanied by an "S" brand permit.

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§ 78.12 Cattle from quarantined areas.

Not withstanding any provisions in the regulations to the contrary, cattle may be moved interstate from a quarantined area only in accordance with § 78.10 and this section.

(a) *Steers and spayed heifers.* Steers and spayed heifers may be moved interstate without restriction under this section.

(b) *Brucellosis reactor cattle.* Brucellosis reactor cattle may be moved interstate in accordance with § 78.7.

(c) *Brucellosis exposed cattle.* Brucellosis exposed cattle may be moved interstate in accordance with § 78.8 (a) or (b).

(d) *Movement from qualified herds.* Cattle from qualified herds in any quarantined area may be moved interstate only as follows:

(1) *Movement to recognized slaughtering establishments.*

(i) Cattle from qualified herds in a quarantined area may be moved interstate from a farm of origin directly to a recognized slaughtering establishment or directly to a specifically approved stockyard and then directly to a recognized slaughtering establishment if they are negative to an official test within 30 days prior to such interstate movement and are accompanied by a certificate or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(ii) Cattle from qualified herds in a quarantined area may be moved interstate from a farm of origin directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if they are negative to an official test within 30 days prior to such interstate movement and are accompanied by an "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(iii) Cattle from qualified herds in a quarantined area may be moved interstate from a farm of origin directly to a specifically approved stockyard and then directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment if they are negative to an official test within 30 days prior to such interstate movement and are accompanied by a permit or "S" brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(iv) Cattle from qualified herds in a quarantined area may be moved interstate in accordance with § 78.8(a).

(2) *Movement to quarantined feedlots.*

(i) Cattle from qualified herds in a quarantined area may be moved interstate from a farm of origin directly to a quarantined feedlot or directly to a specifically approved stockyard and then directly to a quarantined feedlot if they are negative to an official test within 30 days prior to such interstate movement and are accompanied by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

(ii) Cattle from qualified herds in a quarantined area may be moved in accordance with § 78.8(b).

(3) *Movement other than in accordance with paragraph (d) (1) or (2) of this section.* Cattle from qualified herds in a quarantined area may be moved interstate other than in accordance with paragraph (d) (1) or (2) of this section, either directly from a farm of origin or from a farm of origin through no more than one specifically approved stockyard if (i) The cattle, except official vaccinates less than 1 year of age and cattle less than 6 months of age, are negative to an official test within 30 days prior to such interstate movement; and (ii) The cattle are accompanied interstate by a certificate which states, in addition to the items specified in § 78.1, the test dates and results of the official tests when such tests are required.

(e) *Movement from herds which are not qualified.* Cattle from herds known to be affected or from herds which are not qualified in any quarantined area may be moved interstate only in accordance with § 78.8 (a) or (b).[5]

(Approved by the Office of Management and Budget under control numbers 0579-0051 and 0579-0064)

§ 78.13 Other movements.

The Deputy Administrator may, upon request in specific cases, permit the interstate movement of cattle not otherwise provided for in this subpart, under such conditions as the Deputy Administrator may prescribe in each case to prevent the spread of brucellosis. The Deputy Administrator shall promptly notify the State animal health officials of the States involved of any such action.

§§ 78.14-78.19 [Reserved]

Subpart C—Restrictions on Interstate Movement of Bison Because of Brucellosis.

§ 78.20 General restrictions.

Bison may not be moved interstate except in compliance with this subpart.

§ 78.21 Bison steers and spayed heifers.

Bison steers and spayed heifers may be moved interstate without restriction under this subpart.

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[5] A herd which is not qualified in a quarantined area may become a qualified herd upon compliance with the provisions set forth in § 78.1 in the definition of "qualified herd."

§ 78.22 Brucellosis reactor bison.

(a) *Destination.* Brucellosis reactor bison may be moved interstate only for immediate slaughter as follows:

(1) Directly to a recognized slaughtering establishment; (2) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment; or (3) From a farm of origin directly to a specifically approved stockyard approved to receive brucellosis reactors and then (i) Directly to a recognized slaughtering establishment; or (ii) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment.

(b) *Identification.* Prior to moving interstate, brucellosis reactor bison shall be (1) Individually identified by attaching to the left ear a metal tag bearing a serial number and the inscription, "U.S. Reactor," or a metal tag bearing a serial number designated by the State animal health official for identifying brucellosis reactors; and (2) "B" branded.

(c) *Permit.* Brucellosis reactor bison moving interstate shall be accompanied to destination by a permit.

(d) *Marking of records.* Each person moving brucellosis reactor bison interstate shall, in the course of interstate movement, plainly write or stamp the words "Brucellosis Reactor" upon the face of any document that person prepares in connection with such movement.

(e) *Segregation en route.* Brucellosis reactor bison shall not be moved interstate in any means of conveyance containing animals which are not brucellosis reactors unless all of the animals are for immediate slaughter or unless the brucellosis reactor bison are kept separate from the other animals by a partition securely affixed to the sides of the means of conveyance.

(Approved by the Office of Management and Budget under control number 0579–0051)

§ 78.23 Brucellosis exposed bison.

Brucellosis exposed bison may be moved interstate only as follows:

(a) *Movement to recognized slaughtering establishments.* Brucellosis exposed bison may be moved interstate for slaughter accompanied by a permit or "S" brand permit and as follows:

(1) Directly to a recognized slaughtering establishment or directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment; or

(2) From a farm of origin directly to a specifically approved stockyard approved to receive brucellosis exposed bison and then (i) Directly to a recognized slaughtering establishment; or (ii) Directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment.

(b) *Movement to quarantined feedlots.* Brucellosis exposed bison may be moved directly to a quarantined feedlot or, from a farm of origin, directly to a specifically approved stockyard approved to receive brucellosis exposed bison and then directly to a quarantined feedlot. Such bison shall be accompanied by a permit or "S" brand permit.

(c) *Movement other than in accordance with paragraphs (a) or (b) of this section.* Brucellosis exposed bison which are from herds known to be affected, but which are not part of a herd being depopulated under Part 51 of this chapter, may move without restriction if the bison: (1) Are under 6 months of age and were weaned from brucellosis reactor or brucellosis exposed bison not less than 30 days immediately preceding interstate movement; or (2) Are under 6 months of age and nursing brucellosis exposed bison in a herd subjected to a herd blood test within 10 days prior to interstate movement; or (3) Are official vaccinates under 1 year of age from a herd following an approved individual herd plan.

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§ 78.24 Bison from herds not known to be affected.

Bison from herds not known to be affected may be moved interstate only as follows:

(a) *Movement to recognized slaughtering establishments.* Bison from herds not known to be affected may be moved directly to a recognized slaughtering establishment without restriction under this subpart.

(b) *Movement to quarantined feedlots.* Bison from herds not known to be affected may be moved directly to a quarantined feedlot without restriction under this subpart.

(c) *Movement from public zoo to public zoo.* Bison from herds not known to be affected may be moved from a zoo owned by a governmental agency to another such zoo if handled in accordance with § 78.3.

(d) *Movement other than in accordance with paragraphs (a), (b), or (c) of this section.* Bison from herds not known to be affected may be moved interstate other than in accordance with paragraphs (a), (b), or (c) of this section only as follows:

(1) Such bison under 6 months of age may be moved interstate when accompanied by a certificate.

(2) Such bison which are official vaccinates under 2 years of age and are not parturient or postparturient may be moved interstate when accompanied by a certificate.

(3) Such bison may be moved interstate if they are negative to an official test within 30 days prior to such movement and are accompanied by a certificate which states, in addition to the items specified in § 78.1, the dates and results of the official tests.

(4) Such bison may be moved interstate if they originate in a certified brucellosis-free herd and are accompanied by a certificate which states, in addition to the items specified in § 78.1, that the bison originated in a certified brucellosis-free herd.

(Approved by the Office of Management and Budget under control number 0579–0064)

§ 78.25 Other movements.

The Deputy Administrator may, upon request in specific cases, permit the interstate movement of bison not otherwise provided for in this subpart, under such conditions as the Deputy Administrator may prescribe in each case to prevent the spread of brucellosis. The Deputy Administrator shall promptly notify the State animal health officials of the States involved of any such action.

§§ 78.26–78.29 [Reserved]

Subpart D—Restrictions on Interstate Movement of Swine Because of Brucellosis

§ 78.30 General restrictions.

(a) Brucellosis reactor swine, brucellosis exposed swine, and sows and boars may not be moved interstate or in interstate commerce except in compliance with this subpart.

(b) Each person who causes the movement of swine in interstate commerce is responsible for the identification of the swine as required by this subpart. No such person shall remove or tamper with or cause the removal of or tampering with an identification tattoo or approved swine identification tag required in this subpart except at the time of slaughter, or as may be authorized by the Deputy Administrator upon request in specific cases and under such conditions as the Deputy Administrator may impose to ensure continuing identification.

§ 78.31 Brucellosis reactor swine.

(a) *Destination.* Brucellosis reactor swine may be moved interstate only for

immediate slaughter as follows: (1) Directly to a recognized slaughtering establishment; or (2) Directly to a stockyard posted under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*), or directly to a market agency or dealer registered under the Packers and Stockyards Act, for sale to a recognized slaughtering eatablishment in accordance with the following requirements:

(b) *Identification.* Brucellosis reactor swine shall be individually identified by attaching to the left ear a metal tag bearing a serial number and the inscription, "U.S. Reactor," or a metal tag bearing a serial number designated by the State animal health official for identifying brucellosis reactors.

(c) *Permit.* Brucellosis reactor swine shall be accompanied to destination by a permit.

(d) *Marking of records.* Each person moving brucellosis reactor swine interstate shall, in the course of interstate movement, plainly write or stamp the words "Brucellosis Reactor" upon the face of any document that person prepares in connection with such movement.

(e) *Segregation en route.* Brucellosis reactor swine shall not be moved interstate in any means of conveyance containing animals which are not brucellosis reactors unless all of the animals in the shipment are for immediate slaughter, or unless the brucellosis reactor swine are kept separate from other animals by a partition securely affixed to the sides of the means of conveyance.

(Approved by the Office of Management and Budget under control number 0579–0051)

§ 78.32 Brucellosis exposed swine.

Brucellosis exposed swine may be moved interstate only if accompanied by a permit and only for immediate slaughter as follows: (a) Directly to a recognized slaughtering establishment; or (b) Directly to a stockyard posted under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*), or directly to a market agency or dealer registered under the Packers and Stockyards Act, for sale to a recognized slaughtering establishment.

(Approved by the Office of Management and Budget under control number 0579–0051)

§ 78.33 Sows and boars.

(a) Sows and boars may be moved in interstate commerce for slaughter or for sale for slaughter only if the sows and boars are:

(1) (i) Individually identified by a Veterinary Services approved tattoo [6] applied to the back of each swine prior to the movement in interstate commerce and before they are mixed with swine from any other source; or (ii) When approved by the State animal health official and the Veterinarian in Charge, individually identified by an approved swine identification tag; [7] or

(2) Moved from a herd of origin of swine (i) Directly to a recognized slaughtering establishment; or (ii) Directly to a stockyard posted under the Packers and Stockyard Act, as amended (7 U.S.C. 181 *et seq.*), or directly to a market agency or dealer registered under the Packers and Stockyard Act for sale to a recognized slaughtering establishment. Upon arrival and before they are mixed with swine from any other source, such swine must be identified [8] to the herd of origin by a Veterinary Services approved tattoo [6] applied to the back of each swine or individually identified by an approved swine identification tag.[7]

(b) Sows and boars may be moved in interstate commerce for breeding only if the sows and boars are:

(1) (i) Individually identified by an approved swine identification tag [7] prior to the interstate movement and before they are mixed with swine from any other source; or (ii) Registered with a registry association and individually identified in the same manner as recorded with the registry association; and

(2) (i) From a validated brucellosis-free herd or a validated brucellosis-free State and accompanied by a certificate which states, in addition to the items specified in § 78.1, that the swine originated in either a validated brucellosis-free herd or validated brucellosis-free State; or (ii) Negative to an official test within 30 days prior to interstate movement and accompanied by a certificate which states, in addition to the items specified in § 78.1, the dates and results of the official tests.

(c) Sows and boars may be moved in interstate commerce for purposes other than slaughter or breeding without restriction under this subpart.

(Approved by the Office of Management and Budget under control number 0579–0064)

§ 78.34 Other movements.

The Deputy Administrator may, upon request in specific cases, permit the movement in interstate commerce of swine not otherwise provided for in this subpart under such conditions as the Deputy Administrator may prescribe in each case to prevent the spread of brucellosis. The Deputy Administrator shall promptly notify the State animal health officials of the States involved of any such action.

§§ 78.35–78.39 [Reserved]

Subpart E—Designation of Brucellosis Areas, and Specifically Approved Stockyards

§ 78.40 Designations of State/areas.

The Deputy Administrator may amend §§ 78.41 and 78.42 to reclassify States and areas as Class Free, Class A, Class B, Class C, or quarantined when the Deputy Administrator determines that the States or areas meet the appropriate definitions in § 78.1. The Deputy Administrator may amend § 78.43 to reclassify States as validated brucellosis-free States or remove such status when the Deputy Administrator determines that such States meet or do not meet the standards of a validated brucellosis-free State as defined in § 78.1. In the case of any reclassification to a lower status or removal of validated brucellosis-free status, the State animal health official of the State involved will be notified and given an opportunity to be heard prior to the reduction of status.

§ 78.41 State/area classification.

(a) *Class Free*—Alaska, Arizona (those portions of Mohave and Coconino Counties north of the Grand Canyon), Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Virgin Islands, West Virginia, Wisconsin, and Wyoming.

(b) *Class* A—Arizona (except those portions of Mohave and Coconino Counties north of the Grand Canyon), California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Nebraska, Nevada, New Mexico, Ohio, Oregon,

[6] Veterinary Services approved tattoo codes will be assigned to persons upon application to the State animal health official or the Veterinarian in Charge for the State in which such persons maintain their principal place of business.

[7] Serial numbers of approved swine identification tags will be assigned to persons upon application to the State animal health official or the Veterinarian in Charge for the State in which such persons maintain their principal place of business.

[8] The operator of each place of business where such swine are identified on arrival in accordance with this section shall enter such identification on the yarding receipt, sale ticket, invoice, waybill, or similar document relating to the swine and maintain the document on file at the place of business for at least 1 year. Such document shall be made available for inspection during ordinary business hours upon request by a Veterinary Services representative or State representative.

Puerto Rico, South Dakota, Tennessee, Virginia, and Washington.

(c) *Class* B—Alabama, Florida (Counties of Alachua, Baker, Bay, Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Liberty, Madison, Nassau, Okaloosa, Putnam, Saint Johns, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, and Washington), Kentucky, Mississippi, Missouri, Oklahoma, and Texas (Counties of Andrews, Archer, Armstrong, Bailey, Bandera, Baylor, Bell, Blanco, Borden, Bosque, Brewster, Briscoe, Brown, Burnet, Callahan, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Donley, Eastland, Ector, Edwards, El Paso, Erath, Fisher, Floyd, Foard, Gaines, Garza, Gillespie, Glasscock, Gray, Hale, Hall, Hamilton, Hansford, Hardeman, Hartley, Haskell, Hays, Hemphill, Hockley, Hood, Howard, Hudspeth, Hutchinson, Irion, Jack, Jeff Davis, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Kinney, Knox, Lamb, Lampasas, Lipscomb, Llano, Loving, Lubbock, Lynn, McCullock, Martin, Mason, Maverick, Medina, Menard, Midland, Mills, Mitchell, Montague, Moore, Motley, Nolan, Ochiltree, Oldham, Palo Pinto, Parker, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Roberts, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Somervell, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Tom Green, Travis, Upton, Uvalde, Val Verde, Ward, Wheeler, Wichita, Wilbarger, Williamson, Winkler, Wise, Yoakum, Young and Zavala).

(d) *Class C*—Arkansas, Florida (Counties of Brevard, Broward, Charlotte, Citrus, Collier, Dade, De Soto, Flagler, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Levy, Manatee, Marion, Martin, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Saint Lucie, Sarasota, Seminole, Sumter, and Volusia), Louisiana, and Texas (Counties of Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bexar, Bowie, Brazoria, Brazos, Brooks, Burleson, Caldwell, Calhoun, Cameron, Camp, Cass, Chambers, Cherokee, Collin, Colorado, Dallas, Delta, Denton, DeWitt, Dimmit, Duval, Ellis, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, Frio, Galveston, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hardin, Harris, Harrison, Henderson, Hidalgo, Hill, Hopkins, Houston, Hunt, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Karnes, Kaufman, Kenedy, Kleberg, Lamar, LaSalle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, McLennan, McMullen, Madison, Marion, Matagorda, Milam, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Panola, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shelby, Smith, Starr, Titus, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Wilson, Wood and Zapata).

§ 78.42 Quarantined areas.

None.

§ 78.43 Validated brucellosis-free States.

Alaska, Arizona, California, Colorado, Delaware, Idaho, Illinois, Indiana, Iowa, Maine, Maryland, Minnesota, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Pennsylvania, Puerto Rico, Rhode Island, South Dakota, Utah, Vermont, Virgin Islands, Virginia, Washington, Wisconsin, Wyoming.

§ 78.44 Specifically approved stockyards.

(a) To qualify for approval by the Deputy Administrator as a specifically approved stockyard and to retain such designation, the operator [9] of the stockyard shall execute one of the agreements set forth in paragraphs (c) or (d) of this section and the stockyard shall be maintained and operated in accordance with the standards specified in the agreement.

(b)(1) The Deputy Administrator shall withdraw the approval of any specifically approved stockyard when the operator of the stockyard notifies the Deputy Administrator in writing that the agreement to operate as a specifically approved stockyard is terminated. (2) The Deputy Administrator may withdraw the approval of any specifically approved stockyard when the Deputy Administrator determines that the stockyard is not maintained and operated in accordance with the standards specified in the agreement. Before the Deputy Administrator withdraws approval from a specifically approved stockyard based upon a failure to maintain or operate the stockyard in accordance with the standards specified in the agreement, the operator of the stockyard will be informed in writing of the reasons for the proposed withdrawal of approval and, upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of the action to withdraw approval if there is a dispute regarding any material fact, in accordance with rules of practice which shall be adopted for the proceeding. (3) The Deputy Administrator shall remove a stockyard from the list of specifically approved stockyards if the approval of such stockyard is withdrawn.

(c) To obtain approval as a specifically approved stockyard to handle cattle and bison pursuant to this part, the operator of the stockyard shall execute the following agreement:

Agreement— Specifically Approved Stockyard for Handling Cattle and Bison Pursuant to Title 9 of the Code of Federal Regulations

_____

(Name of Stockyard)

_____

(Address of Stockyard)

I,_____, (name of operator) operator of _____, (name of stockyard) hereby agree to maintain and operate this stockyard at _____ (premises location) in accordance with each of the provisions set forth herein.

Cooperation

(1) An accredited veterinarian, State representative, or Veterinary Services representative shall be on the stockyard premises on sale days to perform duties in accordance with State and Federal regulations.

(2) The State animal health official and the Veterinarian in Charge shall be furnished with a current schedule of sale days which apply to the stockyard and any revision to the schedule of sale days prior to implementation of such revision.

(3) State representatives and Veterinary Services representatives shall be granted access to stockyard premises and facilities at reasonable hours to determine compliance with the requirements of Title 9, Code of Federal Relations, and the standards of this agreement.

Handling of Cattle and Bison

(4) Cattle and bison shall be received, handled, and released by the stockyard only in accordance with Title 9 of the Code of Federal Regulations.

(5) All brucellosis reactor, brucellosis suspect, and brucellosis exposed cattle or bison arriving at the stockyard shall be placed in quarantined pens and consigned from the stockyard only in accordance with Title 9, Code of Federal Regulations, Part 78.

(6) Cattle and bison which have not been classified as brucellosis reactors, brucellosis suspects, or brucellosis exposed shall not be placed in quarantined pens without prior cleaning and disinfection of such pens in accordance with paragraph 14 of this agreement.

[9] The operator shall be the individual legally responsible for the day-to-day operations of the specifically approved stockyard.

(7) Any cattle or bison classified as brucellosis reactors at the stockyard shall be (a) Identified by branding the letter "B" at least 2x2 inches in size on the left jaw and attaching to the left ear a metal tag bearing a serial number and the inscription, "U.S. Reactor," or metal tag bearing a serial number designated by the State animal health official for identifying brucellosis reactors; (b) Placed in quarantined pens; and (c) Consigned from the stockyard only to a recognized slaughtering establishment or an approved intermediate handling facility in accordance with Title 9, Code of Federal Regulations, Part 78.

(8) Any cattle or bison classified as brucellosis exposed at the stockyard shall be (a) Identified in accordance with Title 9, Code of Federal Regulations, Part 78; (b) Placed in quarantined pens; and (c) Consigned from the stockyard only to a recognized slaughtering establishment, an approved intermediate handling facility, a quarantined feedlot, or a farm of origin in accordance with Title 9, Code of Federal Regulations, Part 78.

(9) Identity of cattle from Class Free States or areas and Class A States or areas shall be maintained.

(10) Identity of cattle from Class B States or areas shall be maintained, and test-eligible cattle from Class B States or areas shall not be placed in pens with any other cattle until they have fulfilled the requirements of Title 9, Code of Federal Regulations, for release from the stockyard.

(11) Identity of cattle from Class C States or areas shall be maintained, and test-eligible cattle from Class C States or areas shall not be placed in pens with any other cattle until they have fulfilled the requirements of Title 9, Code of Federal Regulations, for release from the stockyard.

(12) Identity of cattle from quarantined areas shall be maintained, and test-eligible cattle from quarantined areas shall not be placed in pens with any other cattle until they have fulfilled the requirements of Title 9, Code of Federal Regulations, for release from the stockyard.

(13) Test-eligible cattle penned with test-eligible cattle from a lower class State or area, in violation of this agreement, shall have the status of the State or area of lower class for any subsequent movement.

Facilities

(14) Quarantined pens for the confinement of brucellosis reactor, brucellosis suspect, and brucellosis exposed cattle and bison shall be (a) Clearly labeled with paint or placarded as follows: "Quarantined," "Brucellosis," or "Bangs"; and (b) Cleaned and disinfected in accordance with Title 9, Code of Federal Regulations, § 71.4, before being used to pen cattle and bison which are not brucellosis reactors, brucellosis suspects or brucellosis exposed.

(15) Quarantined pens confining brucellosis reactors or brucellosis suspects shall have impervious floor surfaces and adequate draining for the purposes of cleaning and disinfection.

(16) Well-lighted cattle chutes shall be furnished and maintained to provide for proper restraint of cattle and bison for inspection, identification, vaccination, testing, and branding. Adequate electrical outlets shall be provided at the chute area for branding purposes.

(17) Laboratory space shall be furnished and maintained for conducting brucellosis tests. All test reagents, testing equipment, and documents relating to the State-Federal cooperative brucellosis eradication program on the stockyard premises shall be secured to prevent misuse and theft. Adequate heat, cooling, electricity, water piped to a properly drained sink, and sanitation shall be provided for properly conducting brucellosis tests.

(18) Serviceable equipment for cleaning and disinfecting shall be furnished and maintained with adequate disinfectant on hand.

Cleaning and Disinfection

(19) The stockyard shall be cleaned and disinfected in accordance with Title 9, Code of Federal Regulations, § 71.4.

Records

(20) Any document relating to animals which are or have been in the stockyard shall be maintained by the stockyard for a period of 1 year.

(21) State representatives and Veterinary Services representatives shall be granted, at reasonsble hours, access to all documents required to be maintained pursuant to paragraph 20 of this agreement and authority to reproduce the documents upon request.

I, _____, hereby acknowledge receipt of a copy of Title 9, Code of Federal Regulations, Parts 71 and 78, and hereby acknowledge that I have been informed and understand that failure to abide by the provisions of this agreement and Parts 71 and 78 constitutes a basis for the withdrawal of approval from this stockyard.

Request Approval

_____

* Operator of the Stockyard

_____

Date

_____

Recommend Approval

_____

State Animal Health Official

_____

Date

_____

Recommend Approval

_____

Veterinarian in Charge

_____

Date

_____

Approval Granted

_____

Deputy Administrator

_____

Veterinary Services

_____

Date

* The operator shall be the individual legally responsible for the day to day operations of the specifically approved stockyard.

(d) To obtain approval as a specifically approved stockyard to handle cattle and bison, except to receive known brucellosis reactor, brucellosis suspect, or brucellosis exposed cattle or bison, pursuant to this part, the operator of the stockyard shall execute the following agreement:

Agreement—Specifically Approved Stockyard for Receiving Cattle and Bison Other Than Brucellosis Reactor, Brucellosis Suspect, and Brucellosis Exposed Cattle or Bison Pursuant to Title 9 of the Code of Federal Regulations

_____

(Name of Stockyard)

_____

(Address of Stockyard)

I, _____, (name of operator) operator of _____ (name of stockyard) hereby agree to maintain and operate this stockyard at _____ (premises location) in accordance with each of the provisions set forth herein.

Cooperation

(1) An accredited veterinarian, State representative, or Veterinary Services representative shall be on the stockyard premises on sale days to perform duties in accordance with State and Federal regulations.

(2) The State animal health official and the Veterinarian in Charge shall be furnished with a current schedule of sale days which apply to the stockyard and any revision to the schedule of sale days prior to implementation of such revision.

(3) State representatives and Veterinary Services representatives shall be granted access to stockyard premises and facilities at reasonable hours to determine compliance with the requirements of Title 9, Code of Federal Regulations, and the standards of this agreement.

Handling of Cattle and Bison

(4) Cattle and bison shall be received, handled, and released by the stockyard only in accordance with Title 9 of the Code of Federal Regulations.

(5) No cattle or bison known to be brucellosis reactors, brucellosis suspects, or brucellosis exposed shall be permitted to enter the stockyard.

(6) Any cattle or bison classified as brucellosis reactors at the stockyard shall be (a) Identified by branding the letter "B" at least 2x2 inches in size on the left jaw and attaching to the left ear a metal tag bearing a serial number and the inscription, "U.S. Reactor," or metal tag bearing a serial number designated by the State animal health official for identifying brucellosis reactors; (b) Placed in quarantined pens; and (c) Consigned from the stockyard only to a recognized slaughtering establishment or an approved intermediate handling facility in accordance with Title 9, Code of Federal Regulations, Part 78.

(7) Any cattle or bison classified as brucellosis exposed at the stockyard shall be (a) Identified in accordance with Title 9, Code of Federal Regulations; (b) Placed in quarantined pens; and (c) Consigned from the

stockyard only to a recognized slaughtering establishment, an approved intermediate handling facility, a quarantined feedlot, or a farm of origin in accordance with Title 9, Code of Federal Regulations, Part 78.

(8) Cattle and bison which have not been classified as brucellosis reactors, brucellosis suspects, or brucellosis exposed shall not be placed in quarantined pens without prior cleaning and disinfection of such pens in accordance with paragraph 14 of this agreement.

(9) Identity of cattle from Class Free States or areas and Class A States or areas shall be maintained.

(10) Identity of cattle from Class B States or areas shall be maintained, and test-eligible cattle from Class B States or areas shall not be placed in pens with any other cattle until they have fulfilled the requirements of Title 9, Code of Federal Regulations, for release from the stockyard.

(11) Identity of cattle from Class C States or areas shall be maintained, and test-eligible cattle from Class C States or areas shall not be placed in pens with any other cattle until they have fulfilled the requirements of Title 9, Code of Federal Regulations, for release from the stockyard.

(12) Identity of cattle from qualified herds in quarantined areas shall be maintained, and test-eligible cattle from qualified herds in quarantined areas shall not be placed in pens with any other cattle until they have fulfilled the requirements of Title 9, Code of Federal Regulations, for release from the stockyard.

(13) Test-eligible cattle penned with test-eligible cattle from a lower class State or area, in violation of this agreement, shall have the status of the State or area of lower class for any subsequent movement.

Facilities

(14) Quarantined pens for the confinement of brucellosis reactors, brucellosis suspects, and brucellosis exposed cattle and bison tested and classified at the stockyard shall be (a) Clearly labeled with paint or placarded as follows: "Quarantined," "Brucellosis," or "Bangs"; and (b) Cleaned and disinfected in accordance with Title 9, Code of Federal Regulations, § 71.4, before being used to pen cattle and bison which are not brucellosis reactors, brucellosis suspects, or brucellosis exposed.

(15) Well-lighted cattle chutes shall be furnished and maintained to provide for proper restraint of cattle and bison for inspection, identification, vaccination, testing, and branding. Adequate electrical outlets shall be provided at chute area for branding purposes.

(16) Laboratory space shall be furnished and maintained for conducting brucellosis tests. All test reagents, testing equipment, and documents relating to the State-Federal cooperative brucellosis eradication program on the stockyard premises shall be secured to prevent misuse and theft. Adequate heat, cooling, electricity, water piped to a properly drained sink, and sanitation shall be provided for properly conducting brucellosis tests.

(17) Serviceable equipment for cleaning and disinfecting shall be furnished and maintained with adequate disinfectant on hand.

Cleaning and Disinfection

(18) The stockyard shall be cleaned and disinfected in accordance with Title 9, Code of Federal Regulations, § 71.4.

Records

(19) Any document relating to animals which are or have been in the stockyard shall be maintained by the stockyard for a period of 1 year.

(20) State representatives and Veterinary Services representatives shall be granted, at reasonable hours, access to all documents required to be maintained pursuant to paragraph 19 of this agreement and authority to reproduce the documents upon request.

I, _____, hereby acknowledge receipt of a copy of Title 9, Code of Federal Regulations, Parts 71 and 78, and hereby acknowledge that I have been informed and understand that failure to abide by the provisions of this agreement and Parts 71 and 78 constitutes a basis for the withdrawal of approval from this stockyard.

Request Approval

_____

*Operator of the Stockyard

_____

Date

Recommend Approval

_____

State Animal Health Official

_____

Date

Recommend Approval

_____

Veterinarian in Charge

_____

Date

Approval Granted

_____

Deputy Administrator
Veterinary Services

_____

Date

*The operator shall be the individual legally responsible for the day-to-day operations of the specifically approved stockyard.

PART 51—[AMENDED]

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

Authority: 21 U.S.C. 111-113, 114, 114a, 114a-1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

3. In § 51.6, paragraph (a) is revised to read as follows:

§ 51.6 Destruction of animals; time limit for destruction of animals.

(a) *Cattle.* The claimant shall be responsible for ensuring that cattle subject to this part shall be sold under permit to a recognized slaughtering establishment [1] or to a specifically approved stockyard [1] for sale to a recognized slaughtering establishment.[1]

* * * * *

4. Footnote number 1 in § 51.6 is revised to read as follows:

[1] The terms "recognized slaughtering establishment" and "specifically approved stockyard" are defined in § 78.1 of this chapter.

PART 71—[AMENDED]

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

Authority: 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

6. In § 71.1, the introductory text and the definition of "Moved (movement) in interstate commerce" is revised to read as follows:

§ 71.1 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section. * * *

Moved (movement) in interstate commerce. Moved from the point of origin of the interstate movement to the animals' final destination, such as a slaughtering establishment or a farm for breeding or raising, and including any temporary stops along the way, such as at a stockyard or dealer premises for feed, water, rest, or sale.

§ 71.3 [Amended]

7. In § 71.3(c), the reference to "the provisions of Subpart B of Part 78 of this subchapter" is revised to read "Part 78 of this chapter".

8. In § 71.18, the first sentence of paragraph (a) is revised to read as follows:

§ 71.18 Individual identification of certain cattle 2 years of age or over for movement in interstate commerce.

(a) No cattle 2 years of age or over, except steers and spayed heifers and cattle of any age which are being moved interstate during the course of normal ranching operations without change of ownership to another premises owned, leased, or rented by the same individual as provided in §§ 78.9(a)(3)(iv), 78.9(b)(3)(iv), 78.9(c)(3)(iv), and 78.9(d)(3)(vii) of this chapter, shall be moved in interstate commerce other than in accordance with the requirements of this section. * * *

* * * * *

9. Footnote number 1 in § 71.18 is revised to read as follows:

[1] Department-approved backtags are available at recognized slaughtering establishments and specifically approved stockyards and from State representatives and Veterinary Services representatives. A list of recognized slaughtering establishments and specifically approved stockyards may be obtained as indicated in § 78.1 of this chapter. The terms "State representative" and "Veterinary Services representative" are defined in § 78.1 of this chapter.

10. In §§ 71.18(a)(1)(i) and 71.18(a)(1)(ii), "slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or slaughtering establishment specifically approved under § 78.16(b) of this subchapter" is revised to read "recognized slaughtering establishment as defined in § 78.1 of this chapter".

PART 80—[AMENDED]

11. The authority citation for Part 80 continues to read as follows:

Authority: 21 U.S.C. 111–113, 114a–1, 115–117, 120–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

12. In § 80.1, paragraph (j) is revised to read as follows:

§ 80.1 Definitions.

* * * * *

(j) *Specifically approved stockyard.*[1] Premises where cattle or bison are assembled for sale or sale purposes and which meet the standards set forth in § 78.44 and are approved by the Deputy Administrator.

13. In § 80.1, a new footnote 1 is added to read:

[1] Notices containing lists of specifically approved stockyards are published in the Federal Register. Lists of specifically approved stockyards also may be obtained from the State animal health official, State representatives, or Veterinary Services representatives.

§ 80.4 [Amended]

14. In § 80.4 the introductory text, "a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), or a slaughtering establishment approved with respect to brucellosis reactors pursuant to § 78.16(b) of this subchapter" is revised to read "a recognized slaughtering establishment as defined in § 78.1 of this chapter."

PART 92—[AMENDED]

15. The authority citation for Part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

16. In § 92.35(d)(2), "a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act or a slaughtering establishment specifically approved as specified in § 78.24 of this chapter" is amended to read "a recognized slaughtering establishment as defined in § 78.1 of this chapter".

§ 92.35 Cattle from Mexico.

17. In § 92.35(d), the reference to "§ 78.1(oo)" is revised to read "§ 78.1" and the reference to "§ 78.12(a)" is revised to read "§ 78.12."

Done at Washington, DC, this 8th day of July, 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86–20491 Filed 9–11–86; 8:45 am]

BILLING CODE 3410–34–M

Federal Register

Friday
September 12, 1986

Part III

Department of Justice

Bureau of Prisons

28 CFR Part 544

Inmate Recreation Programs; Showing of Movies; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 544

Control, Custody, Care, Treatment, and Instruction of Inmates; Inmate Recreation Programs; Showing of Movies

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisions is amending its final rule on inmate recreation programs. The final amendments to the rule on recreation programs include a revised section on the showing of movies at the institution.

DATE: Effective October 27, 1986. Comments will be accepted indefinitely.

ADDRESS: Send comments to Office of General Counsel, Bureau of Prisons, Room 770, 320 1st Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Hank Jacob, Office of General Counsel, Bureau of Prisons, phone 202/272-6874.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its final rule on inmate recreation programs. A proposed rule on this subject was published in the **Federal Register** on November 22, 1985 (at 50 FR 48341). Interested persons were invited to submit comments on the proposed rule. Members of the public may submit comments concerning the final rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register.**

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. The Bureau of Prisons has determined that E.O. 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

Summary of Changes/Comments

1. Section 544.30. In this section "an inmate" is changed to "inmates." The phrase "and other group and individual activities" is added to recognize that activities other than those listed may be provided. The overall intent of this section is unchanged.

2. Section 544.31. In § 544.31(a) the words "participation in" are added. In the same sentence, "physical fitness" has been included as an example of a leisure activity. Physical fitness may include weight lifting or the use of exercise equipment.

3. Section 544.32. Section 544.32(a) is reworded. The phrase "handicap considerations" has been added for consistency with the Bureau's rule on non-discrimination towards inmates (see 28 CFR 551.90). The intent of the section is unchanged. The word "capacity" has been deleted from paragraph (b). The Bureau's intent has always been to provide all inmates, even those with limited capacity, access to leisure activities. Although the wording of this paragraph has changed, the intent remains the same.

4. Section 544.33. In the proposed rule, "HBO" was used as an *example* of a cable movie channel. It was not intended to restrict cable movie channel selection to that one specific channel, therefore, the less restrictive term "premium movie channels" is substituted in the final rule.

A commenter voiced a continued objection to proposed restrictions on X-rated movies by stating that a "blanket ban" on X-rated movies is "unconstitutionally over broad, vague and meaningless". We do not agree. Part of the criteria used in rating a movie "X" is whether the movie contains segments depicting explicit sexual activity or extreme violence. The Bureau believes that both of these elements can pose some threat to the security and good order of its institutions. Nor do we agree with a comment suggesting that the Bureau is taking "another backward step" by deleting inmate participation on a committee to select or review movies. In 1980, the Bureau finalized its rule [relevant to movies] based on the fact that most institutions were renting movies for inmate viewing. Today, most institutions have access, or subscribe to [cable] premium movie channels. In effect, this eliminates the need for renting movies, and the need for a selection committee.

5. Section 544.34. In § 544.34(c)(2) the word "items" has been changed to "item". Section 544.34(c)(3) has been reworded. In § 544.34(d) the word "institution" is changed to "an inmate's". Although the wording changed, the intent of these paragraphs remains the same. A comment to § 544.34(d)(1) suggested that the use of a "local standard of decency" for public display of prisoner art-work is unconstitutional and therefore unacceptable. The commenter stated this same objection at the time the original rule was published for public comment in December 1979. The Bureau's position then, as now, is that § 544.34(d)(1) restricts only the display of inmate art-work in the more public areas of the institution, where people of all ages and backgrounds, including children, may attend and observe the work. The rule does not obstruct the inmate's opportunity to create, or place limitations on the inmate's ability to distribute art-work as noted in § 544.34(c).

List of Subjects in 28 CFR Part 544

Education, Libraries, Prisoners, Recreation.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR Chapter V is amended by revising Subchapter C, Part 544, Subpart D, to read as set forth below.

Dated: August 21, 1986.

J. Michael Quinlan,

Acting Director, Bureau of Prisons.

Subchapter C—Institutional Management

PART 544—EDUCATION

1. The authority citation for Part 544 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161-4166, 5006-5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. Part 544, Subpart D, consisting of §§ 544.30-544.34, is revised to read as follows:

Subpart D—Inmate Recreation Programs

Sec.

544.30 Purpose and scope.
544.31 Definitions.
544.32 Goals.
544.33 Movies.
544.34 Art and Hobbycraft.

Subpart D—Inmate Recreation Programs

§ 544.30 Purpose and scope.

The Bureau of Prisons encourages inmates to make constructive use of leisure time and offers movies, sports, social activities, arts and hobbycrafts, and other group and individual activities.

§ 544.31 Definitions.

(a) *Leisure activities* are a wide range of activities in which inmates may participate when not performing assigned duties. Leisure activities include participation in organized and informal sports, physical fitness, table games, hobbycrafts, music programs, intramural activities, social and cultural organizations, movies and stage shows. Religious activities, psychological

services, and education classes are not included within this definition.

(b) *Organized activities* are those activities accounted for by registration or roster of individual participants.

(c) *Art work* includes all paintings and sketches rendered in any of the usual media (oils, pastels, crayons, pencils, inks, and charcoal).

(d) *Hobbycraft activities* include leatherwork, models, clay, mosaics, crochet, knitting, sculptures, woodworking, lapidary, and other forms consistent with institution guidelines.

§ 544.32 Goals.

The Warden is to insure, to the extent possible, that leisure activities are provided to meet social, physical, and psychological needs of inmates.

(a) Leisure activities are designed to attract inmate participation regardless of ethnic, racial, age, or sex difference, or handicap considerations, and to enhance the potential for post-release involvement.

(b) Leisure activities are designed to ensure that an inmate with the need and desire has the opportunity to complete one or more activities (see 28 CFR 544.81).

§ 544.33 Movies.

The Warden or designees may approve the showing of movies at the institution. X-rated movies are not permitted. Where the institution receives premium movie channels through cable television subscription, regular movie rentals ordinarily will be limited to special events or holidays.

§ 544.34 Art and hobbycraft.

(a) An inmate engaged in art or hobbycraft activities may obtain materials through:

(1) The institution art program (if one exists);

(2) The commissary sales unit;

(3) Special purchase commissary orders, if the sales unit is unable to stock a sufficient amount of the needed materials; or

(4) Other sources approved by the Warden.

(b) Each inmate shall identify art or hobbycraft materials by showing the inmate's name and register number on the reverse side of the item.

(c) Completed or abandoned art or hobbycraft articles may be disposed of in the following manner:

(1) Upon approval of the Warden, by giving the item to an authorized visitor.

(2) By mailing the item to a verified relative or approved visitor at the inmate's expense.

(3) By selling through an institution art and hobbycraft sales program, if one exists, after the institution price committee has detemined the sale price.

(4) Other methods established by the Warden.

(d) *Restrictions.* Art and hobbycraft programs are intended for the personal enjoyment of an inmate and as an opportunity to learn a new leisure skill. They are not for the mass production of art and hobbycraft items by artists or to provide a means of supplementing an inmate's income.

(1) The Warden may restrict, for reasons of security and housekeeping, the size of inmate paintings. Paintings mailed out of the institution must conform to both institution guidelines and postal regulations. If an inmate's art work or hobbycraft is on public display, the Warden may restrict the content of the work in accordance with community standards of decency.

(2) The Warden may set limits, in compliance with commissary guidelines, on the amount of money an inmate may spend on art or hobbycraft materials.

(3) The Warden may restrict for reasons of security, fire safety, and housekeeping, the use or possession of art and hobbycraft items or materials.

(4) The Warden may limit hobbycraft projects in the cell/living areas to those which can be contained/stored in designated personal property containers. Exceptions may be made for such items as a painting where the size would prohibit placement in a locker. Hobbycraft items must be removed from the living area when completed.

(5) The Warden shall require the inmate to mail completed hobbycraft articles out of the institution at the inmate's expense, or to give them to an authorized visitor within 30 days of completion, or to dispose of them through approved sales. However, articles offered for sale must be sold within 90 days of completion, or must be given to an authorized visitor or mailed out of the institution at the inmate's expense.

(6) Where space and equipment are limited and demand is high, the Warden may set limits on the amount of time an inmate may use a hobbycraft facility, e.g. the Warden may limit an inmate's use of a ceramics classroom to six months to make room for new students.

[FR Doc. 86-20573 Filed 9-11-86; 8:45 am]
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Federal Register

Friday
September 12, 1986

Part IV

Environmental Protection Agency

40 CFR Part 6

Procedures and Requirements Implementing the National Environmental Policy Act for the Municipal Wastewater Treatment Construction Grants Program; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 6

[FRL 2989-4]

Procedures and Requirements Implementing the National Environmental Policy Act for the Municipal Wastewater Treatment Construction Grants Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document makes final the interim rule published in the **Federal Register** June 25, 1985 (50 FR 26310) which sets out EPA's procedures for implementing the National Environmental Policy Act (NEPA) for the wastewater treatment construction grants program (Subpart E and related sections of 40 CFR Part 6). This rule directly relates to the implementation of the Municipal Wastewater Treatment (MWWT) Construction Grants program regulations (Part 35 of this title) and the Agency's public participation regulations (Part 25 of this title). It makes minor amendments as a result of public and internal Agency comments received on the interim rule.

The amendments and revisions made in the final rule include aspects of: partitioning and re-evaluating environmental reviews; categorical exclusions; public participation; producing and distributing environmental review documents; and various technical changes. Changes made in the final rule, and others which were considered but not adopted, are described below under sub-headings following a general description of the issues.

As explained in the Preamble to the Interim rule, changes to this rule are not expected to have a significant individual or cumulative impact on the environment, therefore no EIS was performed.

DATE: This regulation is effective September 12, 1986.

FOR FURTHER INFORMATION CONTACT: John Gerba, Office of External Affairs [A-104-S] Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone (202) 382-7063.

SUPPLEMENTARY INFORMATION:

Background

On June 25, 1985, EPA amended its procedures for implementing the National Environmental Policy Act (NEPA) to: (1) Be consistent with the Municipal Wastewater Treatment Construction Grant Amendments of 1981 (Pub. L. 97-117); (2) be consistent with changes in the wastewater treatment construction grants program's regulation (Part 35 Subparts E and I of this title); (3) reorder the sections of Subpart E of this part to more closely reflect the sequence of the steps undertaken in the environmental review process; (4) make minor changes to the criteria for undertaking, preparing or issuing various environmental decision documents; (5) require re-evaluation of previously issued NEPA decisions on projects awaiting grant funding; (6) reflect the new organizational structure within EPA for lead responsibilities for these regulations; and (7) make adjustments to other subparts as needed for consistency throughout the entire rule. Readers may review the detailed descriptions of changes made in the Preamble to the Proposed rule of January 7, 1983 (48 FR 1014) issue of the **Federal Register** and the Interim rule of June 25, 1985 (50 FR 26310).

General Description of Issues

In response to the Interim rule published June 25, 1985, the EPA received comment letters from four States and from two municipal sanitary district agencies. Although this preamble does not respond to each comment individually, all were carefully considered. Most commentors concentrated on the following three issues: The EPA's independent environmental review of preliminary environmental assessments drafted by States; public participation requirements for categorical exclusions (CEs); and, the re-evaluation of environmental assessment (EA) decision documents following the elapse of five years from their original issuance. Other significant issues raised which prompted changes or clarifications include: the cost-savings criterion for partitioning the environmental review for qualified projects; the relationship of Part 6 requirements to non-EPA funded portions of MWWT facilities plans; the requirements for evaluating induced growth and excess capacity; and, the relationship among interdependent but otherwise largely separate systems within a facilities planning study area.

The technical changes made to the final rule include the location in the regulation of general requirements for evaluating requests for categorical exclusions and the nomenclature of responsible EPA offices referenced.

Applicability and Limitations

Several commentors suggested eliminating federal public participation requirements on project planning and design activities on the grounds that EPA no longer funds Step 1 or 2 (planning and design) grants. Some of the same commentors stated that Part 6 environmental review requirements should apply only to EPA-related portions of a MWWT system and not to those portions supported entirely with non-federal funds.

The Agency did not accept these suggestions. The interim regulation did not impose public participation requirements solely related to a grantee's planning and design activities. Instead, consistent with the Council on Environmental Quality's (CEQ) regulations implementing NEPA, it prescribed public participation as part of the NEPA review required on the entire project prior to submission of a grantee's Step 3 grant application. In the preamble to its construction grants regulations (Part 35, Subpart I of this title) the Agency noted that applicants who request an early determination of NEPA compliance can take advantage of involving the public in their own Step 1 and 2 (planning and design) activities through application of the public participation requirements of Part 6. However, applicants also have the option of meeting Part 6 public participation requirements at any time prior to Step 3 grant application.

In regards to the applicability of Part 6 to non-EPA funded portions of wastewater treatment systems, the Agency's position is in conformance with CEQ's regulations implementing NEPA requiring the evaluation of the cumulative impacts of a federal action, including nonfunded portions and related actions enabled by it. Consequently no changes were made regarding the applicability of these Part 6 requirements.

One additional commentor raised an issue involving compliance with the Coastal Barrier Resources Act. In response the Agency has added language emphasizing the restriction on award of grants involving projects which are proposed for barrier islands as a new paragraph (4) in § 6.502(b). The addition of this paragraph did not substantively change any previous requirement.

Independent Review

Several commentors suggested that the independent EPA review of preliminary environmental assessments (EAs) prepared by States, and Agency review of the grantee's environmental information document (EID) (including the review of the grantee's facilities plans upon which the EID is based) be eliminated because they view these

activities as unnecessarily duplicating State responsibilities.

The Agency agrees that duplicative reviews should be avoided to the extent practicable. However, CEQ's implementing regulations require that the final environmental determination be made by the federal responsible official based on an independent environmental review. The EPA review is to ensure that the information provided by the State to the federal responsible official is sufficient to support the State's recommendation on the environmental determination.

The Agency does not consider an EID to be final until the Agency's informational needs are satisfied. Therefore, should a situation arise where the information contained in a preliminary EA prepared by a State is found to be inadequate, the EPA Regional Administrator has the responsibility to review, if necessary, the grantee's EID and/or facilities plan to determine the completeness of the grantee's analysis. In these cases, EPA officials will work with delegated States to avoid duplication of effort. In cases where the State's recommendations are adopted without need for supplementing the accompanying preliminary EA produced by the State, the signing of a NEPA determination by the federal responsible official also makes final the grantee's EID.

Partitioning the Environmental Review

Cost savings. One commentor noted that the introductory paragraph describing the purposes of the procedure allowing for partitioning of an environmental review included two criteria, only one of which need be met to qualify for partitioning—"cost savings" or "impaired program effectiveness"—but that the remainder of the section only provided a procedure for partitioning under the latter criterion. The Agency agreed with the commentor that specific procedures for implementing the cost savings criterion should be provided. Consequently, the final rule incorporates specific requirements for the cost savings criterion established in the introductory purpose paragraph of § 6.507.

Non-EPA funded portions of facilities plans. Several commentors suggested that the EPA should add a third criterion to permit partitioning of environmental reviews for the sole purpose of early procurement of portions of treatment systems that are to be constructed entirely by State or local funds. Furthermore some commentors suggested eliminating the environmental review on these portions entirely.

EPA does not agree with these suggestions since NEPA requires the Agency, in evaluating the consequences of a construction grant project, to consider the impact of treatment works enabled by the process but not otherwise funded by EPA. However, non-EPA funded portions of MWWT systems can be partitioned and built in advance in accordance with § 6.507 requirements without jeopardizing EPA grant funding for the remainder of the system(s), if the portion meets either one of the two criteria for partitioning already permitted.

Phases and interdependent systems. Several commentors requested clarifications to the partitioning requirements involving facilities planning study areas containing multiple phased projects (as defined in Part 35 regulations of this title) or interdependent, though largely separate, systems. The Agency's view on partitioning environmental reviews for projects of this kind is that an environmental review on the first phase or system in a study area must take into account the cumulative effects of all other interrelated projects or systems contemplated for that study area in order not to foreclose on viable alternatives and to eliminate those with cumulative effects which are undesirable. Thereafter each succeeding complete phase or system that undergoes environmental review may incorporate common analyses by reference. Therefore, to clarify the Agency's position the word "systems" was substituted for "facilities plan" in paragraphs (a) and (d)(3) of § 6.507.

Categorical Exclusions

Commentors submitted many suggestions for improving or changing the requirements for categorical exclusions (CEs). As a result the Agency concluded that there was a need to clarify the following in both the preamble and rule: whether or not a formal application for a CE was necessary, what it should contain, and who should initiate it; procedures for rescinding CEs; availability of CEs for projects involving relocation of existing discharges; applicability of requirements for not granting a CE when new categories are proposed; and, the need for both grantee and EPA notices and a thirty-day public comment period. Each is briefly discussed below.

Applications and their initiation. In order to make the requirements more understandable, the Agency has modified the final rule to require that all CEs shall be by application and that only grantees can make application. Establishment of specific application procedures, however, will be the responsibility of each federal responsible official, in consultation with States. At a minimum, an application should consist of a letter request from the grantee with supporting documentation drawn from existing information justifying the exclusion. The phrase "from existing information" as used in § 6.505(a) indicates that grantees do not have to comply with requirements for initiating an EID unless their application for a CE is denied or additional information is required before a final determination can be made.

Rescinding previously granted CE determinations. In response to a comment, the Agency has amended the rule at § 6.400(f) to indicate that the procedures to rescind a previously granted CE determination should follow the same notice procedures used in granting the original determination.

Relocation of existing discharges. One commentor suggested that disallowing CE determinations in all cases involving the relocation of existing discharges was too restrictive, recommending that a threshold distance should be established.

The Agency disagrees. A change of a few feet could place the relocated discharge of effluent into a different water body or the discharge may be to the same receiving water body but involve a different water quality segment. We disagree further because the complexity of possible water quality impacts makes it difficult to create a threshold distance which would encompass all combinations of wastewater treatment facilities and technologies employed.

Applicability of CE criteria to new categories. In response to another comment § 6.505(d) was amended (redesignated § 6.107(f)) to indicate that new adopted categories of projects excluded from the substantive requirements of Part 6 will become an addition to § 6.107(d) of this section for new permissible general actions, or as an addition to a similar paragraph in other subparts when the new permissible action pertains to only one program, subject to all criteria for evaluating CE applications including conformance with criteria for not granting CEs. A further suggestion that a time-frame be included for acting on requests for new categories was not adopted since the Agency believes that each suggested category may take different lengths of time to adequately evaluate and complete the regulatory review process.

Public notices, comment periods and effective dates. Several comments were

directed toward eliminating the public notice requirement on CE requests on the basis that it added too much time to the process for evaluating requests for CEs to the point where there would be little time saved over EA/FNSI preparation. One of the commentors further suggested that if the public notice requirement were to stay, it should also appear in Part 35 requirements.

EPA does not agree with these recommendations. The required notice is a minimal one which does not require public meetings. Furthermore, no EID need be prepared for CEs. Since virtually no environmental recordkeeping is involved on such projects, the Agency feels strongly that a widely disseminated notice is necessary to inform the public about the proposed federal project in their community. In addition, the requirement is incorporated by reference in Part 35 of this title, which requires compliance with Part 6 prior to the submissions of an application.

One commentor recommended that the required publication of the notice by the grantee should be the same day that the federal responsible official signs the NEPA determination. Other commentors further recommended that CEs should become effective immediately following the issuance of the determination on the part of the federal responsible official rather than following an additional thirty-day public comment period. Their reasoning was that a CE determination can be revoked at any time new information is brought to the attention of the responsible official, including information submitted by the general public. It was also pointed out that a mandatory 30-day delay for public comment was inconsistent with the rationale for having CE provisions, i.e., that there should be a mechanism for expeditiously handling projects which clearly have no significant environmental impact. After careful examination of these comments, the Agency accepted the recommendations that a formal 30-day public comment period was not necessary before making a CE determination effective. The distribution of the notice of determination by the EPA regional office and the publication of the newspaper notice by the grantee should be made as soon as possible after the signing of the determination by the EPA Regional Administrator. Section 6.400(f) of this part was changed accordingly.

Excess capacity. One commentor suggested that disallowing CEs for projects which will result in more than a 30% increase in population growth is unduly restrictive. EPA's original position on this issue, when the requirements were first published in March of 1982, was to impose a 20% cap on excess capacity. However in response to public comment on this threshold, and after consultation with the construction grants program, this cap was later increased to 30%. It remains our opinion that there is a strong presumption that there could be significant environmental impacts associated with excess capacities of 30% or greater.

Other Environmental Review Criteria

Compliance with other environmental laws. Several commentors suggested incorporating portions of laws or guidance pertaining to related environmental laws affecting the environmental review of construction grants projects as appendices to Part 6 (e.g., portions of the Council on Environmental Quality's regulations implementing NEPA, EPA guidance on the prohibition of federal project funding on barrier islands, and EPA guidance on implementing section 106 of the National Historic Preservation Act).

Though the reasons expressed in these comments for emphasizing these laws all had merit, the Agency's preference is to issue such material as separate documents as the need arises rather than including them in this regulation.

Induced growth and excess capacity. One commentor suggested that the term "induced growth" (or induced impacts), as used in § 6.506(b)(5), be qualified as meaning development in excess of that anticipated in the grantee's own planning studies. The Agency rejected this suggestion on the grounds that growth does not cease to be an environmental concern simply because it falls within the limits predicted by the locality itself. The NEPA issue to be investigated by evaluating growth is the likelihood and extent of primary and secondary impacts that any growth might cause on the existing and future environmental conditions enumerated in § 6.506, including secondary land use impacts; and not simply whether or not the federal project induced growth beyond what the grantee's planning studies have projected.

Threatened and endangered species and their habitats. After consulting with the Council on Environmental Quality, the EPA accepted a suggestion to amend the criteria addressing threatened and endangered species habitats in §§ 6.107 (criteria for not granting a categorical exclusion) and 6.108 (criteria for initiating an EIS) to include reference to the threatened and endangered species themselves as well as their habitats.

Submitting decision documents to OEA. During internal review of the interim comments, a decision was taken by EPA to drop the requirement in the rule requiring copies of EAs, FNSIs and RODs to be sent to OFA. A decision was also made to exempt CE determinations as well. It was determined that these documents should be obtained through other Agency administrative procedures.

Improving documentation and exhibits. Several comments suggested adding clarifying language specifying minimal requirements to improve the quality of bibliographic citations and mapped information within EAs and EISs. The Agency generally agreed with the intent of these suggestions but believes it would be more appropriate to address improvements to documentation and exhibits in guidance issued either by the EPA construction grants or NEPA compliance program offices. However, § 6.506(b)(4) was revised to clarify that local and tribal as well as public and private institutions should be considered within the range of sources consulted.

Re-evaluation of NEPA Determinations

Six comments were received on the requirements for re-evaluating the environmental consequences of projects which have not proceeded to award after five or more years following the effective date of the original environmental determination made by the Agency. The "5-year" re-evaluation requirement is based on the expectation that after five years the environmental conditions within the project area will have changed, and that therefore the anticipated future environmental impacts might also have changed as well. Commentors requested clarifications on: the application of this requirement to Step 1 grant assistance; initiating re-evaluations earlier than 5 years; and, application of this requirement to Step 2+3 grant projects.

Step 1 assistance & early initiation. In response to the question on the applicability to Step 1 grant assistance, the Agency stresses that the 5-year re-evaluation rule is not affected by when or how a project was initiated. It applies equally to all projects awaiting grant funding regardless of Step 1 federal planning grant assistance. Therefore no change in the rule was necessary on this. The Agency believes it is unnecessary to insert additional language to permit the initiation of re-evaluations by EPA earlier than 5 years since requirements in § 6.502(a)(2) and other sections as well make re-evaluating a project mandatory at any

time that significant project changes occur or that new information having bearing on the original determination is found or developed, or that its existing information becomes outdated.

Application to Step 2+3 projects. Two commentors noted that since the 5-year re-evaluation interim regulation requirement applied to all projects awaiting award of a Step 3 grant, the status of Step 2+3 grants under the requirement was not clear. The commentors recommended that specific reference to Step 2+3 grants be included in these sections to clarify the status of Step 2+3 grant projects.

The EPA agreed with the observation and recommendations expressed by these commentors. First, it was the Agency's intent that the re-evaluation requirements be applicable to Step 2+3 projects in cases where five years has elapsed between the environmental determination and grant award, although Step 2+3 projects were not specifically referenced in these parts of the regulation. To clarify this we have amended the final regulation to specifically include Step 2+3 projects in §§ 6.505(d)(2)(i), 6.508(b)(2)(i), and 6.511(c)(2)(i)). Secondly, for situations where there is a delay between Step 2+3 grant award and actual project procurement (e.g., the initiation of building the project) the final rule has been amended to require that an environmental re-evaluation take place as part of the review and approval of plans and specifications prescribed by § 35.220(2)(b) of this title. A separate paragraph addressing this latter requirement for Step 2+3 grants has been inserted into §§ 6.505(d)(2)(ii), 508(b)(2)(ii) and 511(c)(2)(ii) of the final rule.

Re-evaluated EIS notice requirements. During internal Agency review the requirement in § 6.511(c)(2)(i) requiring issuance of a FNSI when reaffirming an original EIS determination five or more years old was questioned. The Agency determined that this could be considered inconsistent with related FNSI requirements elsewhere in this rule, especially with its requirement for a 30-day public comment period. Therefore this requirement has been replaced with the same notice requirement for reaffirming NEPA determinations on CE and FNSI projects.

Technical Changes

General responsibilities. Since the last recodification of Part 6 requirements in 1979 there have been several changes to EPA Assistant Administratorships which are cited in § 6.103 as having responsibility for implementing its provisions. After internal review, it was decided to update § 6.103 and corresponding Subparts to reflect the current organizational structure in the Agency.

Relocation of general categorical exclusion criteria. During internal review of the comments made on the interim regulation, a decision was made to remove all general criteria pertaining to establishing categories of excludable projects and the detailed criteria for granting and not granting exclusions for potentially qualified projects from Subpart E, § 6.505. and insert them into Subpart A, § 6.107, which already contains all other pertinent general requirements for issuing CEs. Only criteria specific to construction grants projects were left remaining in § 6.505. Citations elsewhere within the regulation cross-referencing general criteria have been amended to conform with this new location.

Other minor non-substantive changes. There are other minor clarifying word or phrase changes which were made that were suggested through the comment procedure, and the Agency's internal review procedure, none of which change the rule in any major substantive way.

Regulation Development Process

An interim rule was developed by a work group, with representation from EPA headquarters and regional offices, and published in the **Federal Register** on June 25, 1985. A 60-day comment period resulted in the receipt of suggestions and recommendations from both the affected public and components of EPA's regional offices. These comments resulted in recommendations by the workgroup for minor amendments. Because the rule affected the implementation of the National Environmental Policy Act, a copy of this rulemaking was submitted to the Council on Environmental Quality for comment.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) on April 19, 1985, under provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.* and have been assigned OMB control number 2090–0016.

The Office of External Affairs (OEA), the responsible office for this rule, has determined that this revision is not a "major" rule within the meaning of Executive Order (E.O.) 12291. This decision was made because this revision will not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase of costs or prices for consumers, individual industries, geographic regions, or federal, State, tribal or local government Agencies; or (3) have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

The net purpose and effect of these amendments and technical revisions to the environmental review process for the construction grants program is to simplify some processes, reducing the burden on recipients of wastewater treatment construction grant awards, and making minor clarifications to the rule. No increased paperwork burdens overall are imposed on potential grantees by the amendments.

These amendments and technical revisions were submitted to the OMB for review as required by E.O. 12291.

E.O. 12291 requires that "major" rules must undergo a Regulatory Impact Analysis. Since EPA has adopted the determination of OEA that this rulemaking is not "major" under the requirements of E.O. 12291, it is not subject to such analysis.

List of Subjects in 40 CFR Part 6

Environmental impact statements, Administrative practice and procedure, Grant programs, Permit programs, Waste treatment and disposal.

Dated: August 22, 1986.

Lee M. Thomas,

Administrator.

For reasons set out in the preamble, the interim regulations published in the **Federal Register** June 25, 1985 (50 FR 26310) are adopted as final with the following changes.

PART 6—[AMENDED]

1. The authority citation for Part 6 continues to read as follows:

Authority: Secs. 101, 102, and 103 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); the Council on Environmental Quality Regulations dated November 29, 1978 (Parts 1500 to 1508 of this title); also Executive Order 12114 on Environmental Effects Abroad of Major Federal Actions.

2. Section 6.103 is amended by revising paragraphs (a)(4), (b)(2), (c)(2), (e) and (f) as follows:

§ 6.103 Responsibilities.

(a) * * *

(4) The Office of Policy, Planning, and Evaluation duties include: responsibilities for coordinating the preparation of EISs required on EPA legislative proposals in accordance with § 6.102(b).

(b) * * *

(2) *Assistant Administrator.* The responsibilities of the Assistant Administrator, as described in § 6.103(a)(3), shall be assumed by the Assistant Administrator for Water for EPA actions covered by this subpart.

(c) * * *

(2) *Assistant Administrator.* The responsibilities of the Assistant Administrator, as described in § 6.103(a)(3), shall be assumed by the Assistant Administrator for Enforcement and Compliance Monitoring for EPA actions covered by this subpart.

* * * * *

(e) *Responsibilities for Subpart H.* The Assistant Administrator for Solid Waste and Emergency Response will be the responsible official for activities covered by this subpart.

(f) *Responsibilities for Subpart I.* The responsible official for new construction and modification of special purpose facilities is as follows:

(1) The Chief, Facilities Engineering and Real Estate Branch, Facilities and Support Services Division, Office of the Assistant Administrator for Administration and Resource Management (OARM) shall be the responsible official on all new construction of special purpose facilities and on all new modification projects for which the Facilities Engineering and Real Estate Branch has received a funding allowance and for all other field components not covered elsewhere in paragraph (f) of this section.

(2) The Regional Administrator shall be the responsible official on all improvement and modification projects for which the regional office has received the funding allowance.

3. Section 6.105 is amended by revising paragraph (d) and the section title to read as follows:

§ 6.105 Synopsis of environmental review procedures.

* * * * *

(d) *Environmental assessments.* Environmental assessments (i.e., concise public documents for which EPA is responsible) are prepared to provide sufficient data and analysis to determine whether an EIS or finding of no significant impact is required. Where EPA determines that a categorical exclusion is appropriate or an EIS will be prepared, there is no need to prepare a formal environmental assessment.

* * * * *

4a. Section 6.107 is amended by revising paragraph (b) and adding paragraphs (d), (e) and (f) as follows:

§ 6.107 Categorical exclusions.

* * * * *

(b) *Determination.* The responsible official shall determine whether an action is eligible for a categorical exclusion as established by general criteria in § 6.107 (d) and (e) and any applicable criteria in program specific subparts of Part 6 of this title. A determination shall be made as early as possible following the receipt of an application. The responsible official shall document the decision to issue or deny an exclusion as soon as practicable following review in accordance with § 6.400(f). For qualified actions, the documentation shall include the application, a brief description of the proposed action, and a brief statement of how the action meets the criteria for a categorical exclusion without violating criteria for not granting an exclusion.

* * * * *

(d) *General categories of actions eligible for exclusion.* Actions consistent with any of the following categories are eligible for a categorical exclusion:

(1) Actions which are solely directed toward minor rehabilitation of existing facilities, functional replacement of equipment, or towards the construction of new ancillary facilities adjacent or appurtenant to existing facilities;

(2) Other actions specifically allowed in program specific subparts of this regulation; or

(3) Other actions developed in accordance with paragraph (f) of this section.

(e) *General criteria for not granting a categorical exclusion.* (1) The full environmental review procedures of this part must be followed if undertaking an action consistent with allowable categories in paragraph (d) of this section may involve serious local or environmental issues, or meets any of the criteria listed below:

(i) The action is known or expected to have a significant effect on the quality of the human environment, either individually, cumulatively over time, or in conjunction with other federal, State, local, tribal or private actions;

(ii) The action is known or expected to directly or indirectly affect (A) cultural resource areas such as archaeological and historic sites in accordance with § 6.301, (B) endangered or threatened species and their critical habitats in accordance with § 6.302 or State lists, (C) environmentally important natural resource areas such as floodplains, wetlands, important farmlands, aquifer recharge zones in accordance with § 6.302, or (D) other resource areas identified in supplemental guidance issued by the OEA;

(iii) The action is known or expected not to be cost-effective or to cause significant public controversy; or

(iv) Appropriate specialized program specific criteria for not granting an exclusion found in other subparts of this regulation are applicable to the action.

(2) Notwithstanding the provisions of paragraph (d) of this section, if any of the conditions cited in paragraph (e)(1) of this section exist, the responsible official shall ensure:

(i) That a categorical exclusion is not granted or, if previously granted, that it is revoked according to paragraph (c) of this section;

(ii) That an adequate EID is prepared; and

(iii) That either an environmental assessment and FNSI or a notice of intent for an EIS and ROD is prepared and issued.

(f) *Developing new categories of excluded actions.* The responsible official, or other interested parties, may request that a new general or specialized program specific category of excluded actions be created, or that an existing category be amended or deleted. The request shall be in writing to the Assistant Administrator, OEA, and shall contain adequate information to support the request. Proposed new categories shall be developed by OEA and published in the **Federal Register** as a proposed rule, amending paragraph (d) of this section when the proposed new category applies to all eligible programs or, amending appropriate paragraphs in other subparts of this part when the proposed new category applies to one specific program. The publication shall include a thirty (30) day public comment period. In addition to criteria for specific programs listed in other subparts of this part, the following general criteria shall be considered in evaluating proposals for new categories:

(1) Any action taken seldom results in the effects identified in general or specialized program specific criteria identified through the application of criteria for not granting a categorical exclusion;

(2) Based upon previous environmental reviews, actions consistent with the proposed category have not required the preparation of an EIS; and

(3) Whether information adequate to determine if a potential action is consistent with the proposed category will normally be available when needed.

4b. Section 6.108 is amended by revising paragraph (d) and the section title to read as follows:

§ 6.108 Criteria for initiating an EIS.

* * * * *

(d) The proposed action may significantly affect threatened and endangered species or their habitats identified in the Department of the Interior's list, in accordance with § 6.302, or a State's list, or a structure or a facility constructed or operated under the proposed action may be located in the habitat;

* * * * *

5. Section 6.400 is amended by revising paragraphs (d), (e) and (f) as follows:

§ 6.400 Public involvement.

* * * * *

(d) *Findings of no significant impact (FNSI).* The responsible official shall allow for sufficient public review of a FNSI before it becomes effective. The FNSI and attendant publication must state that interested persons disagreeing with the decision may submit comments to EPA. The responsible official shall not take administrative action on the project for at least thirty (30) calendar days after release of the FNSI and may allow more time for response. The responsible official shall consider, fully, comments submitted on the FNSI before taking administrative action. The FNSI shall be made available to the public in accordance with the requirements and all appropriate recommendations contained in § 1506.6 of this title.

(e) *Record of Decision (ROD).* The responsible official shall disseminate the ROD to those parties which commented on the draft or final EIS.

(f) *Categorical exclusions.* An applicant who files for and receives a determination of categorical exclusion under § 6.107(a), or has one rescinded under § 6.107(c), shall publish a notice indicating the determination of eligibility or rescission in a local newspaper of community-wide circulation and indicate the availability of the supporting documentation for public inspection. The responsible official shall, concurrent with the publication of the notice: make the documentation as outlined in § 6.107(b) available to the public; and distribute the notice of the determination to all known interested parties.

6. Section 6.402 is amended by revising paragraph (b) as follows:

§ 6.402 Availability of documents.

* * * * *

(b) *Public information.* Lists of all notices, determinations and other reports/documentation, related to these notices and determinations, involving CEs, EAs, FNSIs, notices of intent, EISs, and RODs prepared by EPA shall be available for public inspection and maintained by the responsible official as a monthly status report. OEA shall maintain a comprehensive list of notices of intent and draft and final EISs provided by all responsible officials for public inspection including publication in the **Federal Register**. In addition, OEA will make copies of all EPA-prepared EISs available for public inspection; the responsible official shall do the same for any EIS he/she undertakes.

7. Section 6.502 is amended by adding paragraphs (b)(4) as follows:

§ 6.502 Applicability and limitations.

* * * * *

(b) * * *

(4) In accord with § 6.302(f), on or after October 18, 1982, no new expenditures or financial assistance involving the construction grants program can be made within the Coastal Barrier Resource System, or for projects outside the system which would have the effect of encouraging development in the system, other than specified exceptions made by the EPA after consultation with the Secretary of the Interior.

8. Section 6.503 is amended by revising paragraph (b) as follows:

§ 6.503 Overview of the environmental review process.

* * * * *

(b) *Determining categorical exclusion eligibility.* At the request of a potential Step 3 or Step 2+3 grant applicant, or a Step 1 facilities planning grantee, the responsible official will determine if a project is eligible for a categorical exclusion in accordance with § 6.505. A Step 1 facilities planning grantee awarded a Step 1 grant on or before December 29, 1981 may request a categorical exclusion at any time during Step 1 facilities planning. A potential Step 3 or Step 2+3 grant applicant may request a categorical exclusion at any time before the submission of a Step 3 or Step 2+3 grant application.

* * * * *

9. Section 6.505 is amended by revising paragraphs (a), (b) and (c); removing existing paragraph (d); and revising and redesignating existing paragraph (e) as new paragraph (d) as follows:

§ 6.505 Categorical exclusions.

(a) *General.* At the request of an existing Step 1 facilities planning grantee or of a potential Step 3 or Step 2+3 grant applicant, the responsible official, as provided for in §§ 6.107(b), 6.400(f) and 6.504(a), shall determine from existing information and document whether an action is consistent with the categories eligible for exclusion from NEPA review identified in § 6.107(d) or § 6.505(b) and not inconsistent with the criteria in § 6.107(e) or § 6.505(c).

(b) *Specialized categories of actions eligible for exclusion.* For this subpart, eligible actions consist of any of the categories in § 6.107(d), or:

(1) Actions for which the facilities planning is consistent with the category listed in § 6.107(d)(1) which do not affect the degree of treatment or capacity of the existing facility including, but not limited to, infiltration and inflow corrections, grant-eligible replacement of existing mechanical equipment or structures, and the construction of small structures on existing sites;

(2) Actions in sewered communities of less than 10,000 persons which are for minor upgrading and minor expansion of existing treatment works. This category does not include actions that directly or indirectly involve the extension of new collection systems funded with federal or other sources of funds;

(3) Actions in unsewered communities of less than 10,000 persons where on-site technologies are proposed; or

(4) Other actions are developed in accordance with § 6.107(f).

(c) *Specialized Criteria for not granting a categorical exclusion.* (1) The full environmental review procedures of this part must be followed if undertaking an action consistent with the categories described in paragraph (b) of this section meets any of the criteria listed in § 6.107(e) or when:

(i) The facilities to be provided will (A) create a new, or (B) relocate an existing, discharge to surface or ground waters;

(ii) The facilities will result in substantial increases in the volume of discharge or the loading of pollutants from an existing source or from new facilities to receiving waters; or

(iii) The facilities would provide capacity to serve a population 30% greater than the existing population.

(d) *Proceeding with grant awards.* (1) After a categorical exclusion on a proposed treatment works has been granted, and notices published in accordance with § 6.400(f), grant awards may proceed without being subject to any further environmental review requirements under this part, unless the responsible official later determines that the project, or the conditions at the time the categorical determination was made, have changed significantly since the independent EPA review of information

submitted by the grantee in support of the exclusion.

(2) For all categorical exclusion determinations:

(i) That are five or more years old on projects awaiting Step 2+3 or Step 3 grant funding, the responsible official shall re-evaluate the project, environmental conditions and public views and, prior to grant award, either:

(A) *Reaffirm*—issue a public notice reaffirming EPA's decision to proceed with the project without need for any further environmental review;

(B) *Supplement*—update the information in the decision document on the categorically excluded project and prepare, issue, and distribute a revised notice in accordance with § 6.107(f); or

(C) *Reassess*—revoke the categorical exclusion in accordance with § 6.107(c) and require a complete environmental review to determine the need for an EIS in accordance with § 6.506, followed by preparation, issuance and distribution of an EA/FNSI or EIS/ROD.

(ii) That are made on projects that have been awarded a Step 2+3 grant, the responsible official shall, at the time of plans and specifications review under § 35.2202(b) of this title, assess whether the environmental conditions or the project's anticipated impact on the environment have changed and, prior to plans and specifications approval, advise the Regional Administrator if additional environmental review is necessary.

10. Section 6.506 is amended by revising paragraphs (a), (b) introductory text and (b)(4) as follows:

§ 6.506 Environmental review process.

(a) *Review of completed facilities plans.* The responsible official shall ensure a review of the completed facilities plan with particular attention to the EID and its utilization in the development of alternatives and the selection of a preferred alternative. An adequate EID shall be an integral part of any facilities plan submitted to EPA or to a State. The EID shall be of sufficient scope to enable the responsible official to make determinations on requests for partitioning the environmental review process in accordance with § 6.507 and for preparing environmental assessments in accordance with § 6.506(b).

(b) *Environmental assessment.* The environmental assessment process shall cover all potentially significant environmental impacts. The responsible official shall prepare a preliminary environmental assessment on which to base a recommendation to finalize and issue the environmental assessment/FNSI. For those States delegated environmental review responsibilities under § 6.514, the State responsible official shall prepare the preliminary environmental assessment in sufficient detail to serve as an adequate basis for EPA's independent NEPA review and decision to finalize and issue an environmental assessment/FNSI or to prepare and issue a notice of intent for an EIS/ROD. The EPA also may require submission of supplementary information before the facilities plan is approved if needed for its independent review of the State's preliminary assessment for compliance with environmental review requirements. Substantial requests for supplementary information by EPA, including the review of the facilities plan, shall be made in writing. Each of the following subjects outlined below, and requirements of Subpart C of this part, shall be reviewed by the responsible official to identify potentially significant environmental concerns and their associated potential impacts, and the responsible official shall furthermore address these concerns and impacts in the environmental assessment:

* * * * *

(4) *Documentation.* Citations to information used to describe the existing environment and to assess future environmental impacts should be clearly referenced and documented. These sources should include, as appropriate but not limited to, local, tribal, regional, State, and federal agencies as well as public and private organizations and institutions with responsibility or interest in the types of conditions listed in § 6.509 and in Subpart C of this part.

* * * * *

11. Section 6.507 is amended by revising paragraphs (a), (b) and (d)(3) as follows:

§ 6.507 Partitioning the environmental review process.

(a) *Purpose.* Under certain circumstances the building of a component/portion of a wastewater treatment system may be justified in advance of completing all NEPA requirements for the remainder of the system(s). When there are overriding considerations of cost or impaired program effectiveness, the responsible official may award a construction grant, or approve procurement by other than EPA funds, for a discrete component of a complete wastewater treatment system(s). The process of partitioning the environmental review for the discrete component shall comply with the criteria and procedures described in paragraph (b) of this section. In addition, all reasonable alternatives for the overall wastewater treatment works system(s) of which the component is a part shall have been previously identified, and each part of the environmental review for the remainder of the overall facilities system(s) in the planning area in accordance with § 6.502(b)(3) shall comply with all requirements under § 6.506.

(b) *Criteria for partitioning.* (1) Projects may be partitioned under the following circumstances:

(i) To overcome impaired program effectiveness, the project component, in addition to meeting the criteria listed in paragraph (b)(2) of this section, must immediately remedy a severe public health, water quality or other environmental problem; or

(ii) To significantly reduce direct costs on EPA projects, or other related public works projects, the project component (such as major pieces of equipment, portions of conveyances or small structures) in addition to meeting the criteria listed in paragraph (b)(2) of this section, must achieve a cost savings to the federal government and/or to the grantee's or potential grantee's overall costs incurred in procuring the wastewater treatment component(s) and/or the installation of other related public works projects funded in coordination with other federal, State, tribal or local agencies.

(2) The project component also must: (i) not foreclose any reasonable alternatives identified for the overall wastewater treatment works system(s); (ii) not cause significant adverse direct or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire wastewater treatment system of which the component is a part; and (iii) Not be highly controversial.

* * * * *

(d) * * *

(3) Include a grant condition prohibiting the building of additional or different components of the entire facilities system(s) in the planning area as described in § 6.502(b)(3)(i).

12. Section 6.508 is revised as follows:

§ 6.508 Finding of No Significant Impact (FNSI) determination.

(a) *Criteria for producing and distributing FNSIs.* If, after completion of the environmental review, EPA determines that an EIS will not be required, the responsible official shall issue a FNSI in accordance with §§ 6.105(f) and 6.400(d). The FNSI will be based on EPA's independent review of the preliminary environmental assessment and any other

environmental information deemed necessary by the responsible official consistent with the requirements of § 6.506(c). Following the Agency's independent review, the environmental assessment will be finalized and either be incorporated into, or attached to, the FNSI. The FNSI shall list all mitigation measures as defined in § 1508.20 of this title, and specifically identify those mitigation measures necessary to make the recommended alternative environmentally acceptable.

(b) *Proceeding with grant awards.* (1) Once an environmental assessment has been prepared and the issued FNSI becomes effective for the treatment works within the study area, grant awards may proceed without preparation of additional FNSIs, unless the responsible official later determines that the project or environmental conditions have changed significantly from that which underwent environmental review.

(2) For all environmental assessment/FNSI determinations:

(i) That are five or more years old on projects awaiting Step 2+3 or Step 3 grant funding, the responsible official shall re-evaluate the project, environmental conditions and public views and, prior to grant award, either:

(A) *Reaffirm*—issue a public notice reaffirming EPA's decision to proceed with the project without revising the environmental assessment;

(B) *Supplement*—update information and prepare, issue and distribute a revised EA/FNSI in accordance with §§ 6.105(f) and 6.400(d); or

(C) *Reassess*—withdraw the FNSI and publish a notice of intent to produce an EIS followed by the preparation, issuance and distribution of the EIS/ROD.

(ii) That are made on projects that have been awarded a Step 2+3 grant, the responsible official shall, at the time of plans and specifications review under § 35.2202(b) of this title, assess whether the environmental conditions or the project's anticipated impact on the environment have changed and, prior to plans and specifications approval, advise the Regional Administrator if additional environmental review is necessary.

13. Section 6.511 is amended by revising paragraph (c) as follows:

§ 6.511 Record of decision (ROD) for EISs and identification of mitigation measures.

* * * * *

(c) *Proceeding with grant awards.* (1) Once the ROD has been prepared on the selected, or preferred, alternative(s) for the treatment works described within the EIS, grant awards may proceed without the preparation of supplemental EISs unless the responsible official later determines that the project or the environmental conditions described within the current EIS have changed significantly from the previous environmental review in accordance with § 1502.9(c) of this title.

(2) For all EIS/ROD determinations:

(i) That are five or more years old on projects awaiting Step 2+3 or Step 3 grant funding, the responsible official shall re-evaluate the project, environmental conditions and public views and, prior to grant award, either:

(A) *Reaffirm*—issue a public notice reaffirming EPA's decision to proceed with the project, and documenting that no additional significant impacts were identified during the re-evaluation which would require supplementing the EIS; or

(B) *Supplement*—conduct additional studies and prepare, issue and distribute a supplemental EIS in accordance with § 6.404 and document the original, or any revised, decision in an addendum to the ROD.

(ii) That are made on projects that have been awarded a Step 2+3 grant, the responsible official shall, at the time of plans and specifications review under § 35.2202(b) of this title, assess whether the environmental conditions or the project's anticipated impact on the environment have changed, and prior to plans and specifications approval, advise the Regional Administrator if additional environmental review is necessary.

14. Section 6.513 is amended by revising the introductory text paragraph (a) to read as follows:

§ 6.513 Public participation.

(a) *General.* Consistent with public participation regulations in Part 25 of this title, and Subpart D of this part, it is EPA policy that certain public participation steps be achieved before the State and EPA complete the environmental review process. As a minimum, all potential applicants that do not qualify for a categorical exclusion shall conduct the following steps in accordance with procedures specified in Part 25 of this title:

* * * * *

15. Section 6.514 is amended by revising paragraphs (a)(3), (a)(9) and (a)(10); adding paragraph (a)(11); and revising paragraph (b) as follows:

§ 6.514 Delegation to States.

(a) * * *

(3) Finalizing the scope of an EID when required to adequately conclude an independent review of a preliminary environmental assessment:

* * * * *

(9) Final decisions under other applicable laws described in subpart C of this part;

(10) Determination following re-evaluations of projects awaiting grant funding in the case of Step 3 projects whose existing evaluations and/or decision documents are five or more years old, or determinations following re-evaluations on projects submitted for plans and specifications review and approval in the case of awarded Step 2+3 projects where the EPA Regional Administrator has been advised that additional environmental review is necessary, in accordance with § 6.505(d)(2), § 6.508(b)(2) or § 6.511(c)(2); and

(11) Maintenance of official EPA monthly status reports as required under § 6.402(b).

(b) *Elimination of duplication.* The responsible official shall assure that maximum efforts are undertaken to minimize duplication within the limits described under paragraph (a) of this section. In carrying out requirements under this subpart, maximum consideration shall be given to eliminating duplication in accordance with § 1506.2 of this title. Where there are State or local procedures comparable to NEPA, EPA should enter into memoranda of understanding with these States concerning workload distribution and responsibilities not specifically reserved to EPA in paragraph (a) of this section for implementing the environmental review and facilities planning process.

§§ 6.602 and 6.603 [Amended]

16. Subpart F is amended by removing the citations to "40 CFR 122.66 (a) and (b)" and "40 CFR 122.66(c)" in §§ 6.602(b) and 6.603, respectively, and substituting the citations "§ 122.29 (a) and (b) of this chapter" and "§ 122.29(c) of this chapter respectively.

§ 6.800 [Amended]

17. In Subpart H, § 6.800 is amended by removing the words "Office of Solid Waste" and inserting in their place, the words "Office of Solid Waste and Emergency Response".

Subpart I—[Amended]

18. Subpart I is amended by: removing the words "Facilities Management Branch" and "Office of Management and Agency Services" wherever they occur and inserting in their place, the words "Facilities Engineering and Real Estate Branch" and "Office of the

Assistant Administrator for Administration and Resource Management" respectively; and by removing the punctuation mark and phrase in paragraph (a) of § 6.902; "or by a National Environmental Research Center" and inserting the word "or" between the words and punctuation ". . . Services;" and "by a regional . . ." which precedes the deleted text.

[FR Doc. 86-20257 Filed 9-11-86; 8:45 am]
BILLING CODE 6560-50-M

federal register

Friday
September 12, 1986

Part V

Department of Health and Human Services

Public Health Service

42 CFR Part 57

Nursing Student Loan Program; Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Nursing Student Loan Program

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend existing regulations governing the Nursing Student Loan (NSL) program to include a definition of exceptional financial need. As required by Pub. L. 99–92, the Nurse Education Amendments of 1985, this definition would be used in determining eligibility for NSL funds for students who first enroll in the school of nursing after June 30, 1986.

DATE: Comments on this proposed rule are invited. To be considered, comments must be received by October 14, 1986.

ADDRESSES: Respondents should address written comments to the Director, Bureau of Health Professions (BHPr), Room 8–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. All comments received will be available for public inspection and copying at the Office of Program Support, BHPr, Room 7–74, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Peggy Washburn, Chief, Program Development Branch, Division of Student Assistance, Bureau of Health Professions, Parklawn Building, Room 8–48, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number: 301–443–4540.

SUPPLEMENTARY INFORMATION: Pub. L. 99–92, the Nurse Education Amendments of 1985, amended section 836(b) of the Public Health Service Act to require that students who enroll in a school of nursing after June 30, 1986 must be of exceptional financial need, as defined by regulations of the Secretary, to be eligible to receive NSL funds. Prior to this legislative amendment, NSL funds could be awarded to any eligible nursing student who demonstrated financial need.

In accordance with this statutory requirement, the Secretary is proposing to revise the NSL regulations to include a definition of exceptional financial need, and to require that students who enroll in a nursing school after June 30, 1986 meet this need criterion to be eligible for NSL funds. Under the proposed definition, a student would be considered to demonstrate exceptional financial need if the school determines that the student's resources do not exceed one-half of the costs of attendance at the school. Student summer earnings, educational loans, veterans (G.I.) benefits, and earnings during the school year would not be considered in determining whether an applicant meets the eligibility criteria for exceptional financial need.

This proposed definition is a slight modification of the definition of exceptional financial need used for two other student financial aid programs administered by the Department: The Health Professions Student Loan (HPSL) program and the Scholarship Program for First-Year Students of Exceptional Financial Need (EFN). Under these two programs, a student is of exceptional financial need if the student's resources, as determined by the school, do not exceed the lesser of $5,000 or one-half of the cost of attendance at the school.

When the Department established the exceptional financial need definition for the HPSL and EFN Scholarship programs in 1979, the $5,000 ceiling on allowable resources represented approximately one-half of the average annual cost of attending medical school ($9,260 for academic year 1977–78, according to data from the Association of American Medical Colleges). Due to the extremely high costs of attendance at some health professions schools, a ceiling was necessary to help assure that HPSL and EFN Scholarship funds were limited to students from low-income families. However, since the costs of education at even the most expensive nursing schools are much lower than at most health professions schools, the Department is not proposing a dollar ceiling on resources for the NSL program. Establishing and periodically updating a maximum dollar amount for the NSL program would also create additional administrative burden for schools and the Department without providing any additional benefit. The Secretary believes that the requirement that a student's resources not exceed one-half of the cost of education will adequately assure that NSL funds are limited to exceptionally needy students.

Regulatory Flexibility Act and Executive Order 12291

The Department believes that the resources required to implement the requirements in this proposed regulation are minimal in comparison to the overall resources of nursing schools. Therefore, in accordance with the requirements of the Regulatory Flexibility Act of 1980, the Secretary certifies that this regulation will not have a significant impact on a substantial number of nursing schools.

The Department has also determined that this rule is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required. In addition, the rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291.

Paperwork Reduction Act

This proposed rule does not affect the recordkeeping, reporting, or disclosure/notification requirements for the NSL program.

List of Subjects in 42 CFR Part 57

Dental health, Education of disadvantaged, Educational facilities, Educational study programs, Emergency medical services, Grant programs—education, Grant programs—health, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Scholarships and fellowships, Student aid.

Accordingly, Subpart D of 42 CFR Part 57 is proposed to be amended as follows.

(Catalog of Federal Domestic Assistance, No. 13.364, Nursing Student Loan Program)

Dated: July 30, 1986.

Robert E. Windom,

Assistant Secretary for Health.

Approved: August 22, 1986.

Otis R. Bowen,

Secretary.

PART 57—[AMENDED]

Subpart D—Nursing Student Loans

1. The authority for Subpart D is amended to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 67 Stat. 631 (42 U.S.C. 216); secs. 835–842, Public Health Service Act, 78 Stat. 913–916, 99 Stat. 397–400 (42 U.S.C. 297a–i).

2. Section 57.306 is amended by revising paragraphs (a)(1) (iii) and (iv) and adding a new paragraph (a)(1)(v) as follows:

§ 57.306 Eligibility and selection of nursing student loan applicants.

(a) * * *

(1) * * *

(iii) In need of the amount of the loan to pursue the course of study at the school;

(iv) Capable, in the opinion of the school, of maintaining good standing in the course of study; and

(v) In the case of students who enroll in the school after June 30, 1986, of

exceptional financial need. A student will be considered to demonstrate exceptional financial need if the school determines that the student's resources, as described in paragraph (b)(2)(i) of this section, do not exceed one-half of the costs of attendance at the school. Summer earnings, educational loans, veterans (G.I.) benefits and earnings during the school year will not be considered as resources in determining whether an applicant meets the eligibility criteria for exceptional financial need.

* * * * *

[FR Doc. 86-20598 Filed 9-11-86; 8:45 am]

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federal register

Friday
September 12, 1986

Part VI

Department of Agriculture

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Poundage Quota Regulations for the 1986 Through 1990 Crops of Peanuts; Interim Rule

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Poundage Quota Regulations For the 1986 Through 1990 Crops of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends a rule published on June 20, 1986, concerning the peanut program by the Agricultural Stabilization and Conservation Service (ASCS). The June 20 rule is amended to allow: (1) Transfers of peanut quotas to and from the same farm during the 1986 planting period ("spring transfers"); and (2) "fall transfers" of peanut quotas if a good faith effort was made to plant the quota on the transferring farm.

DATES: This interim rule is effective September 12, 1986. Comments must be received on or before November 12, 1986 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750 South Building, USDA, between the hours of 8:15 and 4:45, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Paul P. Kume (ASCS) 202–447–9003. The Impact Analysis describing the options considered in developing the interim rule is available upon request.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1521–1 and has been classified "not major". It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The information collection requirements contained in this regulation and information requests authorized by the regulation have been approved by OMB under OMB Number 0560–0006.

The title and number of the Federal assistance program to which this final rule applies are: Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This rule amends a rule setting forth peanut program regulations published on June 20, 1986 (51 FR 22485). That rule implemented the provisions of the Food Security Act of 1985 (Pub. L 99–198) which amended the peanut provisions of the Agricultural Adjustment Act of 1938 (the "1938 Act") for the 1986–90 crops of peanuts. Two changes are made. These changes are issued as an interim rule because harvesting is underway and the changes need to be made immediately. It has therefore been determined that it is impracticable and contrary to the public interest to publish this rule for notice and public comment prior to its effective date.

(1) *Transfers of quota to and from the same farm.* First, section 358 of the Agricultural Act of 1938 (the 1983 Act) provides that "insofar as practicable on such fair and equitable basis as the [Secretary of Agriculture] may by regulation prescribe", a quota will not be established for a farm if the farm previously had a quota but the quota was not produced on that farm in two out of the three preceding years. The June 20 rule permitted producers to buy a quota without having the quota's history of nonproduction accompany the sale. This was to facilitate placing quotas with actual producers. Some purchasers had already planted the quota on leased property and under the June 20, 1986, rule, a quota transfer cannot be made both to and from the same farm during the normal planting period. The purchaser thus could, by sale, have a permanent transfer to a farm that the purchaser owned but could not then transfer the quota to the farm where the peanuts were planted. To facilitate the marketing of the 1986 crop, this rule will permit such transfers. It will also permit a producer that sells the quota, to transfer quota back to the farm for the 1986 crop to cover the seller's planted acreage, if any.

(2) *"Fall transfers" of quotas.* A change is also made as to "fall transfers" of quotas. "Fall transfers" are transfers made after the end of the planting season. Fall transfers are addressed in section 358a(k) of the Agricultural Adjustment Act of 1938, as amended by the Food Security Act of 1985 (Pub. L. No. 99–198) which provides that such transfers are permitted "if the quota has been planted on the farm from which the quota is to be leased" and "under such terms and conditions as the Secretary may by regulation prescribe".

The June 20 rule prohibits a 1986 fall transfer unless the full 1986 quota was planted. The national 1986 quota was significantly higher than the 1985 quota and, consequently, individual farm quotas were higher. Because the final 1986 farm quota determinations were made relatively late, some producers did not plant peanuts in excess of their 1985 quota.

Accordingly, the June 20 rule, if not amended, would create a hardship for those peanut producers who did not plant in excess of their 1985 quotas because of a delay in issuing 1986 quotas. The amendments to the 1938 Act, as amended, contemplates a good faith planting of the quota. Under this rule if such an effort was made, the quota will be considered planted for fall transfer purposes. Such determinations will be made by ASC county committees in accordance with instructions of the ASCS Deputy Administrator for State and County Operations. It is contemplated that a good faith effort to plant will require plantings at least equal to the farm's 1985 quota.

List of Subjects in 7 CFR Part 729

Poundage quotas, Peanuts.

Interim Rule

PART 729—[AMENDED]

Accordingly, 7 CFR Part 729 is amended as follows:

1. The authority citation for Part 729 continues to read as follows:

Authority: Secs. 301, 357, 358, 358a, 359, 372, 373, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 81 Stat. 658, as amended, 55 Stat. 90, as amended, 52 Stat. 65, as amended, 66 as amended (7 U.S.C. 1301, 1357, 1358, 1358a, 1359, 1372, 1373, as amended); section 108B of the Agricultural Act of 1949 as added by section 705 of the Food Security Act of 1985 (Pub. L. No. 99–198).

2. 7 CFR 729.352 is amended to add a new paragraph (c), to read as follows:

§ 729.352 Transfer to and from the same farm (subleasing).

* * * * *

(c) *Exception for 1986 Crop.* Notwithstanding any other provision of this subpart, for the 1986 crop only a transfer to and from the same farm during the "spring transfer" period may, to the extent permitted by the Deputy Administrator, be allowed. One of the transfers must be a permanent transfer. The Deputy Administrator may extend the final date for spring transfers for the 1986 crop to the extent determined necessary to facilitate the marketing of the 1986 crop.

3. 7 CFR 729.353 is amended by adding a new paragraph (c), to read as follows:

§ 729.353 Fall transfers.

* * * * *

(c) *Exception.* Nothwithstanding any other provision of this section, for the 1986 crop year only a fall transfer may be permitted to the extent that it is determined by the county committee that a good faith effort was made to plant the full anticipated quota on the transferring farm. Such determinations shall be made in accordance with instructions of the Deputy Administrator.

Signed at Washington, DC on September 11, 1986.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 86-20857 Filed 9-11-86; 11:45 am]

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Reader Aids

Federal Register

Vol. 51, No. 177

Friday, September 12, 1986

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Machine readable documents, specifications	523-3408

Code of Federal Regulations

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Laws	523-5230

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United States Government Manual	523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

31089-31308.....2
31309-31604.....3
31605-31756.....4
31757-31924.....5
31925-32046.....8
32047-32188.....9
32189-32296.....10
32297-32416.....11
32417-32622.....12

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
12532 (See Notice of September 4, 1986).....31925
Administrative Orders:
Notice:
September 4, 1986.....31925
Proclamations:
5519.....31309
5520.....31311
5521.....32047
5522.....32417
5523.....32419
5524.....32421

5 CFR

831.....31927
Proposed Rules:
300.....31954

7 CFR

1.....32189
2.....31757
226.....31313
301.....31605
729.....32049, 32620
908.....31758
910.....32423
1136.....31759
1137.....32056
1230.....31898
1421.....32297
1427.....32297
1464.....32424
1475.....31316
1747.....32428
Proposed Rules:
246.....32093
301.....31956
911.....32098
915.....32098
981.....32103
989.....32216
1065.....31133
1068.....31133
1079.....31133
1137.....31340
1139.....32104

8 CFR

212.....32294
Proposed Rules:
214.....31637

9 CFR

51.....32574
71.....32574
78.....32574
80.....32574
92.....32574
307.....32301
318.....32301
319.....32057
322.....31937
381.....32301
Proposed Rules:
92.....31637

10 CFR

477.....31316
Proposed Rules:
2.....31340
40.....32217
50.....31341

12 CFR

611.....32431
Proposed Rules:
332.....32336

13 CFR

121.....32197
123.....32197

14 CFR

21.....31317
39.....31089, 31090, 31607, 31608, 32198-32200, 32202
71.....31097
75.....31097
91.....31098
95.....31319
97.....31322
Proposed Rules:
21.....31644
23.....31644
39.....31133-31137, 31342, 31343, 31647, 31779, 32480
71.....31138, 31648, 32410, 32480-32485

15 CFR

4.....32204
4b.....32206

16 CFR

Proposed Rules:
13.....32485

17 CFR

Proposed Rules:
150.....31648

18 CFR

Proposed Rules:
37.....31651, 31781

19 CFR

6.....32448
111.....31760, 32208

171.....31760, 32208
178.....31760, 32208

21 CFR

5.....32451
74.....32453
81.....31323
175.....31098
178.....31099, 31760, 32211
193.....31324
331.....32212
332.....32212
357.....31763
369.....31763
510.....31100
558.....31763

22 CFR

41.....32295

23 CFR

11.....32453

24 CFR

201.....32059
511.....31764

26 CFR

1.....31610, 31613, 32061
20.....31938, 32071
25.....31938
602.....31610, 31613, 31938

28 CFR

0.....31939, 31940
2.....32071
16.....32305
544.....32602

Proposed Rules:

16.....31781

29 CFR

220.....32306
1601.....32073
1956.....32453
2200.....32002

30 CFR

901.....31940
938.....31942

Proposed Rules:

733.....31139
917.....32336
946.....32106
948.....32338

32 CFR

90.....32308
199.....31100
205.....31325
286g.....31103
359.....32309
706.....31103-31112, 32312-32316

Proposed Rules:

40.....31651

33 CFR

110.....32317
117.....31112, 31113, 31946, 32318, 32319
165.....31113, 31114, 31946

Proposed Rules:

117.....32339
161.....32489
165.....31958

34 CFR

Proposed Rules:

614.....31754

36 CFR

13.....31619
800.....31115
1254.....31617

38 CFR

Proposed Rules:

21.....31782

39 CFR

10.....31325
233.....31328

Proposed Rules:

111.....31673

40 CFR

6.....32606
51.....32176
52.....31125, 31127, 31129, 31328, 32973, 32075, 32176
60.....32454
180.....32212
261.....31330, 32458
271.....31618
721.....32077
799.....32079

Proposed Rules:

51.....32180
52.....32180
86.....31783, 31959, 32032
260.....31783
261.....31140, 31783, 32217
262.....31783
264.....31783
265.....31783
268.....31783
270.....31783
271.....31783
721.....32495
799.....32107

41 CFR

Proposed Rules:

201-33.....31674

42 CFR

23.....31947
405.....31454
412.....31454

Proposed Rules:

57.....31920, 32616

43 CFR

36.....31619
2880.....31764

Proposed Rules:

2800.....31886
2880.....31886

44 CFR

64.....31330
65.....31635, 31950
67.....31951

Proposed Rules:

10.....31788
67.....31675, 31678

47 CFR

0.....31303, 32087
1.....31303, 32087
2.....31303
13.....31303
21.....31303
22.....31335
63.....31303
73.....32087, 32089, 32213, 32320
74.....32087
80.....31206
81.....31206
83.....31206
87.....31303
90.....31303
94.....31303

Proposed Rules:

2.....32222
15.....31147, 32222
25.....32223
64.....32113
67.....31149
68.....31149
73.....32113, 32114, 32224-32226, 32340
76.....31147
80.....31306

48 CFR

5.....31424
7.....31424
13.....31424
16.....31424
19.....31424
24.....31424
31.....31424
47.....31424
50.....31424
52.....31424
223.....31765
228.....31765
242.....31765
252.....31765
914.....31335
933.....31335
952.....31335
970.....31335

Proposed Rules:

32.....31194
45.....31196
48.....31197
52.....31194, 31197
515.....31344
538.....31344
542.....32340
552.....31344
970.....32340
1317.....31687
1352.....31687
5316.....32114

49 CFR

1.....32320
571.....31765

Proposed Rules

391.....31150
393.....32115
1042.....32500

50 CFR

17.....31412
20.....31430, 32460
23.....31130, 32477
32.....32321
36.....31619, 32329
285.....32478
611.....32089, 32334
655.....31774, 31775
661.....32091
662.....32334
663.....31776
674.....32214, 3247
675.....32334
683.....32215

Proposed Rules

611.....32226
630.....31151

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List September 5, 1986.