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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

NEW YORK, NY

- WHEN:** December 5 at 10:00 a.m.,
- WHERE:** Room 305A, 26 Federal Plaza, New York, NY
- RESERVATIONS:** Arlene Shapiro or Stephen Colon, New York Federal Information Center, 212-264-4810.

PITTSBURGH, PA

- WHEN:** December 8 at 1:30 p.m.,
- WHERE:** Room 2212, William S. Moorehead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA
- RESERVATIONS:** Kenneth Jones or Lydia Shaw
Pittsburgh: 412-644-INFO
Philadelphia: 215-597-1707, 1709

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[The main body of the document contains several paragraphs of text that are extremely faint and illegible due to the quality of the scan. The text appears to be a legal document, possibly a deed or contract, given the header information.]

[The bottom right corner of the page contains a few lines of text, including what appears to be a signature or a date, which is also illegible.]

Rules and Regulations

Federal Register

Vol. 51, No. 232

Wednesday, December 3, 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 Stabilization and Conservation Service

Commodity Credit Corporation

7 CFR Part 770

Commodity Certificates, In Kind Payments, and Other Forms of Payment

AGENCY: Commodity Credit Corporation (CCC) and Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends regulations at 7 CFR Part 770 to provide that producers who have commodity certificates issued before November 17, 1986, may transfer such certificate through the expiration date shown on the certificate. Producers who have commodity certificates issued on or after November 17, 1986, may transfer the commodity certificate through the expiration date shown on the certificate and may, during the period starting the first day of the sixth month after the month in which the certificate was issued through the expiration date, submit the certificate to CCC for payment by check.

DATES: This interim rule shall become effective December 2, 1986. Comments must be received on or before January 2, 1987, in order to be assured of consideration.

ADDRESS: Send comments to Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington DC 20013.

FOR FURTHER INFORMATION CONTACT: Jackie Stonfer, Program Specialist, Cotton, Grain, and Rice Price Support

Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington DC 20013; Phone: (202) 447-8481.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512-1 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 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 titles and numbers of the Federal assistance programs to which this interim rule applies are: Commodity Loans and Purchases—10.051; Cotton Production Stabilization—10.052; Feed Grain Production Stabilization—10.055; Wheat Production Stabilization—10.058; Rice Production Stabilization—10.065; Emergency Feed Program—10.066; Grain Reserve Program—10.067; 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 neither ASCS nor CCC is 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.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

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 24, 1983).

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44

U.S.C. Chapter 35 and OMB Numbers 0560-0030, 0560-0040, 0560-0071, 0560-0091, 0560-0092, 0560-0096, and 0560-0650 have been assigned.

Need for immediate action: On October 24, 1986, the Secretary of Agriculture announced that a portion of the advance deficiency payments made with respect to the 1987 wheat, feed grain, upland cotton, and rice programs would be made in the form of commodity certificates. In order to provide uniform treatment with respect to all producers who will receive such certificates, it has been determined that this interim rule shall become effective upon the date of filing with the Director, Office of the Federal Register. However, comments with respect to this regulation are requested and should be submitted on or before January 2, 1987, in order to be assured of consideration. This interim rule will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible. Beginning on November 17, 1986, producers who will be participating in the 1987 wheat, feed grain, upland cotton, and rice programs may apply for 1987 advance payments which will be made under such programs. A portion of these payments will be made in commodity certificates. Based upon a review of the many certificates which have been utilized since their initial issuance in April 1986, it has been determined that greater flexibility should be afforded the original holder of the certificate. Accordingly, this interim rule amends 7 CFR 770.4(f) to provide that certificates issued on or after November 17, 1986, may be transferred by the original holder of the certificate at anytime prior to the expiration date stated on the certificate. In addition, this section is amended to provide the same flexibility to persons who have certificates which have been issued prior to this date.

In order to provide greater flexibility in using the certificates, 7 CFR 770.4(f) also is amended to provide that, with respect to certificates issued on or after November 17, 1986, the original holder of the certificate may exchange the certificate for cash during a 90 day period instead of the current 10 day period.

Interim Rule

PART 770—COMMODITY CERTIFICATES, IN KIND PAYMENTS, AND OTHER FORMS OF PAYMENT

1. The authority citation for Part 770 continues to read as follows:

Authority: Secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 62 Stat. 1070, as amended, 1072 (15 U.S.C. 714b and 714c); secs. 101A, 103A, 105C, 107C, 107D, 107E, and 405 of the Agricultural Act of 1949, as amended; 99 Stat. 1419, as amended, 1407, as amended, 1395, as amended, 1446, 1383, as amended, 63 Stat. 1504, as amended (7 U.S.C. 1441-1, 1444-1, 1444b, 1444b-2, 1444b-3, 1444b-4, 1445d, and 1425).

2. 7 CFR 770.4(f) is amended by revising the first paragraph and designating it as paragraph (f)(1) and adding paragraph (f)(2) to read as follows:

§ 770.4 [Amended]

(f) *First transfer deadline.*

(1) *Certificates issued before November 17, 1986.* Notwithstanding paragraph four of the commodity certificate, if a certificate bears a "first transfer deadline" date, the person to whom the certificate is issued may transfer the certificate through the expiration date and may, but only during the ten business days immediately following the first transfer deadline date, submit such certificate, endorsed to CCC, at the issuing county ASCS office for payment by check in the amount of the certificate. Such person may not exchange the certificate for commodities owned by CCC, except as otherwise agreed upon between such person and CCC.

(2) *Certificates issued on or after November 17, 1986.*

(i) The person to whom a generic certificate is issued that has an entry of "N/A" in blocks D and E may exchange such certificate for commodities owned by CCC.

(ii) The person to whom a generic certificate is issued that has a date entered in block D and an entry of "N/A" in block E may submit such certificate, endorsed to CCC, at the issuing county ASCS office for payment by check in the amount of the certificate on or after the date entered in block D through the expiration date of the certificate. Such person may not exchange the certificate for commodities owned by CCC, except as otherwise agreed upon between the person and CCC.

(iii) All other certificates may be transferred and exchanged as determined and announced by CCC.

Signed at Washington, DC, on November 25, 1986.

Milton J. Hertz,

Administrator, Agricultural Stabilization and Conservation Service and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86-27008 Filed 12-2-86; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration**7 CFR Part 1945****Memorandum of Understanding Between Agricultural Stabilization and Conservation Service and Farmers Home Administration on Disaster Assistance**

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its emergency loan regulations by removing a Memorandum of Understanding (MOU) between the Agricultural Stabilization and Conservation Service (ASCS) and FmHA. This action is being taken because the MOU pertains to intra-Agency management and does not affect the public. The intended effect of this action is to remove unnecessary text from the Code of Federal Regulations.

EFFECTIVE DATE: December 3, 1986.

FOR FURTHER INFORMATION CONTACT: James Chrysler, Senior Loan Officer, Emergency Division, Farmers Home Administration, USDA, Room 5428-S, Washington, DC 20250. Telephone: (202) 382-1657.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined to be exempt from those requirements as it involves only internal agency management. The MOU being removed pertains to inter-agency relations and therefore its removal from the Code of Federal Regulations does not affect the public. It is the policy of the Department of Agriculture to publish for comment, rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal agency management and publication for comment is unnecessary.

Intergovernmental Consultation

This change affects the following FmHA program as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans

For the reasons set forth in the final rule related to Notice to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), this action is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1945

Agriculture, Disaster assistance, Intergovernmental relations, Loan programs—Agriculture.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1945—EMERGENCY

1. The authority citation for Part 1945 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Disaster Assistance—General**§ 194.21 [Amended]**

2. Section 1945.21 is amended by changing the reference "Exhibit C of Subpart D of Part 1945 of this chapter" to read "Exhibit A of FmHA Instruction 2000-JJ (available in any FmHA office)" in paragraph (b)(2) and in the first sentence of paragraph (c)(1).

Subpart D—Emergency Loan Policies, Procedures, and Authorizations

3. Section 1945.155 is amended by revising paragraph (b) to read as follows:

§ 1945.155 Relationship between FmHA and other federal agencies.

(b) *ASCS and FmHA*. A Memorandum of Understanding between the ASCS and FmHA on Disaster Assistance pertaining to the exchange of information essential to the elimination of duplicate compensatory benefits from the two participating Agencies for the same disaster losses is Exhibit A of FmHA Instruction 2000-JJ (available in any FmHA office).

Exhibit C—[Removed and Reserved]

Exhibit C, "Memorandum of Understanding Between Agricultural Stabilization and Conservation Service and Farmers Home Administration on Disaster Assistance" is removed and reserved.

Dated: November 5, 1986.
Vance L. Clark,
Administrator, Farmers Home
Administration.
[FR Doc. 86-27191 Filed 12-2-86; 8:45 am]
BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-ANE-41; Amendment No. 39-5465]

Airworthiness Directives; Allison Gas Turbine Division, General Motors Corporation, Allison Model 250-C28 and -C30 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective by individual letters as to all known U.S. owners and operators of certain Allison Model 250-C28 and -C30 Series engines installed in, but not limited to, Bell Model 206L-1, Messerschmitt-Boelkow-Blohm GmbH BO 105 LS A-1, Sikorsky Model S-76A, Bell Model 206L-1, modified to incorporate the Allison 250-C30 engine, Bell Model 206L-3, and McDonnell Douglas Helicopter Company (Hughes) Model 369F and 369FF aircraft. The AD requires inspection of the gas generator turbine spline adapter locknut torque within five hours time-in-service after effective date of this AD, but not later than December 20, 1986, unless already accomplished. The AD is needed to prevent possible

gas generator turbine overspeed failure/uncontained failure.

DATES: Effective December 3, 1986, as to all persons except those persons to whom it was made effective by Priority Letter AD No. 86-20-13 issued October 8, 1986, which contained this amendment.

Compliance schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register on December 3, 1986.

ADDRESS: The applicable commercial engine bulletin (CEB) may be obtained from Allison Gas Turbine Division, General Motors Corporation, P.O. Box 420, Indianapolis, Indiana 46206-0420.

A copy of the CEB is contained in the Rules Docket at the Office of Regional Counsel, FAA, ATTN: Rules Docket No. 86-ANE-41, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Royace H. Prather, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone 312-694-7132.

SUPPLEMENTARY INFORMATION: On October 8, 1986, Priority Letter AD No. 86-20-13, was issued and made effective immediately as to all known U.S. owners and operators of certain Allison Model 250-C28 and -C30 series engines. The Priority Letter AD 86-20-13 required inspection of the gas generator turbine spline adapter locknut torque within five hours time-in-service after effective date of the AD, but not later than December 20, 1986, unless already accomplished.

AD action was prompted by a report of a Model 250-C30S first stage turbine wheel contained failure. Investigation indicated the primary failed item was the gas generator turbine spline adapter on the second stage turbine wheel. Engine records did not indicate that the current torque value and procedure required by Allison Commercial Engine Alert Bulletin 250-C28/C30 CEB-A-72-2132/3146 dated October 1, 1985, had been complied with. Improper torque of the gas generator turbine spline adapter locknut can result in excessive wear and/or fretting damage on the external splines of the turbine spline adapter or the aft splines of the turbine-to-compressor coupling shaft. These conditions can progress to where a disconnect could occur and subsequently cause an overspeed gas generator turbine failure/uncontained failure. Since it was found that

immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters issued October 8, 1986, as to all known U.S. owners and operators of certain Allison Model 250-C28 and -C30 Series engines. These conditions still exist and the AD, revised with administrative changes for clarity, is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Conclusion

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

List of Subjects in 14 CFR Part 39

Air transportation, Engines, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

§ 39.137 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Allison Gas Turbine Division, General Motors Corp. (Allison, formerly Detroit Diesel Allison): Applies to Allison Model 250-C28 and -C30 Series engines installed in, but not limited to, Bell Model 206L-1, Messerschmitt-Boelkow-Blohm GmbH BO 105 LS A-1, Sikorsky Model S-76A, Bell Model 206L-1, modified to incorporate the Allison 250-C30 engine, Bell Model 206L-3, and McDonnell Douglas Helicopter Company (Hughes) Model 369F and 369FF aircraft.

The following engine models and turbine serial numbers are affected:

Engine model	Turbine serial number
250-C28B.....	CAT 70001 thru 70802 and 70804.
250-C28C.....	CAT 28001 thru 28046.
250-C30 series.....	CAT 90001 thru 95436 and 94538.

Except existing Model 250-C28 and 250-C30 Series engines which have incorporated Allison Commercial Engine Alert Bulletin 250-C28/C30 CEB-A-72-2132/3146 dated October 1, 1985, or the following FAA approved equivalents:

- Allison Message THO-2639W-RFR-85, dated February 7, 1985
- Allison C28 Overhaul Manual Temporary Revision 72-7, Page 12, dated January 22, 1986
- Allison C30 Overhaul Manual Revision dated July 1, 1985, Section 72-50-00, Paragraph F(7), Page 524
- Allison Commercial Service Letter 250-C28/C30 CSL-2071/3073, dated June 1, 1985.

Compliance is required as indicated unless already accomplished.

To prevent excessive wear and/or fretting damage on the external splines of the turbine spline adapter or the aft splines of the turbine-to-compressor coupling shaft, which can progress to a disconnect and subsequent overspeed gas generator turbine failure/uncontained failure, accomplish the following:

(a) Within the next five hours time-in-service after the effective date of this AD, but not later than December 20, 1986, for in service, engines, inspect the gas generator turbine spline adapter locknut torque in accordance with Allison Commercial Engine Alert Bulletin 250-C28/C30 CEB-A-72-2132/3146, dated October 1, 1985, or FAA approved equivalent.

(b) Before initial flight, for uninstalled affected turbine assemblies, inspect the gas generator turbine spline adapter locknut torque in accordance with Allison Commercial Engine Alert Bulletin 250-C28/C30 CEB-A-72-2132/3146, dated October 1, 1985, or FAA approved equivalent.

Note.— The compliance requirements of this AD were previously published in Allison Commercial Service Letter 250-C28/C30 CSL-A-2084/3087, Rev. 1, dated September 29, 1986, FAA approved by the Manager, Chicago Aircraft Certification Office.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago

Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Allison Commercial Engine Alert Bulletin 250-C28/C30 CEB-A-72-2132/3146, dated October 1, 1985, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Allison Gas Turbine Division, General Motors Corp., P.O. Box 420, Indianapolis, Indiana 46206-0420. This document also may be examined at the Office of Reginal Counsel, FAA, ATTN: Rules Docket No. 86-ANE-41, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

This amendment becomes effective December 3, 1986, as to all persons except those persons to whom it was made immediately effective by Priority Letter AD No. 86-20-13, issued October 8, 1986, which contained this amendment.

Issued in Burlington, Massachusetts, on November 3, 1986.

Clyde DeHart, Jr.,

Acting Director, New England Region.

[FR Doc. 86-27108 Filed 12-2-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-112-AD, Amdt. 39-5479]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD), applicable to certain Boeing Model 767 airplanes, which requires modification of the forward control quadrant spoiler position sensor rotary variable differential transducer (RVDT). This action is necessary because the potential exists for an RVDT to separate from the quadrant shaft, allowing a hardover command to occur, which would result in the full deployment of three spoiler panels. The ensuing motion will cause a sudden large rolling moment; and, after recovery by the pilot, diminished roll capability and a significant loss of lift will exist.

EFFECTIVE DATE: January 12, 1987.

ADDRESSES: The applicable service information specified in this AD may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft

Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Frank vanLeynseele, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1948. Mailing address: Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive to require modification of the quadrant shaft tying the RVDT to the spoiler forward control quadrant, was published in the *Federal Register* on June 17, 1986 (51 FR 21923). The comment period for the proposal closed on August 8, 1986.

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

The Air Transport Association (ATA) of America, on behalf of its members, stated that although member airlines agree with the technical intent of the proposed AD, the accomplishment of the modifications was more complex than indicated by the procedures described in Boeing Service Bulletin 767-27A0062. Special aileron rigging procedures require a rigging bar, which has to be fabricated. Additional shims and revised maintenance manual instructions for shim installation have to be obtained. The large rigging bars required to adjust the ailerons are not available at all stations and are cumbersome to ship. For these reasons, the ATA has requested that the compliance time be increased from 60 days to 6 months, so that the operators will have an adequate timeframe in which to schedule their airplanes for modification at their main bases.

The FAA has considered this information and has determined that safety would not be compromised if the compliance time is increased to 6 months. The final rule has been revised to reflect this change.

It is estimated that 59 airplanes of U.S. registry will be affected by this AD, that it will take 16 manhours per airplane to accomplish the required rework, and that the average labor cost will be \$40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators will be \$37,760.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291, or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the

criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Boeing Model 767 series airplanes are operated by small entities. A final evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

- Boeing:** Applies to Boeing Model 767 airplanes identified in Boeing Alert Service Bulletin 767-27A0062, dated January 24, 1986, certificated in any category. To prevent the uncommanded deployment of spoiler panels in flight as a result of a rotary variable differential transducer (RVDT) separation, accomplish the following within six months after the effective date of this AD, unless already accomplished:
- Modify the flight control forward control quadrants in accordance with Boeing Alert Service Bulletin 767-27A0062, dated January 24, 1986, or later FAA-approved revisions.
 - An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.
 - Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the replacements required by this AD.

All persons affected by this directive who have not already received the above specified service bulletin from the manufacturer may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. It may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective January 12, 1987.

Issued in Seattle, Washington, on November 26, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-27186 Filed 12-2-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-40-AD; Amdt. 39-5478]

Airworthiness Directives; The de Havilland Aircraft Company of Canada, a Division of Boeing of Canada, Ltd., Models DHC-7 and DHC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive, applicable to de Havilland Models DHC-7 and DHC-8 series airplanes, which requires the introduction of a water drain hole on the elevator trim-tab jack-screw housing. This amendment is prompted by reports of moisture accumulating in the housing and freezing during flight in subfreezing temperatures. This condition, if not corrected, results in reduced controllability of the airplane.

EFFECTIVE DATE: January 12, 1987.

ADDRESSES: The applicable service information may be obtained from the de Havilland Aircraft Company of Canada, a Division of Boeing of Canada, Ltd., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Northwest Mountain Region, 19700 Pacific Highway South, Seattle, Washington, or the FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. W. White, Systems Branch, ANE-173, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6427.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires the introduction of a water drain hole on the elevator trim-tab jack-screw housing on de Havilland Models DHC-7 and DHC-8 series airplanes, was published in the *Federal Register* on May 14, 1986 (51 FR 17648). The period for comment closed on July 7, 1986.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No

comments to the proposal were received.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

This document has been revised throughout to reflect the manufacturer's current legal company name. This change is merely editorial and has no impact on the scope of this AD.

It is estimated that a total of 60 Model DHC-7 and Model DHC-8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be \$24,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, de Havilland Models DHC-7 and DHC-8 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

The de Havilland Aircraft Company of Canada, a Division of Boeing of Canada, Ltd.: Applies to all Model DHC-7 and DHC-8 series airplanes, certificated in any category. Compliance is required as indicated, unless already accomplished.

To prevent the elevator trim-tab from becoming inoperable due to accumulated water freezing in the trim-tab jack-screw

housing, accomplish the following, unless already accomplished:

A. For Model DHC-7 airplanes, within three months after the effective date of this AD, incorporate de Havilland Modification Number 7/2489 to provide a drain hole in the elevator trim-tab jack-screw housing in accordance with the "Accomplishment Instructions" contained in de Havilland Service Bulletin No. 7-27-76, dated January 17, 1986.

B. For Model DHC-8 airplanes, within three months after the effective date of this AD, incorporate de Havilland Modification Number 8/0415 to provide a drain hole in the elevator trim-tab jack-screw housing in accordance with the "Accomplishment Instructions" contained in de Havilland Service Bulletin No. 8-27-15, dated January 17, 1986.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain upon request to de Havilland Aircraft Company of Canada, a Division of Boeing of Canada Ltd., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

This amendment becomes effective January 12, 1987.

Issued in Seattle, Washington, on November 26, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-27185 Filed 12-2-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-AWA-29]

Alteration of the Houston, TX, Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the Houston, TX, Terminal Control Area (TCA) to fully contain large turbine-powered aircraft executing approaches to and departures from new Runway 9/27, opening in February 1987.

EFFECTIVE DATE: 0901 UTC, February 12, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Laser, 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) 267-9248.

SUPPLEMENTARY INFORMATION:

History

On June 25, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify Areas C and D of the Houston TCA by lowering the base of the TCA from 4,000 feet to 3,000 feet MSL on both the east and west edges of the existing TCA to fully contain all aircraft executing approaches to and departures from new Runway 9/27, opening in February 1987 (51 FR 23081). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. The Air Transport Association commented that they were in support of the proposal. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.401 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations modifies Areas C and D of the Houston TCA by lowering the base of the TCA from 4,000 feet to 3,000 feet MSL on both the east and west edges.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, 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.

2. Section 71.401(b) is amended as follows:

§ 71.40 [Amended]

Houston, TX [Amended]

By removing the present Area C and substituting the following:

Area C. That airspace northwest of IAH extending from 3,000 feet MSL to and including 7,000 feet MSL bounded on the northeast by the IAH VORTAC 313° radial, on the east by the 8-mile DME arc of the IAH VORTAC between the IAH VORTAC 313° radial and a line 2 miles north of and parallel to the IAH Runway 8 centerline extended and the 15-mile DME arc of the IAH VORTAC between a line 2 miles north of and parallel to the IAH Runway 8 centerline extended and the IAH VORTAC 258° radial, on the south by a line 2 miles north of and parallel to the IAH Runway 8 centerline extended and the IAH VORTAC 258° radial between the 8- and 15-mile DME arcs of the IAH VORTAC, and on the west by the 20-mile DME arc of the IAH VORTAC, and that airspace east of IAH bounded on the east by the 20-mile DME arc of the IAH VORTAC, on the south by the IAH VORTAC 108° radial, on the west by the 15-mile DME arc of the IAH VORTAC, and on the north by the IAH VORTAC 058° radial.

In Area D after the words "between the 15- and 20-mile radii of the IAH VORTAC" by inserting the words ", excluding that airspace contained within Area C described previously,"

Issued in Washington, DC, on November 24, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-27184 Filed 12-2-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 93 and 159

[Docket No. 25143; Amdt. Nos. 93-54 and 159-29]

Metropolitan Washington Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action increases the maximum permissible length of nonstop flights to or from Washington National Airport from 1,000 miles to 1,250 miles. The amendment also eliminates the procedures for reducing the number of air carrier slots at National Airport when the annual number of passengers at the airport reaches a certain level. Effective on the date of transfer of National Airport and Washington Dulles International Airport to the Metropolitan Washington Airports Authority, the amendment removes the prohibition on the operation of certain types of air carrier aircraft at National Airport and removes the provisions for enforcement of the airport regulations by the FAA. The limit for scheduled air carrier operations at National Airport remains at 37 per hour. All of the above actions are taken in consideration of provisions of the Metropolitan Washington Airports Act of 1986, enacted on October 18, 1986.

EFFECTIVE DATE: The removal of 14 CFR 93.124 and the addition of 14 CFR Part 93, Subpart T are effective on December 3, 1986. The revision of 14 CFR 159.59 and the removal of § 159.191 are effective on March 1, 1987.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-3491

or

Edward S. Faggen, Legal Counsel, AMA-7, Metropolitan Washington Airports, Federal Aviation Administration, Hangar 9, Washington National Airport, Washington, DC 20001, Telephone: (703) 557-8123

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document 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) 267-8058. Communications must identify the amendment number of the document.

Background

On November 27, 1981, DOT/FAA published the Metropolitan Washington Airports Policy and implementing regulations (46 FR 58036) to guide the future operation and development of Washington National and Washington Dulles International Airports. The implementing regulations made a

number of changes in the operational rules at National Airport, including the establishment of a 1,000-mile perimeter for nonstop operations to or from the airport (14 CFR 159.60).

A second change was the adoption of an annual passenger ceiling or "cap" at National Airport (14 CFR 93.124). The rule provided that each January the FAA would make a projection of the number of passengers to be enplaned and deplaned at National between the following April and April of the next year. When the projection showed more than 16 million passengers, the FAA would transfer one slot or more per hour, as required, from air carriers to commuter operations.

On October 18, 1986, the "Metropolitan Washington Airports Act of 1986" was effective. The Act provides for a long-term lease and transfer of the operation of National and Dulles Airports from the Federal Government to a regional authority, the Metropolitan Washington Airports Authority. In addition to the lease provisions, the Act contains several specific provisions relating to the operation of National Airport. Several of these provisions warrant immediate regulatory action on the part of the FAA.

First, section 6005(c)(5) of the Act provides for the continuation of certain Washington National and Washington Dulles International Airport regulations (14 CFR Part 159) after the airports are transferred to the Authority. However, subparagraph 6005(c)(5)(B) provides as follows:

(B) Exceptions.—The following regulations shall cease to be in effect on the date the lease takes effect:

- (i) section 159.59(a) of title 14 Code of Federal Regulations (relating to new-technology aircraft); and
- (ii) section 159.191 of title 14, Code of Federal Regulations (relating to violations of Federal Aviation Administration regulations as Federal misdemeanors).

Paragraph 159.59(a) of the Federal Aviation Regulations (FAR) prohibits operation at National Airport of an air carrier aircraft of a type not regularly operated at the airport as of July 1, 1981, unless approved by the Administrator for safety considerations and by the Director, MWA, for considerations of groundside capacity. Removal of this provision will leave the Authority in the same position as other non-Federal airport operators with respect to control of the types of aircraft which serve the airports.

FAR § 159.191 provides for Federal criminal penalties for violation of airport regulations and for removal of a violator from the airport at the order of the airport manager. Upon the lease of the

airports to the Authority, the provisions of Part 159 will become the regulations of the Authority rather than the FAA. Therefore, it would be inappropriate to retain provisions for FAA enforcement of the airport regulations. Accordingly, Congress has provided for the repeal of the enforcement provisions effective on the date of the lease.

Because the Act provides that FAR §§ 159.59(a) and 159.191 will cease to be in effect on the date of the lease, the FAA is removing both sections effective on that date. Both sections must remain in effect until the transfer, however, to ensure that FAA retains jurisdiction to operate and administer the airports until the Authority is able to do so. The date planned for the lease to take effect is March 1, 1987, and that date is designated for the effective date for removal of the two sections. The revised effective date will be published in advance in the Federal Register.

In addition to removing § 159.59(a), this amendment revises the remaining sections of § 159.59 to redesignate paragraphs (b) through (d) as (a) through (c) respectively, and to eliminate certain errors in publication of § 159.59 contained in the Code of Federal Regulations. As revised, 14 CFR 159.59 will be identical to the provisions contained in § 159.59 of the Federal Aviation Regulations.

A second provision of the Act which affects National and Dulles Airport regulations, section 6009(e)(2), reads as follows:

(2) Annual Passenger Limitations.—The Federal Aviation Administration air traffic regulation entitled "Modification of Allocation: Washington National Airport" (14 CFR 93.124) shall cease to be in effect on the date of the enactment of this title.

Because the legislation was enacted on October 18, 1986, the current regulation is no longer in effect. Accordingly, the FAA is acting to delete § 93.124 from Part 93 of the Federal Aviation Regulations. Moreover, because the April 1983 notice and June 1984 supplemental notice relating to the number of air carrier slots at National Airport primarily concerned the provisions of § 93.124, those notices are no longer relevant to the future operation of the airport. Therefore, Notice 83-3 (48 FR 19174; April 28, 1983) and Supplemental Notice 83-3A (49 FR 14626; June 14, 1984) are hereby withdrawn by the agency.

Finally, section 6012 of the Act provides as follows:

Perimeter Rule.—An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than

1,250 miles away from Washington National Airport.

Section 6012 prohibits nonstop flights longer than 1,250 miles. It is clear from this language that it was the sense of Congress to replace the current 1,000 mile perimeter rule with a 1,250-mile rule. Accordingly, the FAA is increasing the limit on nonstop flights at National Airport to a 1,250-mile perimeter at this time.

This change will permit nonstop service to several cities which are beyond the current 1,000 mile perimeter. The availability of nonstop operations to additional points may result in the adjustment of schedules at National Airport by some carriers. However, the increases or reduction of flights in any particular market is not required by the amendment, and any such change in service patterns is exclusively a carrier marketing decision.

As noted above in this preamble, the Metropolitan Washington Airports Act of 1986 provides that, with a few exceptions, the airport operating rules in Part 159 of the Federal Aviation Regulations (FAR) will become regulations of the Authority upon the effective date of the lease. Because the perimeter rule established in section 6012 of the Act will continue to affect operations after the transfer to the Authority, the FAA believes that it is appropriate to incorporate the perimeter rule in FAR Part 93, Special Air Traffic Rules and Airport Traffic Patterns. FAR Part 93 will not be affected by the transfer of the airports.

Effective Date

The amendments adopted herein affecting FAR Part 93 and § 519.60 become effective upon publication in the Federal Register. The revision of FAR § 159.59 and the removal of § 159.191 take effect on March 1, 1987, to coincide with the effective date of the lease of National and Dulles Airports to the Metropolitan Washington Airports Authority. If the effective date of the lease is revised subsequent to issuance of this amendment, the effective date for revision of § 159.59 and removal of § 159.191 will be revised accordingly. The agency believes that circumstances warrant the adoption of the amendments without a period for public comment. With respect to the deletion of § 93.124 from FAR Part 93, the provisions of that section have already been eliminated by an act of Congress effective October 18, 1986. Similarly, the Act provides that §§ 159.59(a) and 159.191 will cease to be in effect on the date of the lease to the Authority. The removal of these sections, therefore, has

no effect other than to make FAA regulations consistent with the controlling statute.

The amendment to the perimeter rule, extending the maximum nonstop flight length to 1,250 miles, is also consistent with congressional intent as expressed in section 6012 of the Metropolitan Washington Airports Act of 1986. The amendment relaxes the restrictiveness of an existing regulation and does not impose new restrictions on any operator.

Also, while this action was not preceded by a specific notice of proposed rulemaking, the amendment to the perimeter rule was not adopted without the benefit of public comment on the nonstop perimeter issue. The issue was specifically addressed in the rulemaking conducted in connection with the development of the Metropolitan Washington Airports Policy, and comments on the National Airport perimeter were requested in prior agency notices of proposed rulemaking. The issues involved have not significantly changed from the time of that rulemaking action. As a result, the FAA was apprised of the potential impacts of this amendment and the views of affected segments of the public and the aviation industry prior to adopting the amendment.

In consideration of the above, I find that notice and comment on the amendments adopted are either unnecessary or impracticable and contrary to the public interest. I further find with respect to the removal of FAR § 93.124 and the amendment to the perimeter rule, that because these amendments relieve a restriction, publication is not required 30 days before the effective date, and the amendments are effective on publication.

Regulatory Evaluation

There is no economic impact as a result of the removal of § 93.124 from the Federal Aviation Regulations, because the regulation was invalidated by the Metropolitan Washington Airports Act of 1986 effective October 18, 1986. The same is true with respect to the removal of FAR §§ 159.59(a) and 159.191 effective on the date of the lease of the airports to the Authority.

The impact of increasing the National Airport perimeter to 1,250 miles cannot be determined. The change in the regulation itself, which was permitted if not directed by section 6012 of the Act, has no economic impact. It is likely that a few carriers will elect to avail themselves of the new 1,250-mile perimeter by inaugurating nonstop service to cities not previously eligible

for such service. Typically, these carriers now serve those cities, but make a stop at an intermediate airport such as Dulles International. In the event a carrier begins nonstop service, it may receive some financial benefit from the ability to adjust its schedule. In addition, cities affected by the decisions of carriers to adjust their schedules at National Airport may experience an increase or decrease in the quality or quantity of air service to Washington, DC. However, these impacts are speculative and do not inevitably result from the amendment. Rather, they result from future marketing decisions of air carriers serving National Airport. Only a relatively few carriers would be in the position to initiate nonstop service to cities between 1,000 miles and 1,250 miles from National Airport.

Because the impacts, if any, of the amendments adopted are speculative and not directly attributable to the regulation itself, I find that the economic impact of the amendments are minimal and, therefore, that further regulatory evaluation is not required. For the same reasons, I find that none of the amendments (1) is a "major rule" under Executive Order 12291, or (2) is a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11074; February 26, 1979).

List of Subjects

14 CFR Part 93

Aviation safety, Air traffic control.

14 CFR Part 159

Washington National Airport, Washington Dulles International Airport.

Adoption of the Amendment

For the reasons set out above, Parts 93 and 159 of the Federal Aviation Regulations (14 CFR Part 93 and Part 159) are amended as follows:

PART 93—[AMENDED]

1. The authority citation for Part 93 is revised to read as follows:

Authority: 49 U.S.C. 1302, 1303, 1348, 1354(a), 1421(a), and 1424; The Metropolitan Washington Airports Act of 1986, Title VI of Pub. L. 99-500; 49 U.S.C. 106 (Revised Pub. L. 97-449, January 12, 1983).

§ 93.124 [Removed]

2. Section 93.124 is removed.
3. A new Subpart T is added to read as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

Subpart T—Washington National Airport Traffic Rules

- Sec.
93.251 Applicability.
93.253 Nonstop operations.

Subpart T—Washington National Airport Traffic Rules

§ 93.251 Applicability.

This subpart prescribes rules applicable to the operation of aircraft to or from Washington National Airport.

§ 93.353 Nonstop operations.

No person may operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 miles away from Washington National Airport.

PART 159—[AMENDED]

4. The authority citation for Part 159 is revised to read as follows:

Authority: The Metropolitan Washington Airports Act of 1986; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983).

5. Section 159.59 is revised to read as follows:

§ 159.59 Aircraft equipment and operation rules.

(a) Except when authorized by the Airport Manager, no person may operate a fixed-wing aircraft on the Airport unless it has a tail or nose wheel and wheel brakes.

(b) If the pilot of an aircraft that does not have adequate brakes is authorized by the Airport Manager to taxi his aircraft, he may not taxi it near a building or a parked aircraft unless there is an attendant at the wing of his aircraft to help him.

(c) Notwithstanding paragraphs (a) and (b) of this section, an aircraft that has wings and tail higher than five feet from the ground and does not have adequate brakes may not be taxied on the Airport under any conditions and must be towed if it is necessary to move it.

§ 159.60 [Removed]

6. Section 159.60 is removed.

§ 159.191 [Removed]

7. Section 159.191 is removed.

Issued in Washington, DC, on November 29, 1986.

Donald D. Engen,

Administrator.

[FR Doc. 86-27182 Filed 12-1-86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 8922]

Beneficial Corp. et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifyng order.

SUMMARY: The Federal Trade Commission has modified a 1979 consent order (44 FR 58901) by: (1) Removing a prohibition on the use of the term "instant tax refund," but requiring respondents to disclose that a fee is involved and to make the refund within five days; (2) deleting a requirement that respondents disclose all terms of their guarantees in ads and replacing it with a provision allowing respondents to disclose that full details can be obtained by reading the guarantee; (3) requiring respondents to disclose that their offer to pay obligations resulting from the companies' errors does not include payment of taxes that its customers owe; (4) modifying a prohibition against advertising the expertise of their tax preparers by allowing claims that can be substantiated; and (5) modifying a prohibition against the disclosure of confidential taxpayer information, by allowing such disclosure if IRS procedures are followed.

DATES: Consent Order issued September 12, 1979. Modified Order issued November 3, 1986.

FOR FURTHER INFORMATION CONTACT: FTC/B-425, George T. O'Brien, Washington, DC 20580. (202) 376-3466.

SUPPLEMENTARY INFORMATION: In the Matter of Beneficial Corporation, a Delaware corporation; and Beneficial Management Corporation, a Delaware corporation. The prohibited trade practices and/or corrective actions, as set forth at 44 FR 58901, remain unchanged.

List of Subjects in 16 CFR Part 13

Tax preparation services, Trade practices.

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

Order Reopening the Proceeding and Modifying Cease and Desist Order

Before Federal Trade Commission

[Docket No. 8922]

Commissioners: Daniel Oliver, Chairman; Patricia P. Bailey; Terry Calvani; Mary L. Azcuenaga; Andrew J. Strenio, Jr.

In the Matter of Beneficial Corp., a Delaware corporation; and Beneficial Management Corp., a Delaware corporation.

On May 28, 1986, Beneficial Corporation and Beneficial Management Corporation, both Delaware corporations, filed a request to reopen and modify the order entered against them by the Commission on September 12, 1979, in Docket No. 8922 (94 FTC 425).

The request to reopen and modify was placed on the public record and a press release was issued on June 12, 1986. The public comment period ended on July 14, 1986, and two comments were filed. The deadline to rule on petitioners' request has been extended to November 3, 1986.

Petitioners are engaged in the advertising and sale on an income tax preparation service for individual taxpayers. The order prohibits use of the term "instant tax refund", requires disclosure of all terms of a guarantee, prohibits a misrepresentative of the reimbursement petitioner will make to consumers in the event of an error and requires a disclosure that petitioner will not reimburse the consumer for additional taxes, makes absolute prohibitions against the implication that more of its customers receive refunds than taxpayers at large and that their personnel are experts or unusually competent. The order further sets up a format to be followed pertaining to the consumers' consent to use information obtained from them.

Petitioners assert that changed conditions of fact and law and the public interest require that certain paragraphs of the order be modified. Specifically, they request that paragraph 1 be modified so that they can use the term "instant tax refund" under certain circumstances, that paragraph 2 be modified to limit the terms that must be disclosed in a guarantee, that paragraphs 5 and 6 be modified to eliminate the absolute prohibitions regarding the percentage of customers who receive refunds and the competency of their personnel, to permit truthful and non-deceptive representations, and that paragraph 7 be modified to conform to the Internal Revenue Code standard for obtaining the consent of the consumer to use information instead of the format provided in the order.

Paragraph 1 of the Order:

Paragraph 1 of the order prohibits use of the term "instant tax refund" or like phrases, unless petitioner discloses that this refund is a "normal" loan with no relationship to the tax refund, and that the taxpayer will be expected to meet the normal qualifications for borrowing. Petitioners state that there has been a change in fact in that they are now able to participate with the Internal Revenue Service in an electronic filing program, in certain market areas, by which the IRS expects to be able to reduce the time for issuing refunds by approximately three weeks. Based on this expectation petitioner arranges with a bank and the taxpayer to have the bank grant the taxpayer and interest free loan in 3 days. There is a charge for this service. The taxpayer agrees to have his refund sent to the bank to repay the loan, and any interest charge by the bank during this period in paid by the petitioner. Petitioner proposes to modify the order so that they can advertise this procedure as an "instant tax refund" without the required disclosures, in those market areas in which they are participating with the IRS in the electronic filing program. The order provision will otherwise stay in effect in areas in which the IRS is not using the program.

When the Commission issued the order it suggested that if petitioner should begin offering a special loan service actually related to the tax refund, it might seek to reopen the order. The Commission agrees with the petitioner that paragraph 1 should be modified to reflect the stated changed factual condition. However, since there is a charge for the service, and in order to regulate the term "instant", respondent has consented to modify paragraph 1 to prohibit any implication that there is no charge, and to limit the time within which the taxpayer will receive his loan money.

Paragraph 2:

Paragraph 2 prohibits "Using any guarantee without clearly and conspicuously disclosing the terms, conditions and limitations in any such guarantee, or misrepresenting in any manner the terms and conditions of any guarantee." Petitioner states that this could be burdensome in attempting to include all details of a guarantee in a 30 second television commercial. When the order was issued the Commission was concerned about the guarantee that petitioners would reimburse the consumers for any interest or penalty charges caused by petitioner's error in the preparation of a tax return but would not pay any additional tax. The Commission wanted this term disclosed

and specifically required it in paragraph 4 of the order. The proposed language would retain the disclosure that petitioner does not pay additional tax in the event of the error but that the consumer should look to the guarantee for all other terms and would read as follows:

Subject to the disclosure required by paragraph 4, herein, using any guarantee without clearly and conspicuously disclosing the fact that any terms, conditions, or limitations are stated in the guarantee; or misrepresenting in any manner the terms and conditions of any guarantee.

The Commission agrees with the petitioner that it is in the public interest to modify paragraph 2 since it is burdensome, and the modified paragraph will retain the main condition that the Commission was concerned about and will advise the consumer to read the guarantee for any other conditions. Such a provision should not be deceptive or misleading.

Paragraph 5:

Paragraph 5 is an absolute prohibition against any representation that the percentage of respondents' customers who receive tax refunds is greater than the percentage of individual taxpayers at large who receive refunds. Petitioners request that the paragraph be modified so that they can make truthful and non-deceptive representations about the percentage of their customers who receive refunds. Accordingly, they request to add a clause stating ". . . provided however, that nothing herein shall prevent truthful and non-deceptive representations with respect to the average percentage of respondents' customers who receive tax refunds."

The Commission agrees that petitioners should be allowed to make truthful and non-deceptive representations. Any deceptive implication is prohibited, but the absolute prohibition is modified so that a representation that does not cause a deceptive implication may be used.

Paragraph 6:

This paragraph is an absolute prohibition against representations about the competence of respondent's tax preparing personnel. Respondent states that there is a change in fact as to the extent of training which the personnel are required to undergo compared to the training required at the time the order was issued. They also cite the change in law with respect to commercial or professional advertising and cite examples of competitors advertising the terms "expert" or "professional". They request that the paragraph be modified to prohibit: "Misrepresenting, in any manner, the

competence or the ability of respondents' tax preparing personnel."

The Commission agrees that the extent of training which petitioner's personnel are now required to undergo constitutes a change in fact which justifies modification of the absolute prohibition of this paragraph to prohibit only misrepresentations of competence.

Paragraph 7:

Paragraph 7 of the order establishes the format to be followed in obtaining the consent of taxpayers to use information obtained in preparing the tax return. Respondent states that since the order was issued, section 7216 of the Internal Revenue Code establishes a required format. This accomplishes the same purpose and gives the consumer the same protection, but use of both formats becomes overlapping and burdensome. Moreover, respondent cites the fact that the Commission has amended the H&R Block order and the proposed modification is exactly the same language as in the Block order.

The Commission agrees that compliance with the provisions of the Internal Revenue Code will accomplish the same purpose as the existing order and that respondent should not be required to use two formats, and therefore, agrees that this paragraph of the order should be modified.

Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b) requires that an order be modified or set aside upon a satisfactory showing that changed conditions of law or fact require that the order be altered, modified or set aside. The Commission has concluded that respondent has adequately shown that changed conditions of law and fact require that the order be modified in the manner requested.

It Is Therefore Ordered that the proceeding is hereby reopened and the Decision and Order issued on September 12, 1979, is hereby modified to read as follows:

Order

It Is Ordered, that respondents, Beneficial Corporation and Beneficial Management Corporation, corporations, and their successors and assigns, and their officers, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the preparation of income tax returns or the extension of consumer credit in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "Instant Tax Refund" or "Immediate Tax Refund" or like phrases using words of similar import or meaning, unless such phrases are used in connection with an electronic refund program in which the respondents participate in conjunction with the United States Internal Revenue Service; provided, however, that such phrases will not be used if a loan is being offered that has no relationship to the individual's income tax refund, or refers to a "normal", "usual", "standard" or "regular" loan by the respondents, or is a loan with respect to which the prospective borrowers will be expected to meet qualifications to borrow which are "normal", "usual", "standard" or "regular" (or words having the same or equivalent meaning) under the respondents' loan qualification criteria; provided further, however, that each individual will receive the loan money within five days of applying for the loan (respondent will not be responsible for any delay caused by the Postal Service), and that no advertisement relating to any such loan represents directly or by implication, contrary to fact, that there is no service charge for the refund program involving a loan.

2. Subject to the disclosure required by paragraph 4, herein, using any guarantee without clearly and conspicuously disclosing the fact that any terms, conditions, or limitations are stated in the guarantee; or misrepresenting, in any manner, the terms and conditions of any guarantee.

3. Representing, directly or by implication, that respondents will reimburse their customers for any payments the customer may be required to make in addition to his initial tax payment, in instances where such additional payment results from an error by respondents in the preparation of the tax return; provided, however, that it shall be a defense in any enforcement proceeding for respondents to establish that they make such payments.

4. Failing to disclose, clearly and conspicuously, whenever respondents make any representation, directly or by implication, as to their responsibility for, or obligation resulting from, errors attributable to respondents in the preparation of tax returns, that respondents will not reimburse the taxpayer for any deficiency payment which results from said errors, provided, however, that it shall be a defense in any enforcement proceeding for respondents to establish that they make such payments.

5. Representing, directly or by implication, that the percentage of respondents customers who receive tax

refunds is demonstrably greater than the percentage of individual taxpayers at large who receive refunds; or misrepresenting, in any manner, the magnitude or frequency of refunds received by respondents' tax preparation customers; provided, however, that nothing herein shall prevent truthful and non-deceptive representations with respect to the average percentage of respondents' customers who receive tax refunds.

6. Misrepresenting, in any manner, the competence or ability of respondents' tax preparing personnel.

7. Using information concerning any customers of respondents, including the name and/or address of the customer, obtained as a result of the preparation of the customer's tax return for any purpose which is not essential or necessary for the preparation of said tax return, except as specifically authorized by the Internal Revenue Service pursuant to section 7216 of the Internal Revenue Code and the regulations promulgated thereunder or by future amendments thereto.

Issued: November 3, 1986.

By the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-27112 Filed 12-2-86; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Dkt. C-837]

General Railway Signal Co. et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has modified a 1964 consent order (29 FR 14071, correction 29 FR 14492) by permitting American Standard Corp., a successor to original respondent Westinghouse Air Brake, to engage in activities necessary to participate in lawful joint ventures. The FTC found that respondent "has adequately demonstrated that evolving technological and economic factors in the railroad signaling equipment and systems industry have created a competitive need for American Standard to participate in joint ventures . . .".

DATES: Consent Order issued Sept. 24, 1964. Modified Order issued Nov. 13, 1986.

FOR FURTHER INFORMATION CONTACT: FTC/L-301, Daniel DuCore, Washington, DC 20580. (202) 634-4642.

SUPPLEMENTARY INFORMATION: In the Matter of General Railway Signal Co., et al. The prohibited trade practices and/or corrective actions, as set forth at 29 FR 14071, remain unchanged.

List of Subjects in 16 CFR Part 13

Railroad signaling equipment, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 2, 49 Stat. 1528; 15 U.S.C. 45, 13)

Order Modifying Consent Order Issued September 24, 1964

[Docket No. C-837]

Commissioners: Daniel Oliver, Chairman; Patricia P. Bailey; Terry Calvani; Mary L. Azcuenaga; Andrew J. Strenio, Jr.

In the Matter of General Railway Signal Co., et al.

On April 8, 1986, American Standard Inc. ("American Standard"), successor to respondent Westinghouse Air Brake Co. ("WABCO"), filed a "Request To Reopen Proceeding and Terminate Order" ("Request"), pursuant to section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), and § 2.51 of the Commission's Rules of Practice. The Request asks the Commission to reopen the proceeding and vacate the consent order issued September 24, 1964, ("Order") in its entirety. In the alternative, the Request asks the Commission to modify the Order "to permit conduct that is otherwise permissible under the antitrust laws, including conduct that is reasonably ancillary to the formation or operation of lawful joint ventures, exempt from application of the antitrust laws, or beyond the subject matter jurisdiction of the FTC."

After reviewing the Request and other relevant information, the Commission has concluded that it is in the public interest to modify the Order to permit American Standard to engage in conduct that is ancillary to and reasonably necessary for the formation or operation of any joint venture that is lawful under the antitrust laws. American Standard has adequately demonstrated that evolving technological and economic factors in the railroad signaling equipment and systems industry have created a competitive need for American Standard to participate in joint ventures to research, develop and produce integrated railroad systems and to bid for "turnkey" railroad projects. The Order's present language, designed to restrain conduct that might facilitate collusive agreements, could be interpreted to prohibit otherwise lawful joint venture activity. It is in the public

interest to modify the Order to enable American Standard to participate in otherwise lawful joint venture activity because the competitive injury American Standard will likely suffer if it cannot engage in such lawful activity is not outweighed by any need to retain the Order in its current form.¹

American Standard also seeks modification of the Order to clarify that its terms do not prohibit conduct statutorily exempt from application of the antitrust laws or beyond the subject matter jurisdiction of the Commission under Section 5(a) of the Federal Trade Commission Act, as amended. Such limitations, however, already apply to this Order and all other orders of the Commission. Therefore, a modification merely to restate existing law is unnecessary.

American Standard has not made an adequate showing that changed conditions of fact or law, or the public interest, require vacation of the Order in its entirety. The Order contains provisions that enjoin horizontal agreements concerning prices, territories, markets, customers and certain other matters, which are generally *per se* unlawful. American Standard has not demonstrated that these provisions harm its competitive posture and, accordingly, has not demonstrated a need to modify these provisions.

The Order contains several other provisions, including restrictions on the use of requirements contracts and cumulative volume discounts and on exchanges of information about price or other terms of sale. The Commission finds that the asserted changes in fact and law relied upon by American Standard do not provide a basis for vacating these provisions.

Although the domestic signaling industry has become less concentrated since the Order was entered, the signaling market remains highly concentrated and is dominated, as it was at the time the Order was entered, by two firms, one of which is American Standard. Little new entry has occurred

since the Order was entered, and foreign signaling firms continue to face substantial barriers to entry. Given this continued market structure, the changes in the domestic signaling industry cited by American Standard do not constitute unforeseeable changes in fact sufficient to require termination of the Order's provisions prohibiting requirements contracts, cumulative volume discounts and information exchanges.

Asserted changes in law since 1964 also do not require termination of these provisions. The legality of requirements contracts has always been determined by a rule of reason analysis. Although certain factors, such as the extent of market foreclosure, have received different degrees of emphasis under the rule of reason since the Order was entered, this does not rise to the level of a change in law sufficient to reopen and vacate the Order. The Order reflects a determination that the respondents could use requirements contracts to achieve anticompetitive effects, rather than a determination that all requirements contracts are *per se* anticompetitive. Similarly, the cases cited by American Standard with respect to volume discounts do not establish a fundamental change in law requiring modification of the Order. These cases merely articulate the statutory defenses provided by section 2(a) of the Clayton Act, 15 U.S.C. 13(a), as amended, and such defenses are already available under the Order even though not explicitly set forth therein. See *FTC v. Ruberoid*, 343 U.S. 470 (1952); *William H. Rorer, Inc.*, Docket No. 8599, 104 F.T.C. 544 (1984). To the extent that such defenses might have been deemed inapplicable because the prohibition of cumulative volume discounts is premised upon the allegations of the Complaint that such discounts violated Section 5 of the Federal Trade Commission Act as well as section 2(a) of the Clayton Act, the Commission, in the public interest, has determined that the statutory defenses should apply.

American Standard also has not identified public interest considerations sufficient to warrant termination of these provisions of the Order. The Commission may determine that the public interest requires reopening of an order if the respondent demonstrates that it is competitively disadvantaged by the order. When such a showing is made, the Commission will weigh the reasons favoring the modification against any reasons not to make the modification. American Standard, however, has not made a threshold showing that it is competitively disadvantaged by these provisions,

except to the extent that the Order may be construed to prohibit lawful joint ventures. Accordingly, the public interest does not require reopening and termination or modification of these provisions.

Accordingly, it is ordered that this Order be and it hereby is reopened and that the Commission's Order issued on September 24, 1964, be and it hereby is modified to include a new subparagraph (4), at 66 F.T.C. 882, 893 (1964), to read as follows:

(4) Nothing contained in the foregoing paragraphs of the Order shall be construed to prohibit respondent WABCO from engaging in any conduct or entering into any agreement that is ancillary to and reasonably necessary for the formation or operation of a joint venture that is lawful under the antitrust laws.

Issued: November 13, 1986.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-27113 Filed 12-2-86; 8:45 am]

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16 CFR Part 13

[Docket No. C-2902]

Union Carbide Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has modified a 1977 consent order (42 FR 57455) by removing references to welding products and gas welding apparatus. Respondent is no longer in the welding business.

DATES: Consent Order issued September 28, 1977. Modified Order issued November 14, 1986.

FOR FURTHER INFORMATION CONTACT: FTC/L-301, Daniel Ducore, Washington, DC 20580. (202) 634-4642.

SUPPLEMENTARY INFORMATION: In the Matter of Union Carbide Corporation. The prohibited trade practices and/or corrective actions, as set forth at 42 FR 57455, remain unchanged.

List of Subjects in 16 CFR Part 13

Welding, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 3, 38 Stat. 731; 15 U.S.C. 14)

Order Modifying Consent Order Issued September 28, 1977

[Docket No. C-2902]

Commissioners: Daniel Oliver, Chairman; Patricia P. Bailey; Terry Calvani; Mary L. Azcuenaga; Andrew J. Strenio, Jr.

¹ The Order's provisions are aimed at horizontal conduct and agreements. The Order language prohibiting agreements with "any other person, persons or business entity not a party hereto" is limited by the existing exemption for any "bona fide offer, agreement or transaction with any other person, persons or business entity to purchase or sell railroad signaling and control systems or railroad signaling equipment at prices, terms or conditions of sale independently determined and offered and independently accepted." The new modification for lawful joint venture activities will be a further limitation. The "any other person not a party hereto" language will, in practical effect, mean only vendors of signaling equipment or systems.

In the Matter of Union Carbide Corp.

On May 22, 1986, Union Carbide Corporation ("Carbide") filed a "Request to Reopen Proceeding and Modify Order" ("Request") pursuant to section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b) and § 2.51 of the Federal Trade Commission Procedures and Rules of Practice, 16 CFR 2.51. The Request asks the Commission to reopen and modify the consent order in Docket No. C-2902. The Request seeks three modifications.

First, Carbide requests that Paragraph I.A.1 of the order be modified to enable it to enter requirements contracts for terms up to five years. The order presently requires that any requirements contracts have initial terms not longer than one year and be terminable annually on not more than 90-days notice. Second, Carbide requests that Paragraph III of the order be modified to enable it to acquire independent distributors of industrial gases upon 30-days prior notice, as opposed to the current requirement that Carbide obtain the prior approval of the Commission for most such acquisitions. Third, Carbide requests that the Commission delete from the order all prohibitions relating to "Welding Products" and "Gas Welding Apparatus."

The Commission has carefully considered Carbide's Request and has concluded that Carbide has not made a satisfactory threshold showing that changed conditions of fact or law or the public interest require Paragraphs I.A.1 or III to be reopened to consider whether these provisions should be modified to allow five-year requirements contracts or distributor acquisitions upon prior notice. However, the Commission has found that reopening the order and deleting references to "Welding Products" and "Gas Welding Apparatus" is warranted by changed conditions of fact and the public interest.

In making these findings the Commission has considered Carbide's Request, Amerigas Inc.'s comment, and Carbide's response to that comment.

Standard for Reopening a Final Order of the Commission

Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), provides that the Commission shall reopen an order to consider whether it should be modified if the respondent "makes a satisfactory showing that changed conditions of law or fact" so require. A satisfactory showing sufficient to require reopening is made when a request to reopen identifies significant changes in circumstances

and shows that the changes eliminate the need for the order or make continued application of the order inequitable or harmful to competition. *Louisiana-Pacific Corp.*, Docket No. C-2956, Letter to John C. Hart (June 5, 1986), at 4 ("Louisiana-Pacific Letter"). The burden is on the petitioner to make the satisfactory showing of changed conditions required by the statute. *Louisiana-Pacific Letter* at 5-6. This burden is not a light one in view of the public interest in repose and the finality of the Commission's orders. See *Federated Department Stores, Inc., v. Moitie*, 425 U.S. 394 (1981) (strong public interest considerations support repose and finality). If the Commission determines that the petitioner has satisfied this requirement, the Commission must reopen the order to determine whether modification is required and, if so, the nature and extent of the modification. Section 5(b) does not require that the Commission modify any order. S. Rep. No. 96-500, 96th Cong., 2d Sess. 10 (1979).

Section 5(b) also provides that the Commission may reopen and modify an order when, although changed circumstances would not require reopening, the Commission determines that the public interest so requires. To obtain review on this ground, the respondent must demonstrate as a threshold matter some affirmative need to modify the order. *Damon Corp.*, Docket No. C-2916, Letter to Joel E. Hoffman, Esq. (March 24, 1984), at 2 ("Damon Letter"). If the respondent satisfies this threshold requirement, the Commission will balance the reasons favoring the modification requested against any reasons not to make the modification. *Damon Letter* at 2.

Requested Modification of Paragraph I.A.1 of the Order

The Commission finds that Paragraph I.A.1 of the order should not be reopened at this time. The Commission believes, as a matter of policy, that generally it should refrain from reopening an order provision when there exists reason to believe that a respondent is in violation of the very provision it seeks to modify.

There is substantial reason to believe that Carbide is violating Paragraph I.A.1. The Commission believes that by offering and executing producer pricing agreements ("PPAs"), Carbide has failed to comply with the provision in Paragraph I.A.1 that prohibits Carbide from entering into long term requirements contracts with independent industrial gas distributors.

The Commission has reason to believe that Carbide's violations of the order

were not inadvertent, but have been in considerable bad faith. The Commission's files contain evidence that over 40 PPAs were offered or executed pursuant to a program that commenced with the knowledge and approval of senior level corporate executives. These agreements were offered to distributors from 1979, less than two years after the order was entered, to 1985, when the Commission discovered their existence. Although Carbide had previously sought the advice of the Commission's staff with respect to compliance matters, Carbide never sought advice regarding PPAs. The Commission's rules expressly provide a procedure for obtaining such advice. See 16 CFR 2.41. Additionally, Carbide never affirmatively disclosed to the Commission such contracts, despite that it was offering and executing PPAs before, during, and after it filed (and later withdrew) a petition in 1983 seeking modification of Paragraph I.A.1 of the order; Carbide's avowed reason for using PPAs is essentially identical to one of its stated needs for modifying the order in 1983. Although Carbide may have perceived a need to enter long term requirements contracts, it chose to effect its own remedies, despite the prohibition contained in the order and the Commission's procedures for order modifications. Accordingly, it would not be in the public interest to reopen Paragraph I.A.1 of the order at this time to consider Carbide's request for modification of that provision.

Additionally, the Commission finds that neither changes of law nor fact require the reopening of Paragraph I.A.1 of the order. Carbide has failed to show any changes in statutory or decisional law that have the effect of bringing the provisions of Paragraph I.A.1 into conflict with existing law. See *System Federation No. 91 v. Wright*, 364 U.S. 642 (1961). Exclusive dealing arrangements always have been subject to a rule of reason analysis. Carbide's asserted changes in law, at most, reflect a shift in focus among the several factors traditionally considered under a rule of reason analysis as applied to exclusive dealing.

Changed factual circumstances justify modification of an order only when the changed circumstances (1) were unforeseeable when the order was entered and result in severe competitive hardship, and (2) virtually eliminate the dangers the order sought to remedy. *Pay Less Drugstores Northwest, Inc.*, Docket No. C-3039, Letter to H.B. Hummelt (Jan. 22, 1982) (citing *United States v. Swift & Co.*, 286 U.S. 106, 119 (1932)). The changes that Carbide points to fail to

satisfy this standard. For example, Carbide notes that since 1977 (1) the number of national industrial gas producers has increased, (2) its market share has declined, (3) its competitors have increased their number of independent distributors, and (4) independent distributors possess increased bargaining power. However, Carbide has failed to show that these changes have been significant. For example, according to its own estimates, Carbide's reductions in its market shares have been marginal. Additionally, although Carbide asserts that its share of independent distributors has declined since 1977, the amount of the decline in percentage points is minimal. Carbide has failed to show how these changes reflect more than the normal, foreseeable evolution of the industry or how these changes eliminate any possible continued need for the order.

In sum, the Commission has determined that neither changes in fact nor in law require reopening of Paragraph I.A.1 of the order to consider Carbide's requested modification of that provision. Additionally, the Commission has determined that it would not be in the public interest to reopen Paragraph I.A.1 to consider modification at this time. The public interest is served by denying a request for reopening and modification of an order provision while compliance issues remain unresolved. This action by the Commission will enhance its ability to ensure compliance with this order and other outstanding orders, enhance the deterrent effect of all orders and of Section 5 itself, and serve to discourage "self-help" order modifications. Thus, based on these policy considerations, the Commission finds that the public interest does not warrant reopening and modification of Paragraph I.A.1 of the order.

Requested Modification of Paragraph III of the Order

The Commission finds Carbide has failed to show any changed conditions of law or fact or public interest considerations that require or warrant reopening Paragraph III of the Order.

Carbide contends that both changes of law and fact require the reopening of Paragraph III of the order. However, Carbide has failed to point to any change in statutory or decisional law with respect to vertical acquisitions that has the effect of bringing the terms of the order into conflict with existing law. The Commission also notes that, in those instances where prior approval is required, the Commission will analyze such requests in a manner consistent with current law and policy. Thus, any

changes regarding the application of the law of vertical restraints will be considered by the Commission when reviewing an application for prior approval.

Carbide also states that modification of Paragraph III of the order is required by changed conditions of fact. The Commission finds that Carbide has failed to show significant changes in fact that require reopening. Carbide alleges that (1) the number of national gas producers is increasing, (2) its market share is declining, (3) the number of distributors serving competitors is increasing, and (4) independent distributors' bargaining power has increased. As discussed earlier, Carbide has failed to show that these changes were unforeseeable, or that they reflect more than the natural evolution of the industry. Paragraph III recognizes such evolution as evidenced by the ten-year term of that provision.

Carbide contends that modification of the order to permit vertical mergers after prior notice rather than prior approval would serve the public interest. The Commission finds that neither of the grounds that Carbide raises warrants reopening the order in the public interest. First, Carbide states that the regulatory burden imposed by the prior approval requirement prevents it from competing on equal terms with its competitors. This claim does not warrant relief. Carbide has failed to document any burden imposed by the prior approval requirement that was not foreseeable when the order was issued or how that burden has changed over the years. Additionally, the Commission notes that Carbide has not identified instances in which it was actually prejudiced by the prior approval requirement. Instead, Carbide identifies generally the burden that might be imposed by any prior approval requirement: added costs, uncertainty, and delay. Second, Carbide states that distributors seeking to sell their businesses may face reduced marketing opportunities because Carbide, a likely prospective purchaser, may be foreclosed from making such acquisitions. This concern was presented to and considered by the Commission in 1977. Carbide fails to point to any factual changes that would justify the Commission's treating this consideration differently now. In sum, the Commission finds that the public interest does not warrant reopening the order to consider whether to modify Paragraph III.

Request to Delete References to "Welding Products" and "Gas Welding Apparatus"

The Commission finds that Carbide has made a satisfactory showing of changed conditions of fact to warrant reopening the order to consider deleting references to "Welding Products" and "Gas Welding Apparatus." In 1985, Carbide sold its gas welding apparatus and welding products operations. In the Request, Carbide states its intention not to reenter that line of business. The Commission finds that deleting references to "Welding Products" and "Gas Welding Apparatus" is warranted by changed conditions of fact and by the public interests.

Accordingly, it is ordered that this matter be reopened with respect to Carbide's third request and that Paragraphs I, III, and IV of the Commission's order in Docket No. C-2902, issued on September 28, 1977, be modified, as of the date of service of this order, to read as follows:

I

It is ordered and directed. That for a period of twenty (20) years from the date of service of this Order, respondent Union Carbide Corporation (hereinafter Union Carbide), its subsidiaries, divisions, affiliates, successors, and assigns, in connection with the distribution, offering for sale, or sale of Industrial Gases to Distributors in which it owns less than a majority interest, shall:

A. Not offer, renew, extend or enter into any contracts or agreements, or enforce directly or indirectly those provisions of any contract or agreement, which require any Distributor:

1. To purchase from Union Carbide all or any part of its requirements of any Industrial Gas unless (a) the initial term of such contract or agreement is one year or less, and (b) such contract or agreement may be terminated by either party effective on any anniversary date upon written notice given some minimum period in advance of such date as set forth in such contract, such minimum period to be not more than ninety (90) days; or

2. To purchase from Union Carbide all or any part of its requirements of any Industrial Gas at one or more Locations as a condition to being permitted to purchase from Union Carbide such Industrial Gas at another Location; or

3. To purchase from Union Carbide all or any part of its requirements of any Industrial Gas at any Location as a condition to being permitted to purchase from Union Carbide any other Industrial Gas at the same or any other Location.

B. Not refuse to sell, subject to paragraph A1 above, Industrial Gases to a Union Carbide Distributor because that Distributor refuses (1) to purchase all or a designated part of its requirements of Industrial Gases from Union Carbide; or (2) to purchase from Union Carbide all or any part of its

requirements of Industrial Gases at more than one of its Locations.

III

A. *It is further ordered*, That for a period of ten (10) years from the date of service of this order, Union Carbide shall not without prior approval of the Commission, except as otherwise provided in paragraph B of this Part III, acquire, directly or indirectly, the whole or any part of the assets, stock, share capital of, or other equity interest in, any Distributor of Industrial Gases.

B. No prior approval shall be required under this order for any acquisition by Union Carbide of any assets, stock, share capital of, or other equity interest in, any Distributor of Industrial Gases if such acquisition meets any of the following standards:

1. The acquisition involves only a change in the equity interest of Union Carbide in a Distributor in which Union Carbide already holds an equity interest; or

2. Except to the extent such acquisition is covered by clause 3 of this paragraph B, the consummation of the acquisition does not result in Union Carbide owning an equity interest, obtained by acquisition, in Distributors to whom, in the calendar year prior to the calendar year in which such acquisition is consummated, Union Carbide sold in excess of 16 percent of its total sales of Industrial Gases sold in such year to all acquired and independent Distributors; *provided, however*, that no acquisition of a Distributor shall be exempt from prior approval under this clause 2 unless the Distributor to be acquired purchased from Union Carbide more than 50 percent of its total purchases of industrial gases in the calendar year prior to the calendar year in which such acquisition is consummated; or

3. The acquisition is not covered by clause 2 of this paragraph B, but within twelve (12) months prior to the consummation of such acquisition Union Carbide has divested absolutely and in good faith by sale or spin-off its equity interests in one or more Distributors the aggregate dollar value of whose purchases of Industrial Gases in the calendar year prior to the calendar year in which such acquisition is consummated was equal to or in excess of the aggregate dollar value of purchases of Industrial Gases in such prior calendar year, by the Distributor so acquired; *provided, however*, that, to the extent that any purchases by a divested Distributor are utilized by Union Carbide in a determination that an acquisition falls within the provisions of clause 2 or 3 of this paragraph B, the purchases so utilized shall not again be utilized by Union Carbide in determining whether any other acquisition falls within the provisions of this clause 3; or

4. The transaction involves only (a) the purchase of products from a Distributor in the normal course of business, or (b) the purchase of fixed assets from an independent Distributor in a transaction in which the Distributor will continue thereafter to carry on its function as an independent Distributor in which Union Carbide has no equity interest; or

5. But for the acquisition by Union Carbide, the Distributor would have ceased business

operations as an Industrial Gas Distributor as a result either of its financial condition or of the death or physical or mental incapacity of essential management personnel.

C. During the period that this Part III is in effect, Union Carbide shall advise the Commission, prior to consummation thereof, of each acquisition of the type described in paragraph A of this Part III as to which prior approval is not required because of the provisions of paragraph B2 or B3 of this Part III.

D. During the period that this Part III is in effect, Union Carbide shall, within ninety (90) days from the date of each acquisition described in paragraph B5 of this Part III, provide information sufficient for the Commission to determine whether, but for the acquisition by Union Carbide, the Distributor would have ceased business operations as an Industrial Gas Distributor as a result either of its financial condition or of the death or physical or mental incapacity of essential management personnel.

IV

It is further ordered, That if, during the ten (10) year period beginning on the date of service of this order, any Distributor of Industrial Gases in which Union Carbide holds an equity interest acquires, without the prior approval of the Commission to the extent such approval would be required under Part III of this order if such acquisition were made directly or indirectly by Union Carbide, the whole or any part of the assets, stock, or share capital of, or other equity interest in, any Distributor of Industrial Gases, then Union Carbide shall within six (6) months thereafter divest absolutely and in good faith by sale or spin-off its equity interests in one or more Distributors, the aggregate dollar value of whose purchases of Industrial Gases in the prior calendar year was equal to or in excess of the aggregate dollar value of purchases of Industrial Gases in such prior calendar year by the Distributor so acquired; *provided, however*, that to the extent that any purchases by a divested Distributor are utilized by Union Carbide in determining compliance with the divestiture provisions of this Part IV, the purchases so utilized shall not again be utilized by Union Carbide in determining whether any other acquisition falls within the provisions of Paragraph III B3 of this order.

By direction of the Commission, Chairman Oliver dissenting.

Issued: November 14, 1986.

Benjamin I. Berman,

Acting Secretary.

Dissenting Statement of Chairman Oliver

I agree with the Commission's decision to reopen and modify its 1977 consent order with Union Carbide by removing references to welding products and gas welding apparatus. These references are unnecessary, because Union Carbide is no longer a participant in the welding business.

I disagree, however, with the Commission's decision not to reopen for modification paragraph I.A. of the order. Union Carbide requested that the Commission modify paragraph I.A. to allow Union Carbide to enter into long term contracts with gas

distributors. Union Carbide has demonstrated that long term contracts are necessary to compete effectively in industrial gas production and supply, that the order's prohibitions on long term contracts place Union Carbide at a competitive disadvantage, and that the public interest would best be served by removing these prohibitions.

The Commission has made clear that Union Carbide's apparent violations of paragraph I.A. played an important role in the Commission's decision not to reopen paragraph I.A. I strongly advocate vindication of the Commission's orders and I believe that the Commission would be fully justified in seeking appropriate relief for order violations. I also believe, however, that anticompetitive orders breed disrespect for the law, frustrating the Commission's enforcement of legitimate orders. Moreover, and perhaps most important, forcing compliance with errant Commission orders places the Commission in the undesirable position of harming rather than helping consumers.

For this reason, I voted against the Commission's decision to modify in the Union Carbide order in part.

[FR Doc. 86-27111 Filed 12-2-86; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. 9172]

Roswil, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Springfield, Mo. grocer, among other things, to cease engaging in concerted action that restricts the gathering or reporting of comparative grocery price data. Additionally, respondent is prohibited from: (1) Requiring price checkers to buy the surveyed items; (2) denying price checkers the same access to Roswil's stores as customers; and (3) coercing any price checker, publisher or broadcaster into discontinuing price reporting. Further, respondent is required to take several steps to increase the likelihood that price surveys will be resumed in Springfield. According to the order, the company must reimburse the local cable television station up to \$1,000 of its costs if it decides to broadcast a comparative grocery price program and notify the public that such program will be aired.

DATE: Complaint issued Dec. 16, 1983. Decision issued Nov. 12, 1986.¹

FOR FURTHER INFORMATION CONTACT: FTC/B-921, Patricia A. Bremer, Washington, DC 20580. (202) 724-1668.

SUPPLEMENTARY INFORMATION: On Friday, February 7, 1986, there was published in the *Federal Register*, 51 FR 4758, a proposed consent agreement with analysis in the Matter of Roswil, Inc., a corporation, trading and doing business as Ramey Super Markets, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.365 Employees and competitors. Subpart—Combining or Conspiring: § 13.384 Combining and conspiring; § 13.395 To control marketing practices and conditions; § 13.475 To restrict competition in buying. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-25 Displays, inhouse.

List of Subjects in 16 CFR Part 13

Grocery stores, Trade practices.

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

Benjamin I. Berman,
Acting Secretary.

[FR Doc. 86-27114 Filed 12-2-86; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Rel. No. SAB-66]

Staff Accounting Bulletin No. 66

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

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

SUMMARY: This Staff Accounting Bulletin (SAB) amends Topic 11.H. with respect to deposit/re-lending arrangements between U.S. banks and debtors in certain foreign countries, and rescinds other portions of Topic 11.H. that were originally published in SAB Nos. 49 and 49A. The rescinded portions are no longer needed because the substance of that guidance has been codified in Industry Guide 3, "Statistical Disclosure by Bank Holding Companies".

DATE: November 25, 1986.

FOR FURTHER INFORMATION CONTACT: Wayne G. Pentrack or Edmund Coulson, Office of the Chief Accountant (202-272-2130) or Howard P. Hodges, Jr., Division of Corporation Finance (202-272-2553), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal Securities laws.

Jonathan G. Katz,
Secretary.

Staff Accounting Bulletin No. 66

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 66 to the Table found in Subpart B.

The staff hereby amends Topic 11.H. in the Staff Accounting Bulletin Series, "Disclosures by Bank Holding Companies Regarding Certain Foreign Loans".

Topic 11.H.: Disclosures by Bank Holding Companies Regarding Certain Foreign Loans

1. Deposit/re-lending arrangements

Facts: Certain foreign countries experiencing liquidity problems, by agreement with U.S. banks, have instituted arrangements whereby borrowers in the foreign country may remit local currency to the foreign country's central bank, in return for the central bank's assumption of the borrowers' non-local currency obligations to the U.S. banks. The local currency is held on deposit at the central bank, for the account of the U.S. banks, and may be subject to re-lending to other borrowers in the country. Ultimate repayment of the obligations to

the U.S. banks, in the requisite non-local currency, may not be due until a number of years hence.

Question: What disclosures are appropriate regarding deposit/re-lending arrangements of this general type?

Interpretive Response: The staff emphasizes that it is the responsibility of each registrant to determine the appropriate financial statement treatment and classification of foreign outstandings. The facts and circumstances surrounding deposit/re-lending arrangements should be carefully analyzed to determine whether the local currency payments to the foreign central bank represent collections of outstandings for financial reporting purposes, and whether such outstandings should be classified as nonaccrual, past due or restructured loans pursuant to Item III.C.1. of Industry Guide 3, Statistical Disclosure by Bank Holding Companies ("Guide 3").

The staff believes, however, that the impact of deposit/re-lending arrangements covering significant amounts of outstandings to a foreign country should be disclosed pursuant to Guide 3, Item III.C.3., Instruction (6)(a).¹ The disclosures should include a general description of the arrangements and, if significant, the amounts of interest income recognized for financial reporting purposes which has not been remitted in the requisite non-local currency to the U.S. bank.

[FR Doc. 86-27121 Filed 12-02-86; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Parts 231 and 241

[Release Nos. 33-6677, 34-23846; FR-27; File No. S7-19-86]

Amendments to Industry Guide Disclosures by Bank Holding Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission has authorized amendments to the Industry Guides for Statistical Disclosure by Bank Holding Companies, regarding disclosures of outstandings to borrowers

¹ Instruction (6)(a) calls for description of the nature and impact of developments in countries experiencing liquidity problems which are expected to have a material impact on timely repayment of principal or interest. Additionally, Instruction (6)(d)(ii) to Item III.C.3. calls for disclosure of commitments to re-lend, or to maintain on deposit, arising in connection with certain restructurings of foreign outstandings.

in certain foreign countries experiencing liquidity problems that are expected to have a material impact on timely repayment of principal or interest, and certain restructurings of outstandings to those countries. Industry Guides serve as expressions of the policies and practices of the Division of Corporation Finance. They are of assistance to issuers, their counsel and others preparing registration statements and reports, as well as to the Commission's staff.

EFFECTIVE DATE: The amendments are effective for filings containing, or incorporating by reference, financial statements for fiscal periods ending on or after December 15, 1986.

FOR FURTHER INFORMATION CONTACT: Wayne G. Pentrack or Edmund Coulson, Office of the Chief Accountant, (202-272-2130), or Howard P. Hodges, Jr., Division of Corporation Finance, (202-272-2553), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

Executive Summary

The Commission has authorized amendments ("the amendments") to the Industry Guides for Statistical Disclosure by Bank Holding Companies ("Guide 3"), regarding disclosure of outstandings¹ to borrowers in certain foreign countries experiencing liquidity problems that are expected to have a material impact on timely repayment of principal or interest ("liquidity problems"),² and certain restructurings of outstandings to those countries.

The amendments call for a tabular analysis of changes in aggregate outstandings to each country experiencing liquidity problems, if the aggregate amount exceeds one percent of the registrant's total assets. The analyses are to include amounts of new outstandings, collections of principal and interest, interest income accrued, and other changes. If material amounts

of outstandings to such countries are restructured (or if an agreement in principle for restructuring has been reached), the amendments call for tabular presentations of pre- and post-restructuring maturities and interest rates on the restructured amounts, disclosure of commitments arising in connection with the restructurings, and disclosure of amounts removed or expected to be removed from nonaccrual status as a result of the restructurings. The amendments are intended to enable users of bank holding company ("BHC") financial reports ("users") to better assess BHCs' exposures to certain foreign countries, the nature of changes in those exposures, and the impact of significant restructurings of those exposures. The amendments are based largely on views of the Commission staff previously expressed in interpretive letters regarding disclosures of significant foreign debt restructurings.

II. Consideration of Comments Received in Response to Proposed Amendments

The amendments were originally proposed on July 31, 1986, in Release No. 33-6654. Sixteen letters of comment were received in response to the proposed amendments. The respondents were generally supportive of the proposal's efforts to codify meaningful, uniform and concise disclosure guidance; however, most respondents suggested changes to one or more provisions of the proposal. The following paragraphs summarize the main points raised by the respondents, and changes from the proposed amendments that were adopted in consideration of their views.

A. Analysis of Changes in Aggregate Outstandings

1. **Need for tabular analysis of changes.**—Several respondents questioned the need for the proposed tabular analyses of changes in outstandings. They suggested either that only the net change should be disclosed, that the changes could be described in narratives or in tabular presentations other than proposed tabular format, or that disclosures relating to changes are not necessary because only the amount of exposure at the end of each reported period is relevant to assessments of risk.

As stated in the proposing release, the amendments are intended to elicit uniform, concise disclosures of whether and, if so, how BHCs' exposures have changed. The final amendments retain the proposed tabular format for analyses of changes (modified as described below) to meet the objectives of uniformity and conciseness. Narrative

disclosures, of course, should appropriately supplement the tabular analyses when necessary to provide adequate descriptions or to prevent them from being misleading. Furthermore, the final amendments retain the proposed reporting of gross changes (except with respect to certain short-term outstandings, as described below) in order to portray how reported amounts of exposures have changed (e.g., by re lending, on a long-term basis, principal that matured in the current year or interest that was due in the current year).

2. **Distinction between public and private sector amounts.**—The proposed amendments called for changes in public and private sector outstandings to be analyzed separately.

Several respondents suggested that the informational value of this distinction would not justify its preparation cost because liquidity problems in any particular country would be expected to have similar effects on each type of borrower.

Other respondents noted that separate analyses of public and private sector amounts could create misleading impressions regarding the effects of deposit/re lending agreements in certain foreign countries. Pursuant to such agreements (which may vary from country to country), local currency payments on private sector debt owed to a U.S. bank may be placed on deposit in the foreign country's central bank, for the account of the U.S. bank, subject to re lending to other private sector borrowers in the country until sufficient amounts of non-local currency can be raised for remittance out of the country in satisfaction of the obligation to the U.S. bank. Several respondents suggested that reporting the gross components of deposit/re lending activities with the private sector debtors (i.e., reporting the collection³ from the original private sector borrower and the re lending to a different private sector borrower) and the public sector party (i.e., reporting the increase and decrease in outstandings to the foreign central bank due to the temporary deposit) could mislead users to believe that long-term lending transactions with public sector borrowers are taking place.

In consideration of those comments, the final amendments call for analyses

¹ Outstandings to a foreign country (or "cross-border outstandings") are defined by Instruction (1) to Item III.C.3. of Guide 3 to include those loans, accrued interest, acceptances, interest-bearing deposits, or investments, and other monetary assets which are denominated in U.S. dollars or other non-local currency, and those which are denominated in local currency if not hedged or funded by local borrowings.

² The provisions of Guide 3 distinguish liquidity problems from credit problems in countries that are currently unable to fully service their debts. Unlike credit problems, liquidity problems (i.e., current inability to raise sufficient amounts of the requisite currency to meet principal or interest repayment obligations to U.S. banks) do not necessarily affect the assessment of whether loans will ultimately be uncollectible. The amendments do not affect current guidance regarding disclosure of loans beset by credit problems.

³ As stated in Staff Accounting Bulletin No. 49A (as amended), deposit/re lending transactions require careful analysis of the surrounding facts and circumstances for purposes of determining whether collections have occurred for financial reporting purposes and whether the private sector outstandings should be classified as past due or nonaccrual loans.

of changes in outstandings to each country on an aggregate basis, rather than separately as to public and private sector portions.

3. Distinction between long- and short-term outstandings.—The proposed amendments made no distinction between long- and short-term outstandings. Several respondents suggested that reporting the gross changes in short-term trade credits and interbank deposits, which may mature and be renewed several times annually, within the proposed tabular format would not be particularly meaningful and could mislead users to believe that major amounts of long-term outstandings were being repaid and reextended.

In consideration of those comments, the analyses of changes in outstandings called for by the final amendments are to include only the net changes in trade credits and interbank deposits which, at the time they were extended, had maturities of one year or less ("short-term outstandings"). Gross changes are to be reported with respect to all other outstandings. The tabular analysis should be supplemented with the portion of aggregate outstandings to each country, at the end of the reported period, that represents short-term outstandings.

4. Description of "other changes".—The proposed amendments called for descriptions of significant changes in outstandings other than the changes reported as new outstandings, collections, and accruals of interest. Several respondents suggested that specific descriptions of reductions in BHCs' reported exposures to particular countries, resulting from sales, swaps or charge-offs of outstandings, could disadvantage BHC's efforts to collect what is legally due from debtors in those countries.

In consideration of these comments, the final amendments do not include a specific requirement for inclusion of a description of "other changes". However, a description of the components of amounts reported as "other changes" would be required to the extent that such information is material to an understanding of results of operations or financial condition, or is necessary to make information otherwise included in the filing not misleading.

5. Disclosure of off-balance sheet exposure.—Several respondents suggested that the final amendments should call for disclosure of exposures to countries experiencing liquidity problems, such as commitments for additional lending or letters of credit, that are not reported as outstandings.

No such specific provision has been added to the final amendments because Instruction (1) to Item III.C.3. of Guide 3 already calls for separate disclosure of material commitments to borrowers in foreign countries.

6. Amounts of interest accrued and collected.—Several respondents suggested that the language of proposed Instruction (6)(c) to Item III.C.3. should be clarified.

That instruction called for disclosure of the amount of interest recognized as income and the amount of interest collected on the outstandings to each country, if such amounts are not approximately equal to the amounts reported as "interest income accrued" and "collections of accrued interest", respectively, in the tabular analysis of changes in outstandings to each country.

Such disclosure would be called for (i.e., the amounts would not be approximately equal to the amounts reported in the tabular analysis) when interest is collected on outstandings that are on nonaccrual status. The collection would not normally be reflected in the "collections" that are reported in the tabular analysis, because the collection would not normally represent a reduction in the reported amount of outstandings (i.e., the collection would not result in a reduction of accrued interest, because the interest collected had not been accrued).⁴ Similarly, any income recognized upon collection would not be reflected in the amount of "interest income accrued" that is reported in the tabular analysis. In these circumstances, failure to disclose total amounts of interest income recognized and collected on outstandings to a particular country could create mistaken impressions that only the amounts shown in the tabular analysis were recognized and collected. The final amendments reflect revised language, but not a change in the intent, of this instruction.

B. Disclosures Regarding Restructurings

1. Tentative agreements to restructure.—The proposed amendments called for specific disclosures regarding restructuring terms when material amounts of outstandings are restructured or upon tentative agreements to restructure. Several respondents suggested that the

applicability of the phrase "tentative agreements" should be clarified. Others suggested that the disclosures should be provided only upon execution of restructuring agreements because the actual terms of restructurings cannot be known until that time.

The major foreign loan restructuring agreements over the past few years have been negotiated between the debtors and negotiating committees organized by creditor banks. Typically, these parties reach agreements in principle regarding the amounts of outstandings to be restructured and the new maturity and interest rate terms for those outstandings, which are subject to approval by the creditor banks. Given that the amendments call for specific disclosures of restructuring terms only with respect to material portions of outstandings to countries experiencing liquidity problems, such an agreement in principle represents a potentially significant event for creditor banks for purposes of providing disclosure.

Accordingly, the final amendments have been clarified to call for specific disclosures regarding restructuring terms upon the reaching of such an agreement in principle (or its equivalent).

2. Tabular presentation of pre- and post-restructuring terms.—The proposed amendments called for tabular disclosure of pre- and post-restructuring terms, and provided an example tabular presentation of the minimum disclosure regarding the affected outstandings and the impact on maturities and interest rates. Several respondents suggested that flexibility should be expressly permitted for presentations of weighted average maturities and interest rates, or equivalent data, within the table. For example, some suggested that disclosure of the range of maturities should be permitted, either to supplement or in place of the weighted average maturities. Others suggested that if interest rates are variable, disclosing the weighted average spread from the applicable index would be more meaningful than disclosing what those rates happen to be as of any particular reporting date, and questioned whether the proposal was intended to preclude such disclosure.

The example presentation provided in the proposal was intended to illustrate one concise tabular format for disclosing the minimum information that was felt necessary for portraying the overall impact of changes in maturities and interest rates on restructured outstandings, rather than to mandate any particular tabular format. Supplementing weighted average

⁴ The AICPA Audit Guide, *Audits of Banks*, calls for collections of interest on nonaccrual loans to be recognized as reductions of loan principal rather than as interest income if ultimate collectibility of loan principal, wholly or partially, is in doubt. In such cases, collections of interest that had not been accrued would be reflected as reductions of reported amounts of outstandings in the tabular analysis.

maturities and interest rates with ranges of maturities and interest rates would not be precluded; however, presentation of ranges without weighted averages would not necessarily enable users to assess the overall impact of restructurings (unless the ranges are very narrow). Alternatively, individual years of maturities could be disclosed with respect to discernable portions of restructured outstandings, along with the interest rates on those portions.

The final amendments clarify that the example format is not intended to preclude alternative tabular formats, provided that the format used presents either the prescribed minimum weighted average disclosures or actual maturities and interest rates on discernable amounts of outstandings. Also, if interest rates are variable, the disclosure should specify the applicable index and the weighted average (or actual) spread from that index.

C. Troubled debt restructurings.—The proposed amendments called for disclosures regarding restructurings of foreign outstandings irrespective of whether they are troubled debt restructurings ("TDRs") as defined in Statement of Financial Accounting Standards No. 15 ("FAS 15").⁵ On that basis, it was proposed that restructurings disclosed pursuant to the proposed amendments and which occurred for reasons unrelated to concerns as to ultimate collectibility need not be reported as TDRs pursuant to Item III.C.1.(c) of Guide 3. Item III.C.1. calls for reporting of aggregate amounts of what are commonly referred to as "nonperforming" loans which include, among other categories, loans that are TDRs.

Several respondents requested clarification as to whether the proposed amendments were intended to supercede or modify the accounting and/or disclosure requirements of FAS 15 for purposes of complying with generally accepted accounting principles ("GAAP"). Others suggested that the need to determine whether a foreign debt restructuring is a TDR should not depend on whether the restructuring occurred due to credit problems or liquidity problems.

The proposal was not intended to suggest that FAS 15 should be interpreted as not applicable to foreign debt restructurings that occur due to liquidity problems, nor was it intended

to supercede or modify the accounting and/or disclosure requirements of GAAP with respect to TDRs. Thus, BHCs and their auditors would still need to assess whether a foreign debt restructuring is a TDR for purposes of complying with GAAP requirements.

As stated in the proposing release, (a) there may be practical difficulties in determining whether certain foreign debt restructurings are TDRs and what disclosures should be provided if they are deemed TDRs,⁶ and (b) the proposed disclosures were intended to enable users to assess for themselves whether restructured foreign outstandings are "nonperforming" loans. On that basis, the separate disclosure regarding foreign restructurings was proposed to avoid the possibility of having particular restructurings of foreign outstandings reported twice within the Guide 3 disclosure (i.e., pursuant to both the new instruction (6)(d) to Item III.C.3. and, if TDRs, Item III.C.1.(c)). The final amendments retain the provision that restructurings disclosed pursuant to the new instruction, and which occurred for reasons unrelated to concerns about ultimate collectibility, need not be disclosed pursuant to Item III.C.1.(c).

D. Updating of disclosures.—Several respondents suggested that applicability of General Instruction 3 of Guide 3 should be clarified in regard to the need for providing the disclosures called for by the amendments in quarterly reports and for updating the disclosures in subsequent periodic reports. Others suggested that the status of Staff Accounting Bulletin ("SAB") No. 49A should be clarified. SAB No. 49A provided guidance for disclosures regarding developments, such as restructurings and implementation of deposit/relending mechanisms, occurring subsequent to the initial disclosures of outstandings to countries experiencing liquidity problems.

Disclosures regarding aggregate outstandings to an individual country experiencing liquidity problems (i.e., those called for by Instructions (6)(b) and (6)(c) to Item III.C.3. of Guide 3) should initially be made in the first periodic report (quarterly or annual) covering a period during which the disclosure threshold specified in Instruction (6)(b) is met. Subsequent to

the initial disclosure, those disclosures should be provided in each annual report as long as the disclosure threshold continues to be met with respect to that country as of the end of the annual period. The disclosures need not be provided in subsequent quarterly reports unless (a) they had not been provided in the most recent annual report, (b) there have been material changes in outstandings to that country, or (c) updated disclosure is necessary to keep information previously disclosed from being misleading.

Disclosures regarding restructurings (i.e., those called for by Instruction (6)(d) to Item III.C.3. of Guide 3) should initially be provided in the first quarterly and annual reports filed after an agreement in principle for restructuring is reached. The disclosures should be updated in the first quarterly and annual reports filed after the agreement in principle is either significantly modified or finally executed.

Concurrently with the issuance of this release, the Commission's staff is rescinding the portions of SAB Nos. 49⁷ and 49A which have been codified in Guide 3.

E. Costs/benefits.—Several respondents questioned whether their costs to provide the proposed disclosures would be justified by benefits to users.

Four BHCs stated that their costs would be substantial, primarily with regard to the proposed tabular analysis of changes in outstandings. Three of those four BHCs responded to telephone inquiries from the Commission's staff regarding the impact on costs of modifications from the proposal which are reflected in the final amendments. One stated that the modifications would result in no incremental costs being incurred to provide the disclosures; the other two stated that their incremental costs would be significantly lessened.

One BHC stated in its comment letter that the cost of compliance would be minimal.

The proposed tabular analysis of outstandings was designed to present information that has been disclosed in the past few years by most of the BHCs that are expected to be affected by the amendments. Pursuant to interpretive letters issued by the Commission's staff, these BHCs have been disclosing aggregate outstandings at the beginning

⁵ For example, it may be difficult to assess whether the post-restructuring interest rate is below market rates for similar loans, because there may be no sources of significant amounts of new loans to the country, other than the lenders participating in the restructuring. FAS 15 calls for disclosures regarding TDRs that are effected through modifications of terms (e.g., interest rates and/or maturities) only if the post-restructuring interest rates are below market rates.

⁷ The substance of SAB 49, regarding disclosure of loans to countries experiencing liquidity problems, had been codified in Guide 3 with the issuance of Financial Reporting Release No. 13 in August 1983.

⁶ FAS 15, *Accounting by Debtors and Creditors for Troubled Debt Restructurings* (Financial Accounting Standards Board, 1977), states that a TDR occurs if a creditor, for economic or legal reasons related to a debtor's financial difficulties, grants a concession to the debtor that it would not otherwise consider.

and end of reported periods, new outstandings, and collections of principal and interest. Thus, the only incremental information called for by the amendments is the net amount of other types of changes in outstandings, which is the mathematical result of reconciling the previously disclosed data in tabular form. Furthermore, preparation costs are expected to be lessened because the tabular analyses called for by the final amendments do not retain the distinction between public and private sector outstandings and the reporting of gross changes in short-term outstandings that were originally proposed.

For these reasons, and because the amendments are unlikely to affect a large number of BHCs, it is felt that the amendments are unlikely to result in substantial incremental costs.

III. Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 1982) is updated to:

1. Add a new § 401.08.e.i., entitled "Outstandings to Countries Experiencing Liquidity Problems".
2. Include in § 401.08.e.i. the portions of this release designated as section I. (Executive Summary), section II.A.4. (Description of "other changes"), section II.C. (Troubled Debt Restructurings), and II.D. (Updating of Disclosures); identified respectively as follows:
 - a. Executive Summary,
 - b. Description of "Other Changes,"
 - c. Troubled Debt Restructurings,
 - d. Updating of Disclosures.

IV. Text of Amendments

List of Subjects in 17 CFR Parts 231 and 241

Accounting, Reporting and Recordkeeping requirements, Securities.

The Industry Guides and 17 CFR Chapter II are hereby amended as follows:

Securities Act Industry Guides

1. By revising the Securities Act Industry Guide 3 [Statistical Disclosure by Bank Holding Companies] by revising Instruction (4) to Item III.C.1., and revising Instruction (6) to Item III.C.3., to read as follows:

Guide 3—Statistical Disclosure by Bank Holding Companies

* * * * *

III. Loan Portfolio.

* * * * *

C. Risk Elements.

* * * * *

1. Nonaccrual, past due and restructured loans.

* * * * *

Instructions.

* * * * *

(4) No loans shall be excluded from the amounts presented, except that loans to foreign borrowers which are restructured for reasons other than concerns as to ultimate collectibility and which are included in amounts disclosed pursuant to Instruction (6)(d) to Item III.C.3. need not be included in amounts reported pursuant to Item III.C.1.(c). Supplemental disclosures may be made to facilitate understanding of the aggregate amounts reported. These disclosures may include, for example, information as to the nature of the loans, any guarantees, the extent of collateral, or amounts in process of collection.

* * * * *

3. Foreign Outstandings.

* * * * *

Instructions.

* * * * *

(6) Where current conditions in a foreign country give rise to liquidity problems which are expected to have a material impact on the timely repayment of principal or interest on the country's private or public sector debt, furnish:

- (a) A description of the nature and impact of such developments.
- (b) An analysis of the changes in aggregate outstandings to borrowers in each such country (except that a country need not be included if aggregate outstandings to all borrowers in the country at the end of the most recent reported period do not exceed 1% of total assets), for the most recent reported period, in the following format:

	Country A	Country B
Aggregate outstandings at (beginning of period).....	\$X	\$X
Net change in short-term outstandings ..	X	X
Changes in other outstandings:		
Additional outstandings.....	X	X
Interest income accrued.....	X	X
Collections of:		
Principal.....	X	X
Accrued interest.....	X	X
Other changes.....	X	X
Aggregate outstandings at (end of period).....	X	X

For purposes of the above table, short-term outstandings are trade credits and interbank deposits (and similar items) which, at the time they were extended, had maturities of one year or less. This table should be supplemented with the amounts of short-term outstandings that are included in the end-of-period aggregate amounts reported for each country.

(c) the total amounts recognized as interest income and the total amounts of interest collected during the most recent reported period on all outstandings to each country disclosed pursuant to subpart (b) of this Instruction, if such totals are significantly different from the amounts disclosed pursuant to subpart (b) on the lines entitled

"Interest income accrued" and "Collections of accrued interest", respectively. (The amounts might be different if, for example, all or a portion of the outstandings were on a nonaccrual basis.)

(d) the following information, if a material portion of the outstandings to any country that is identified pursuant to subpart (b) of this Instruction is restructured during or subsequent to the most recent reported period, or if a material portion may be subject to restructuring pursuant to an agreement in principle (or its equivalent) which has been reached between the debtor and the registrant (or a committee organized by creditor banks to negotiate such an agreement in principle or its equivalent):

(i) information describing the pre- and post-restructuring repayment terms of the affected outstandings, including at a minimum the following (in tabular format such as the following):

	Country A	Country B
Amount restructured (or subject to restructuring).....	\$X	\$X
Weighted average year of maturity (including any grace periods):		
Pre-restructuring.....	19XX	19XX
Post-restructuring.....	19YY	19YY
Weighted average interest rate:		
Pre-restructuring (percent).....	X	X
Post-restructuring (percent).....	Y	Y

Alternative tabular formats are not precluded, provided that the minimum data presented above (or their equivalent) is presented. Supplementing weighted average maturities and interest rates with ranges of maturities and interest rates is not precluded; however, ranges should not be presented without also presenting weighted averages (unless the ranges are very narrow). Alternatively, individual years of maturities could be disclosed with respect to discernable portions of restructured outstandings, along with the interest rates on those portions. If interest rates are variable, the applicable index and the weighted average spread from the index should be disclosed in lieu of the actual rates as of any particular date.

(ii) a description of commitments (e.g., new money provisions; agreements to re-lend, or to maintain on deposit, repayments of principal or interest within the country) arising or expected to arise in connection with the restructuring(s).

(iii) the amount of outstandings, separately as to each country, that has been removed or is expected to be removed from nonaccrual status as a result of the restructuring(s).

Disclosures pursuant to subpart (d) should be in reasonable proximity to disclosures pursuant to other subparts of this Instruction, and should be described as subject to change, if applicable.

* * * * *

PART 231—INTERPRETIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

2. By amending Part 231 by adding this Release to the list of interpretive releases set forth thereunder.

Exchange Act Industry Guides

3. By conforming Exchange Act Industry Guide 3 [Statistical Disclosure by Bank Holding Companies] to Securities Act Industry Guide 3, amended as described above.

PART 241—INTERPRETIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

4. By amending Part 241 by adding this Release to the list of interpretive releases set forth thereunder.

By the Commission.

Jonathan G. Katz,

Secretary.

November 25, 1986.

[FR Doc. 86-27123 Filed 12-2-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 157, 159, 284, and 381

[Docket Nos. RM79-63-000 through 007 and RM82-31-000 through 007 and CP86-143-002; Order No. 433-A]

Fees Applicable to Natural Gas Pipelines; Texas Gas Transmission Corp.

Issued November 24, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order denying rehearing, denying stay, and clarifying and amending the final rule and granting refund.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is denying rehearing, denying stay, clarifying, and amending Order No. 433, which established fees for natural gas pipelines under the Natural Gas Act and the Natural Gas Policy Act of 1978. The Commission denies rehearing because it believes its prior determination that the fees are authorized by the Independent Offices Appropriations Act is correct. Additionally, the Commission grants a refund to Texas Gas Transmission Corporation.

EFFECTIVE DATE: The amendments to the final rule are effective November 24, 1986.

FOR FURTHER INFORMATION CONTACT:

Sharon Dameron, Office of the General Counsel, 825 North Capitol Street NE., Washington, DC 20426; (202) 357-8583.

SUPPLEMENTARY INFORMATION:

Order Denying Rehearing, Denying Stay, and Clarifying and Amending the Final Rule and Granting Refund

Issued November 24, 1986.

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

In the matter of Fees Applicable to Natural Gas Pipelines, Docket Nos. RM79-63-000 through 007 and RM82-31-000 through 007 and Texas Gas Transmission Corporation, Docket No. CP86-143-002.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is denying rehearing of Order No. 433,¹ which established fees applicable to natural gas pipeline matters under the Natural Gas Act (NGA).² In addition, the Commission clarifies certain aspects of the order, makes several technical corrections and denies requests to stay the effective date of the order.

II. Discussion

In the final rule, the Commission established fees for the services and benefits it provides to natural gas pipelines under the Natural Gas Act and the Natural Gas Policy Act of 1978.³ The fees were promulgated under the authority of the Independent Offices Appropriation Act of 1952 (IOAA).⁴ The IOAA states, in pertinent part, that:

It is the sense of Congress that each service or thing of value provided by an agency . . . to a person . . . is to be self-sustaining to the extent possible.⁵

The Commission received five requests for rehearing, three petitions for stay, and one request for clarification.⁶ Petitioners argue that (1)

the Commission failed to properly exclude costs that inure to the public benefit in calculating the fees; (2) the Commission failed to demonstrate the relationship between the particular costs for which the Commission seeks reimbursement and the conferring of any special benefit conferred on the regulated company; (3) the direct billing procedures are vague and subject to arbitrary application; (4) the cost basis for the fees is inadequately particularized; (5) the fees improperly discriminate against different classes of end-users; (6) the transportation certificate application fees should be paid by the shippers rather than the pipeline; (7) the final rule is unfair because of the potential adverse impact on end-users served by pipelines not electing to become open-access transporters under Order No. 436; and (8) separate fees for transportation applications and transportation reports constitute unlawful duplicate billing.

In addition, petitioners assert that the final rule is not in compliance with (1) the IOAA; (2) the Regulatory Flexibility Act of 1980;⁷ (3) the National Environmental Policy Act of 1969; or (4) the notice requirements of the Administrative Procedure Act (APA) and relevant case law.⁸

Order No. 433 is the fifth in a series of fees rules issued by the Commission.⁹ The four preceding rules were challenged in and upheld by the U.S. Court of Appeals for the Tenth Circuit.¹⁰

Pipe Line Company (United); The Interstate Natural Gas Association of America (INGAA); and Transcontinental Gas Pipe Line Corporation (Transco). Additionally, the Commission received motions for stay from Columbia; Process Gas Consumers Group, American Iron and Steel Institute, The Georgia Industrial Group, and The Chemical Manufacturers Association, jointly; and Georgia-Pacific Corporation. Transco filed a request for clarification. Lone Star Gas Company filed a motion to intervene, but intervention is unnecessary to participate in a rulemaking. Columbia made a single filing consisting of both a petition for rehearing and a motion for stay. For purposes of clarity, the single filing will be treated herein as two separate filings.

¹ 5 U.S.C. 601-612 (1982).

² 5 U.S.C. 553(b)(3) (1982).

³ See Fees Applicable to Producer Matters under the Natural Gas Act, 49 FR 5074 (Feb. 10, 1984), rehearing denied and rule clarified, 49 FR 17,435 (April 20, 1984); Fees Applicable to Natural Gas Pipeline Rate Matters, 49 FR 5083 (Feb. 10, 1984), rehearing denied, 49 FR 17,435 (April 24, 1984); Fees Applicable to the Natural Gas Policy Act, 49 FR 35,357 (Sept. 7, 1984); and Fees Applicable to General Activities, 49 FR 35,348 (Sept. 7, 1984), rehearing denied, 49 FR 44,273 (Nov. 6, 1984).

⁴ Phillips Petroleum Company, et al. v. FERC, 786 F.2d 370 (10th Cir. 1986), petition for cert. denied, 55 U.S.L.W. 3220 [U.S. Oct. 7, 1986] [No. 85-2022].

¹ 50 FR 40,332 (Oct. 3, 1985) (FERC Statutes and Regulations ¶ 30,662).

² 15 U.S.C. 717-717w (1982).

³ 15 U.S.C. 3301-3432 (1982).

⁴ 31 U.S.C. 9701 (1982).

⁵ *Id.* In the Omnibus Reconciliation Act of 1986, Pub. L. 99-509, Congress provided that the Commission will collect beginning in fiscal year 1987 and each fiscal year thereafter sufficient fees and annual charges to cover the costs incurred by the Commission in a fiscal year.

⁶ Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company jointly (Columbia); The Process Gas Consumers Group, the American Iron and Steel Institute and the Georgia Industrial Group, jointly (Process Gas); United Gas

The methodology used by the Commission in establishing its fees in Order No. 433 is the same methodology which the Commission employed in its four previous fees rules. The issues that petitioners raise on rehearing are virtually the same issues that were raised in the previously challenged rules. In reviewing the previous four fees rules, the U.S. Court of Appeals for the Tenth Circuit addressed the majority of issues which petitioners now raise, and upheld the Commission on all counts. With these considerations in mind, the Commission now turns to issues raised by petitioners.

(A) Public Benefit

Process Gas, United, INGAA and Transco argue that the Commission did not properly exclude costs which inure to the public benefit in calculating the fees. This argument was raised at the appellate level in *Phillips Petroleum Co.*,¹¹ and summarily rejected. There the court said, relying on prior court precedent,¹² that the full costs of providing a service to regulated entities can be assessed regardless of the benefit flowing to the public.

For this reason, and those discussed in the final rule, the Commission denies rehearing of this issue.

(B) Special Benefit

Process Gas, United, INGAA, and Transco argue that the Commission failed to demonstrate the relationship between the particular costs for which the Commission seeks reimbursement and the conferring of any special benefit on the regulated company.

The Commission believes that the final rule adequately demonstrates the relationship between particular costs and special benefits conferred on the regulated entity. For example, the final rule explains the special benefits which section 7(c) certificates authorizing specific activities and blanket certificates confer on interstate pipelines. The rule also explains that the fee established is designed to recover the cost of review of an application and that the fee established in § 381.208 for activities subject to prior notice procedures under a blanket certificate is less than the fee for a specific section

7(c) certificate because significantly less work per completion is required.¹³

The final rule establishes the relationship between costs and benefits in a manner paralleling that of the four previous fees rules. Petitioners' argument was raised at the appellate level in each of the four previous fees rules and was rejected by the court. The court held "that the Commission did not act arbitrarily or capriciously in demonstrating that its services confer a benefit on fee payors."¹⁴ For this reason, the Commission rejects petitioners' argument.

(C) Direct Billing

Process Gas, United, INGAA, and Transco argue that the Commission's reservation of the direct billing option is subjective, vague, arbitrary, and capricious because the Commission failed to state specific standards for determining when a filing will trigger direct billing. For the reasons discussed below, the Commission believes it provided specific standards that are not subjective, vague, arbitrary, or capricious.

In the final rule, the Commission recognized that a few proceedings may be so extensive in scope and present such complex issues as to require an extraordinary amount of time and effort. In such cases, the fees established in the final rule would bear no reasonable relationship to the Commission's actual cost of the proceeding. The rule therefore reserved the option of "ordering a direct billing procedure pursuant to § 381.107 of its regulations not later than one year after receiving a complete filing from an applicant."¹⁵

The final rule states that the Commission "will not consider a filing for direct billing unless estimated staff processing time exceeds the average for that type of filing by a factor of five."¹⁶ The rule further states that even if staff processing time is expected to exceed five times the average, the Commission must still determine that the filing is extraordinary before direct billing procedures are instituted. The Trans Alaska Pipeline System case and the Alaska Natural Gas Transportation System application are set forth as examples of the types of extraordinary filings which might be subject to direct billing. The final rule predicts that direct billing will be rare and notes that only

one major and highly complicated certificate application was being directly billed at the time of issuance of the final rule. The Commission believes this standard is not subjective, vague, arbitrary or capricious. The issue of direct billing was raised at the appellate level in the four previous fees rules. The direct billing procedure in those rules matched almost verbatim the procedure specified in the final rule in this docket. Upon review, the court stated "We hold that the 'direct billing procedure' established in orders 360, 361, 394, and 395 is in accord with the IOAA and controlling law, and the Commission's procedure is not arbitrary or capricious."¹⁷ The Commission agrees, and for these reasons it believes that petitioners' argument is without merit.

(D) Sufficiency of Data

Process Gas, United, INGAA, and Transco argue that the Commission failed to adequately particularize the cost basis for the fees. They claim that the data placed in the Commission's public files are insufficient to verify the cost basis for each fee set forth in the final rule.

The Commission believes it provided sufficient data and explanation to justify the cost basis of its rule. The rule itself described in considerable detail the cost basis for these fees, and additional data were placed in the public file for this docket. For example, the final rule states that the cost basis includes "salaries and benefits; travel; transportation of things; rents, communications and utilities; printing; other support services; supplies; and equipment."¹⁸ The Commission notes further that similar claims were raised in the previous four fees rules decision and were rejected by the court.¹⁹

(E) True Beneficiary Test

Petitioners argue that the transportation certificate application fees should be paid by the shippers rather than the pipelines, since the shippers are allegedly the true beneficiaries of the transportation services. Petitioners also claim that the final rule improperly discriminates against different classes of end-users. Specifically, petitioners claim that pipelines will inevitably insist upon fee reimbursement clauses in their transportation contracts. Petitioners

¹¹ *Id.* at 376.

¹² *National Cable Television Ass'n v. FCC*, 554 F.2d 1094 (D.C. Cir. 1976) (National Cable II); *Electronic Industries v. FCC*, 554 F.2d 1109 (D.C. Cir. 1976); *Mississippi Power & Light Co. v. U.S. Nuclear Regulatory Commission*, 601 F.2d 223 (5th Cir. 1979), *cert. denied*, 444 U.S. 1102 (1980); and its own decision in *Nevada Power Co. v. Watt*, 711 F.2d 913 (10th Cir. 1983).

¹³ 50 FR 40,332, 40,334 (Oct. 3, 1985) (FERC Statutes and Regulations ¶ 30,662, 31,424).

¹⁴ *Phillips Petroleum Company, et al. v. FERC*, 786 F.2d 370 (10th Cir. 1986), *petition for cert. denied*, 55 U.S.L.W. 3220 (U.S. Oct. 7, 1986) (No. 85-2022).

¹⁵ 50 FR 40,332, 40,342 (Oct. 3, 1985) (FERC Statutes and Regulations ¶ 30,662, 31,436).

¹⁶ *Id.*

¹⁷ *Phillips Petroleum Company, et al. v. FERC*, 786 F.2d 370, 379 (10th Cir. 1986), *petition for cert. denied*, 55 U.S.L.W. 3220 (U.S. Oct. 7, 1986) (No. 85-2022).

¹⁸ 50 FR 40,332, 40,338 (Oct. 3, 1985); (FERC Statutes and Regulations ¶ 30,662, 31,429).

¹⁹ *Supra*, n.17.

argue that passing through of the fees to the end-users will adversely affect small end-users because the size of the Commission's fees will make small transportation transactions uneconomical. Petitioners also claim that the final rule has a discriminatory impact upon end-users served by pipelines that do not opt to transport gas under the rules promulgated by Order No. 436.

The Commission rejects the argument that the shippers are the true beneficiaries of the transportation service and should, therefore, be liable for the transportation certificate application fees. Section 7(c) of the NGA requires natural gas companies to obtain certificate authority prior to engaging in the transportation of natural gas subject to the Commission's jurisdiction. The NGA requires that the certificate be obtained by the company transporting the gas, namely the pipeline, and not the shipper. The certificate benefits the pipeline in that it is a statutory prerequisite to transporting gas—a business in which the pipeline is engaged for profit. As the certificate holder, the pipeline is properly assessed with payment of the certificate fee.

As to petitioners' claim that the final rule will have an adverse impact on small end-users, the Commission notes that pipelines can soften the impact of the fee upon small end-users by combining similar section 7 transportation applications for multiple large and small end-users into a single application, thereby incurring a single fee instead of a separate fee for each end-user. The Commission encourages pipelines to act responsibly in their filings and to combine similar filings wherever possible so as to lessen the financial impact on their customers.

(F) Duplicate Billing

Columbia argues that separate fees for transportation applications and transportation reports constitutes unlawful duplicate billing. The Commission does not believe it is engaging in duplicate billing since the Commission is not charging two fees for the same service. In particular, the processing of transportation applications and initial reports filed pursuant to § 284.223 of the Commission's Regulations constitutes two distinct services which the Commission provides. As such, separate filing fees are established for each. The Commission's Time Distribution Reporting System (TDRS), which serves as the basis for development of the fee schedules, provides a separate category for certificate reports. The separate reporting category ensures that

duplicate billing will not occur. Moreover, consolidation of the application fee with the reporting fees would result in an initial fee equal to the sum of the separate fees because both fees are based on actual average costs.

(G) Refunds

The Commission has also decided to revise § 381.109 to permit the refunding of filing fees which are inappropriately paid for filings for which no fee is established. Similarly, applicants who submit fees in excess of the amount established will be afforded a refund of the excess amount. The underlying reason for this revision is one of equity. If a filing fee is submitted with a filing for which no fee is established, or in excess of the fee established, the Commission believes that equity requires that the fee be returned. The Commission reverses its previous decision in Texas Gas Transmission Corporation, 35 FERC ¶ 61,082 (1986), in which the Commission denied a request for refund of a filing fee paid pursuant to § 381.207 for a temporary certificate application. The Commission orders that the fee be refunded.

(H) Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)²⁰ requires a description and analysis of final rules that will have a significant economic impact on a substantial number of small entities.²¹ Specifically, if an agency promulgates a final rule under the Administrative Procedure Act (APA)²² a final RFA analysis may be appropriate. A final RFA analysis must contain (1) a statement of the need for and objectives of the rule, (2) a summary of the issues raised by the public comments in response to any initial regulatory flexibility analysis, and the agency response to those comments, and (3) a description of significant alternatives to the rule consistent with the stated objectives of the applicable statute that the agency considered and ultimately rejected. An agency is not required to make an RFA analysis, however, if it certifies that a rule will not have "a significant economic impact on a substantial number of small entities."²³ In Order No. 433, the Commission performed an RFA analysis and concluded that the rule as promulgated represented a fair balance between the purposes of the IOAA and the RFA. The Commission received one comment on the RFA. In response to that comment,

the Commission reviewed its earlier RFA analysis and affirms its earlier findings. As a result of this review, the Commission also certifies that the fees will not have a "significant economic impact on a substantial number of small entities."

United claims that the Commission violated the RFA. United asserts that the Commission failed to comply with the basic requirement of the RFA that the rule be developed in a manner designed to minimize its economic impact on small entities. Specifically, United argues that the Commission failed to consider and prepare a meaningful assessment of the economic impact of fees on small customers of large pipelines, distribution companies and end-users. United also argues that the Commission failed to provide a description of the significant alternatives to the rule that would minimize the economic impact on these small entities and the reasons that these alternatives were rejected.

The Commission did not fail to meet the requirements of the RFA. In the final rule,²⁴ the Commission detailed its reasons for this agency action, its objectives, and the legal basis for this rulemaking. The Commission also considered the alternatives of reducing or eliminating the fees for small natural gas pipelines. In particular, the rule provides a mechanism for a reduction of fees to less than full cost recovery in order to prevent a disproportionate economic impact or for other good cause, including where the Commission wishes to encourage use of natural gas service. In addition, the rule contains a provision for waiver of fees for applicants that demonstrate severe economic hardship. Although the Commission did not reduce or eliminate particular filing fees for small pipelines affected, it struck a fair balance between the purposes of the IOAA and the RFA.

The Commission also believes that United misunderstands the intent of the RFA. In particular, United's argument that the Commission must consider the effects of this rule on small customers of pipelines, small distribution companies and small end-users of natural gas pipelines overstates the application of the RFA. In adopting the RFA, Congress was not asking agencies to study any potential economic effect on any small entity even if only indirectly affected by the rule. As noted in previous

²⁰ 5 U.S.C. 601-612 (1982).

²¹ *Id.* at 604(a).

²² *Id.* at 553.

²³ *Id.* at 605(b).

²⁴ 50 FR 40,332, 40,356 (Oct. 3, 1985) (FERC Statutes and Regulations ¶ 30,662, 31,439).

proceedings,²⁵ this Commission, like other agencies,²⁶ is required by the RFA to analyze only the effect of rules on regulated small entities to which the requirements of the rule apply.²⁷ Congress was clear about the reach of the statute: when an agency issues a rule that applies to small entities, the agency must consider, and try to mitigate, the burden on those small entities which must comply with the rule.²⁸ Order No. 433 applies to natural gas pipelines that are regulated by the Commission and that pay a fee established for services or benefits rendered by the Commission as provided for by the IOAA. For these reasons, the Commission believes that it met the requirements of the RFA in the final rule.

Even though the Commission prepared a final RFA analysis, the Commission certifies that Order No. 433 will not have a "significant economic impact on a substantial number of small entities", since most companies that must comply with the rule do not fall within the RFA's definition of small entity. As noted in the final rule,²⁹ most jurisdictional natural gas pipelines are not small entities as defined under the RFA³⁰ because they (1) are too large to

be considered a "small business," and (2) natural gas pipelines are not "small organizations" because they are for profit and as holders of exclusive selling rights within a respective field of operation they are dominant within a field of operation. Accordingly, the Commission certifies that pursuant to Section 605(b) of the RFA, this rule will not have a "significant economic impact on a substantial number of small entities."

(I) National Environmental Policy Act

The National Environmental Policy Act³¹ (NEPA) requires Federal agencies to prepare an environmental impact statement (EIS) any time a major action by that agency may or will have a significant effect on the quality of the human environment.

Only one commenter addressed NEPA. United claims that the Commission failed to comply with NEPA by promulgating Order No. 433 without preparing an EIS. United states that the requirements of NEPA apply to all major Federal actions and that there can be no question that rulemakings constitute major Federal actions. United claims that the fees provided for in the final rule will have a "chilling effect" on natural gas use, which in turn will lead to the substitution of "dirtier alternative fuels" and "promote more air pollution."

The provisions of the rule do not necessitate the preparation of an EIS. An environmental analysis is premised on the existence of a foreseeable direct connection between the Federal action and environmental effect. A determination concerning the need for an EIS lies with the Commission.³² In making that determination, the Commission must look to see whether there is a foreseeable direct connection between the "major federal action" taken by the rule, and any effect on the physical environment.³³ The Commission does not find a foreseeable direct connection between the Commission's action and any environmental effect either through the regulations or the relationship between the rulemaking and the price and use of natural gas in the marketplace. Since there is no direct connection between the payment of a fee with each filing made with the Commission and any

effect on the environment, no EIS is required.³⁴

The Commission also disagrees with United's contention that the fees provided in this rule will "have a chilling effect on natural gas use" by increasing the burner-tip price of gas paid by ratepayers and lead to the substitution of alternative dirtier fuels. In the final rule,³⁵ the Commission found that the burner-tip price of gas is related to all elements of cost, including an appropriate allocation of fixed costs, commodity costs, costs of transportation and the cost of purchased gas. In comparing these costs with the fees imposed, the Commission concluded that the rate effect caused by the fees imposed under this rule is likely to be insignificant.³⁶

Order No. 433 is also coincident to a variety of economic conditions and activities which themselves may independently have environmental and economic impacts. These intervening economic conditions and activities include the terms of existing and future natural gas contracts, patterns of industrial, commercial and residential gas consumption, the level of industrial activity, general economic conditions, the price of alternative fuels, the marketability of gas, fuel-switching in relation to conversion costs, and gas conservation efforts. In this instance, the rulemaking cannot be said to have any direct environmental effect whatsoever in light of these intervening considerations. Thus, United's argument, that this rulemaking will affect the environment adversely due to fuel-switching that results from higher gas prices, is inaccurate. It fails to account for the marketability of the gas, the price of alternative fuels, and other intervening conditions.

The Commission has previously determined that environmental review under NEPA is not necessary if the variables involved render any environmental consequences unforeseeable.³⁷ The Commission

²⁵ Construction Work in Progress for Public Utilities; Inclusion of Costs in Rate Base, 48 FR 24,323 (June 1, 1983) (Docket No. RM81-38-000) (Order No. 298), rehearing granted in part and denied in part, 48 FR 46,012 (Oct. 11, 1983); Elimination of Variable Costs from Certain Natural Gas Pipeline Minimum Commodity Bill Provisions, 49 Fed. Reg. 22,778 (June 1, 1984) (Docket No. RM83-71-000) (Order No. 380), order on rehearing, 49 FR 31,259 (Aug. 6, 1984).

²⁶ See, e.g., 47 FR 5215 (Feb. 4, 1982) (final rule of Securities and Exchange Commission).

²⁷ Mid-Tex Electric Co-op., Inc. v. FERC, 773 F.2d 327, 342 (D.C. Cir. 1985) (No RFA analysis is necessary when the agency determines that the rule will not have a significant economic impact on a substantial number of small entities that are subject to the requirements of the rule.).

²⁸ See Congressional Findings and Declaration of Purpose, section 2, Pub. L. No. 96-354, codified at 5 U.S.C. 601, note (1982).

²⁹ 50 FR 40,332, 40,344 (Oct. 3, 1985) (FERC Statutes and Regulations § 30,062).

³⁰ The RFA defines a small entity as a small business, small organization or small governmental jurisdiction. A small business is defined under the Act as a small business concern under Section 3 of the Small Business Act. Small organizations are defined under the RFA as non-profit enterprises which are independently owned and operated and are not dominant in their field. Small governmental jurisdictions are governmental entities, including special districts with a population of less than 50,000. Under the RFA the Commission has the ability to deviate from the above definitions after consultation with the Office of Advocacy of the Small Business Administration and opportunity for public comment. However, the Commission has not chosen to do so.

³¹ 42 U.S.C. 4332 (1982).

³² Metlakatla Indian Community v. Adams, 427 F. Supp. 871 (D.D.C. 1977).

³³ Aluli v. Brown, 437 F. Supp. 602 (D. Ha. 1977); City of Santa Clara, California v. Kleppe, 418 F. Supp. 1243 (N.D. Cal. 1976); Como-Falcon Community, et al. v. U.S. Dept. of Labor, 609 F.2d 342 (8th Cir. 1979).

³⁴ See Swinowish Tribal, et al. v. FERC, 627 F.2d 499 (D.C. Cir. 1980), State of Louisiana v. Federal Power Commission, 503 F.2d 844 (5th Cir. 1974), where the courts required an EIS because of the direct connection between the actions of the Commission and the effect on the environment.

³⁵ 50 FR 40,332 (October 3, 1985).

³⁶ Id.

³⁷ See Opinion No. 770, "National Rates for Jurisdictional Sales of Natural Gas," RM75-14, issued July 27, 1976, 56 FPC 509, reh. denied. Opinion No. 770-A, 56 FPC 2698 (1976), aff'd. American Public Gas Ass'n v. FPC, 567 F.2d 1016 (D.C. Cir. 1977), cert. denied, 435 U.S. 907 (1978); Order No. 94-C, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act,"

adheres to the continued validity of this approach. NEPA does not require agencies to engage in environmental impact statements if the causal relationship between a Federal action and certain environmental effects is remote and conjectural.³⁸ The Commission believes that this principle applies here. There is no direct connection between Order No. 433 and any changed patterns of consumption or other market effects, much less the environmental effects of any such actions, that warrants further examination of the issue. Absent this direct connection between the Federal action and the impact on the physical environment, an environmental analysis under NEPA is not required.

United has also shown no direct connection between the rule and the level of air pollution. Rather, United attempts to require an EIS because of the potential impact of Order No. 433 on natural gas prices in the marketplace. The Commission and various courts have taken the position that the potential economic impact or social effects of a Federal action, without the showing of an impact on the physical environment, is insufficient to require an EIS.³⁹ For all these reasons, the Commission finds that Order No. 433 would not constitute a major Federal action affecting the quality of the human environment, and that it is not required to prepare an EIS for the final rule.

(I) Notice

INGAA argues that the fees established in the final rule are sufficiently different from those of the proposed rulemaking as to constitute inadequate notice under the APA. INGAA claims that there was inadequate notice of the background information and methodology upon which the Commission based the

particular fees established in Order No. 433.

The Commission believes the final rule in this proceeding did not violate the requirements of the APA. Federal agencies have considerable flexibility under the APA to make changes—even substantial changes—in final rules based on comments submitted during the comment period without renouncing the new provisions.⁴⁰ As long as the changes represent a logical outgrowth of the initial notice, or develop the rule originally proposed, neither the APA nor the courts require Federal agencies to provide interested persons with a new opportunity to comment.⁴¹

The Commission believes that the final rule in Order No. 433 is a logical outgrowth of the Notice of Proposed Rulemaking (NPR) issued in this docket.⁴² The NPR included thorough discussions of the identification of services, special benefits to identifiable recipients, smallest practical unit, basis of cost recovery, methodology, calculation of fees, and direct billing. The basis of cost recovery and the methodology described in the NPR were employed in the final rule. The NPR provided a fee of \$8,800 for NGA section 7(c) certificates not set for hearing and \$63,300 for NGA section 7(c) certificates set for hearing. In the final rule, issued three years after the NPR, one fee of \$12,200 was established for all NGA section 7(c) certificate applications.

As explained in the final rule,⁴³ the fees established were also calculated on the basis of actual time expended on docketed activities as recorded by the Commission's TDRS. The TDRS supplanted the previous reporting system, which was based on the unit supervisor's estimate of time expended, with more accurate, daily reports from employees themselves.

For the above reasons, the Commission disagrees with INGAA's contention that the fees established in the final rule are sufficiently different

from those proposed in the NPR as to constitute inadequate notice. The fees established in the final rule are a logical outgrowth of the original NPR and, therefore, the notice requirements under section 553(b)(3) of the APA have been met.

III. Clarifications

The Commission is clarifying the final rule in response to two requests for clarification from Columbia and Transco. In addition, several situations have arisen which necessitate clarification of the rule's application.

(A) Temporary Certificates

The Commission has determined that temporary certificate applications should not be construed as amendments to section 7(c) certificate applications because the costs associated with the temporary certificate applications are included in the calculation of the fee for the related permanent certificate application. For this reason the filing fee prescribed in § 381.207(b) for pipeline certificate applications does not apply to separately filed temporary certificate applications filed pursuant to section 7(c) of the NGA. Similarly no filing fee will be assessed for temporary certificate applications filed on or after November 4, 1985, either under § 381.207(b) of the regulations promulgated in Order No. 433 or under Part 159 of the Regulations effective prior to November 4, 1985.

(B) Joint Applications

Columbia requests clarification that joint applications, such as those filed by two affiliated companies, require a single fee per application and not separate fees for each of the joint applicants. Columbia's interpretation of the rule is correct. One fee will be charged for each application, whether it is filed by a single company or filed jointly by several companies.

(C) Applications Requesting Alternative Relief

The Commission has been presented with the problem of determining the appropriate filing fee for applications which are filed in the alternative. An example of such a filing would be an application requesting a declaratory order of non-jurisdiction, or, in the alternative, a certificate. Since the filing fee for a declaratory order is different than the filing fee for a certificate, the question arises as to which fee applies.

In analyzing this type of filing, the Commission considers several factors. First, the Commission provides that only one notice of an application requesting

RM80-47-002, *et al.*, issued May 24, 1983, FERC Stats. & Regs., Regulation Preambles (1982-1985), ¶ 30,454.

³⁸ See *e.g.*, *Citizens Advocates for Responsible Expansion v. Dole*, 770 F.2d 423 (5th Cir. 1985); *Save the Bay, Inc. v. United States Corps of Engineers*, 610 F.2d 322, 326 (5th Cir. 1980); *Sierra Club v. Hodel*, 544 F.2d 1036, 1039 (9th Cir. 1976); *Citizens Commission Against Interstate Route 675 v. Lewis*, 542 F. Supp. 496, 531 (S.D. Ohio 1982).

³⁹ Order No. 94-C, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," RM80-47-002, *et al.*, issued May 24, 1983, FERC Stats. & Regs., Regulation Preambles (1982-1985), ¶ 30,454, *Como-Falcon Community Coalition, Inc. v. U.S. Dept. of Labor*, 609 F.2d 342 (8th Cir. 1979); *Image of Greater San Antonio, Texas v. Brown*, 570 F.2d 517 (5th Cir. 1978); *Breckinridge v. Rumsfeld*, 537 F.2d 864 (6th Cir. 1976); *Metlakatla Indian Community v. Adams*, 427 F. Supp. 871 (D.D.C. 1977); *City of Santa Clara, Cal. v. Kleppe*, 418 F. Supp. 1243 (N.D. Cal. 1976).

⁴⁰ See *Mid-Tex Electric Cooperative, Inc. v. FERC*, 773 F.2d 327, 339 (D.C. Cir. 1985); *Pennzoil Co. v. FERC*, 645 F.2d 360, 371 (5th Cir. 1981); *American Iron & Steel Institute v. EPA*, 568 F.2d 284, 293 (3rd Cir. 1977); *International Harvester Co. v. Ruckelshaus*, 478 F.2d 615, 632 n.51 (D.C. Cir. 1973).

⁴¹ *United Steelworkers of America v. Marshall*, 647 F.2d 1189, 1221 (D.C. Cir. 1980), *cert. denied*, 452 U.S. 530 (1981); accord *BASF Wyandotte Corp. v. Costle*, 598 F.2d 637, 642 (1st Cir. 1979), *cert. denied*, 444 U.S. 1096 (1980); *American Paper Institute v. United States E.P.A.*, 660 F.2d 954 (4th Cir. 1981).

⁴² Fees Applicable to Natural Gas Pipelines, 47 FR 40,634 (Sept. 15, 1982) (proposed to be codified at 18 CFR parts 2, 152, 153, 154, 156, 157, 281, 284, 375, and 381) (Docket No. RM82-31-000) (Sept. 10, 1982).

⁴³ 50 FR 40,332, 40,338 (Oct. 4, 1985). (FERC Statutes and Regulations ¶ 30,662, 31,429).

alternative forms of relief is published in the *Federal Register*. As a result, the application is noticed in its entirety, as opposed to sequential noticing of each form of alternative relief requested. This notice procedure benefits the applicant in that it speeds the Commission's review process.

Second, under the IOAA, the Commission has the responsibility for recovering its costs for government services for which an identifiable recipient derives a specific benefit. When alternative relief is requested, it is not known, at the time of filing, which relief (if any) will be granted. The applicant derives the special benefit of Commission consideration of the form of relief associated with the higher fee, even if that form of relief is not granted.

Third, assessing a fee that is less than the higher of the fees associated with the various alternative forms of relief requested would result in a loophole in the Commission's fee structure in that an application could be filed in the alternative solely to reduce the filing fee.

For these reasons, the Commission has determined that applications requesting alternative forms of relief will incur the higher of the fees associated with each form of alternative relief requested. Applicants who feel virtually certain that the Commission will grant the relief associated with the lower fee can avoid payment of the higher fee by simply not requesting the alternative relief associated with the higher fee. Therefore, the Commission believes it is justified in requiring payment of the higher fee for applications requesting alternative forms of relief.

(D) Blanket Certificates

Since the issuance of Order No. 433, the Commission has perceived the need to clarify the applicability of filing fees as they relate to existing blanket certificates. Prior to November 4, 1985, the effective date of Order No. 433, holders of blanket certificates were required to pay fees annually pursuant to Part 159 of the Commission's Regulations. These fees were based on a percentage (0.00195) of the actual costs of facilities constructed or acquired during the previous calendar year under the automatic authorization provisions of the blanket certificate.

The question that arises is whether holders of blanket certificates issued prior to the effective date of Order No. 433 must obtain a new blanket certificate in order to avoid paying fees pursuant to Part 159 in perpetuity. A second question that arises is whether these blanket certificate holders must

submit the filing fee prescribed in § 381.207(b) in order to maintain the effectiveness of their blanket certificates.

The Commission clarifies that the holder of a blanket certificate issued prior to November 4, 1985, is not required to pay a filing fee pursuant to Part 159 for projects completed after November 4, 1985 under the automatic authorization provisions of the blanket certificate. Nor is the holder of a blanket certificate issued prior to November 4, 1985, required to submit the filing fee prescribed by § 381.207(b) in order to retain the effectiveness of that blanket certificate, since Order No. 433 did not become effective until November 4, 1985. Blanket certificates issued prior to November 4, 1985 are equally as valid as blanket certificates issued on or after November 4, 1985.

The Commission notes however, that holders of blanket certificates remain subject to the fees prescribed in § 381.208, relating to activities requiring prior notice, regardless of the date of issuance of the blanket certificate.

(E) Calculation of Blanket Certificate Fees

On June 17, 1986, Transco filed a request for clarification concerning the method for calculating fees for certain activities under blanket certificates issued prior to November 4, 1985, pursuant to Order No. 234.⁴⁴ Order No. 234 provides that fees relating to the construction or acquisition of new facilities built or acquired under a blanket certificate are to be paid in accordance with 18 CFR Part 159 and should accompany the filing of the annual report.⁴⁵ Section 159.2(d) of the Commission's Regulations provides that the fee for the construction or acquisition of new facilities shall be one-hundred and ninety-five-one-thousandths of one percent (0.00195) of the actual cost. Section 157.207(a) of the Commission's Regulations provides that annual reports shall be submitted on or before May 1 of each year.

Review of the annual reports submitted on or before May 1, 1986, revealed confusion concerning the calculation of the fees for the construction or acquisition of new facilities built or acquired under blanket certificates during calendar year 1985. Many companies were uncertain as to the applicability of the fees prescribed in Part 159 to facilities completed in 1985 under blanket certificates issued prior to

November 4, 1985. As a result, numerous companies paid the fees under protest.

Transco specifically requests clarification that no fee is required for facilities completed during calendar year 1985 pursuant to a blanket certificate issued prior to November 4, 1985. Transco's interpretation is partially correct. The fee established in Part 159 (.00195 of cost) applies only to those newly constructed or acquired facilities completed prior to November 4, 1985, the effective date of Order No. 433. Newly constructed or acquired facilities completed on or after November 4, 1985, incur no fee since the fee for a blanket certificate under Order No. 433 is not tied to the cost of newly constructed or acquired facilities.

The Commission is using the project completion date included in the annual report to determine whether the new or old fees regulations apply to a given project because, under the old blanket certificate fees regulations, the project completion date was used to determine the year in which the fee was to be paid.

For the above reasons, applicants who either obtained or filed for a blanket certificate prior to November 4, 1985, pursuant to Order No. 234 are liable only for fees under Part 159 for newly constructed or acquired facilities completed prior to November 4, 1985. Such parties do not incur fees pursuant to Part 159 for newly constructed or acquired facilities completed on or after November 4, 1985, under the automatic authorization in the blanket certificate, nor do they incur the filing fee prescribed in § 381.207(b) for blanket certificate applications.

The Commission notes, however, that § 381.208 applies equally to prior notice requests under blanket certificates obtained before, on, or after November 4, 1985. Section 381.208 prescribes a fee for requests under the blanket certificate notice and protest procedures. Whether the blanket certificate was issued before, on, or after November 4, 1985 is immaterial to the disposition of a filing pertaining to the blanket certificate notice and protest procedures. Therefore, § 381.208 is applicable to all such filings, regardless of the date of issuance of the blanket certificate.

Applicants who inaccurately calculated their 1985 blanket certificate fees on the basis of newly constructed or acquired facilities completed throughout calendar year 1985 are advised that they are eligible for a refund to the extent that the fees are attributable to newly constructed or acquired facilities completed on or after November 4, 1985. To obtain a refund, applicants must file a request for refund

⁴⁴ 47 FR 24,254 (June 4, 1982). (FERC Statutes and Regulations ¶ 30,368).

⁴⁵ *Id.* See Footnote number 14 in Order No. 234.

with the Commission pursuant to § 381.109. The request for refund must specifically identify the newly constructed or acquired facilities completed on or after November 4, 1985, for which a fee was inappropriately paid. The total cost of the facility, project or work order number, completion date, amount of refund claimed, and docket number under which the fee was paid must also be stated in the request for refund.

(F) Blanket Certificate Projects Under \$7,000

Section 159.2(e) of the Commission's Regulations effective prior to November 4, 1985, provides that no fee is required for newly constructed or acquired facilities costing less than \$7,000. Under Order No. 234, this section also applies to newly constructed or acquired facilities built under a blanket certificate.⁴⁶

Review of the annual reports submitted on or before May 1, 1986, revealed confusion concerning the calculation of the fees for projects completed under a blanket certificate that cost less than \$7,000. The Commission clarifies that the \$7,000 figure relates to the total sum of all projects. As an example, 100 projects each costing \$6,000 would incur a fee of \$1,170 (0.00195 x 600,000), and would not be viewed as 100 separate exemptions under § 159c.2(e). The Commission further clarifies that this clarification of § 159.2(e) only applies to projects completed prior to November 4, 1985 under blanket certificates since Order No. 433 did not become effective until that date and no fee was established for projects completed after that date.

(G) NGA Section 7(c) Certificates

In administering the final rule, the question has arisen as to the applicability of Part 159 to NGA section 7(c) certificate applications filed prior to the effective date of Order No. 433. The Commission clarifies that NGA section 7(c) certificate applications filed prior to November 4, 1985 are governed by the fees prescribed in Part 159 of the Commission's Regulations even if the construction or acquisition of projects authorized by the certificate is not completed until on or after November 4, 1985. For example, an application filed prior to November 4, 1985 to construct or acquire new facilities pursuant to a section 7(c) certificate would incur a \$50 filing fee pursuant to § 159.1(f) of the Commission's Regulations and would also incur filing fees pursuant to §§ 159.2

(a), (b), (c), and (d), regardless of the completion date of the project. The application would not, however, incur the filing fee established in § 381.207(b) pursuant to the regulations promulgated in Order No. 433. In contrast, section 7(c) certificate applications filed on or after November 4, 1985 would only incur the filing fee prescribed by § 381.207(b) and would not be subject to fees under Part 159 of the Commission's Regulations.

(H) Reimbursable Projects

In administering the final rule, the question has arisen as to the calculation of fees for projects completed on a reimbursable basis prior to November 4, 1985 under a blanket certificate. A reimbursable project is one in which the holder of the blanket certificate is reimbursed by another party for a portion of the costs associated with the project. The question that arises is whether the holder of the blanket certificate must pay a fee based on the total cost including the reimbursable costs, or whether he must pay a fee based only on the costs which he himself incurred.

The Commission clarifies that projects completed on a reimbursable basis prior to November 4, 1985 under blanket certificate authority incur a fee under § 159.2 of the Commission's Regulations based upon the total cost of the project, to include the reimbursable costs associated with the project. Similarly, reimbursable projects completed after November 4, 1985, pursuant to section 7(c) applications filed prior to November 4, 1985, incur a fee under § 159.2 based upon the total project cost, including reimbursable costs. Section 159.2 provides that the fee be based on the "cost of construction of new facilities or of facilities to be acquired". The Commission sees no reason to interpret the word "cost" in this phrase to mean "cost, less all reimbursable costs". To exclude the reimbursable costs from the fee calculation would result in inequitable treatment of the projects subject to fees under § 159.2. As such, the Commission declines to embrace an interpretation of § 159.2 which would permit the exclusion of reimbursable costs from the fee calculation.

(I) Optional Certificates Combined With Blanket Certificates

The Commission notes that an application for an optional certificate filed pursuant to Subpart E of Part 157, which is accompanied by an application for a blanket certificate filed pursuant to Part 284, will incur two separate filing fees pursuant to § 381.207(b). Applicants will not be permitted to avoid paying a

fee for both the optional certificate application and the blanket certificate application by combining the two into a single filing. Optional certificate applications and blanket certificate applications stem from two separate authorities under the Commission's Regulations. As such, the standards for determining whether the application is required by the public convenience and necessity are not identical. An application which combines a request for an optional certificate with a request for a blanket certificate entails as much effort to process as two applications which each request a single certificate.

Moreover, the applicant derives two separate benefits from the combined application. The applicant derives the benefit of Commission consideration of the request for an optional certificate, and Commission consideration of the request for a blanket certificate. Since these two certificates are separate and distinct, the applicant will derive two separate benefits should both requests be granted.

Furthermore, under the Commission's Management Information System, filings which combine optional certificate requests with blanket certificate requests are treated as two separate filings, whether they are filed together or separately. Accordingly, two separate fees will be charged for such filings.

(J) Applicability of Part 159

The Commission clarifies that Part 159 of the Commission's Regulations does not apply to applications filed on or after November 4, 1985 because it has been superseded by Order No. 433. As such, the \$50 fee for abandonment applications specified in § 159.1(e) does not apply to abandonment applications filed on or after November 4, 1985. Similarly, the \$50 fee for temporary certificate applications specified in § 159.3(d) is not applicable to temporary certificate applications, or to amendments to applications, filed on or after November 4, 1985. Amendments filed after November 4, 1985 to applications filed prior to November 4, 1985 are not subject to the fees prescribed in § 381.110 for substantial amendments. To prevent confusion on this matter, §§ 159.1, 159.2a, 159.3, and 159.4 of Part 159 are being removed from the regulations. Sections 159.1 and 159.2a are no longer applicable; §§ 159.3 and 159.4 are redundant in that the information in those sections is provided either in Order No. 433 or in the Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the

⁴⁶ 47 FR 24,254 (June 4, 1982). (FERC Statutes and Regulations ¶ 30, 368).

Provisions of the Natural Gas Act.⁴⁷ Section 159.2 is being revised to clearly indicate that the fees prescribed by that section are only applicable to projects constructed or acquired pursuant to section 7 applications, filed prior to November 4, 1985, or to projects completed prior to November 4, 1985, pursuant to a blanket certificate.

(K) No Fee for Applications for Abandonment Authorized Under § 157.216(b) of the Commission's Regulations

In its application for rehearing, Columbia requests that the Commission clarify that the fee established in § 381.208 for "Requests under the blanket certificate notice and protest procedures" does not apply to requests for abandonments under § 157.216(b) submitted in accordance with § 157.205(b). Section 157.216(b) provides that the abandonment is subject to the notice requirements of § 157.205. Columbia has correctly interpreted this provision of the fees rule. The fee prescribed in § 381.208 does not apply to requests for abandonment authorization under § 157.216(b) because Order No. 433 specifically states that no fee will be charged for abandonment applications at this time.⁴⁸

(L) Effect of Order No. 436

Numerous sections of the Commission's Regulations were changed or amended as a result of Order No. 436.⁴⁹ These changes had a subsequent effect on the sections of the Commission's Regulations which implement Order No. 433. As a result of Order No. 436, some of the provisions of the regulations implementing Order No. 433 were inadvertently not revised to reflect Order No. 436 and are no longer meaningful. To correct this "housekeeping" problem, the Commission is renumbering various sections in Parts 157 and 284 concerning fees to coincide with the regulations adopted in Order No. 436 and in subsequent rulemakings.

IV. Disposition of Petitions for Stay

Columbia, Process Gas, and Georgia-Pacific filed requests for stay of the final

rule. In their respective requests for stay, Columbia and Process Gas contend that a stay of the final rule's effective date is necessary to prevent irreparable harm to their own and other pipelines and to small end-users. They contend that the four standards articulated in *Virginia Petroleum Jobbers Ass'n. v. F.P.C.*,⁵⁰ for granting of a stay are satisfied. Specifically, Columbia states that it anticipates incurring fees of approximately \$1,000,000 which will result in irreparable harm. Process Gas states that some smaller end-users may be irreparably harmed financially if pipelines seek reimbursement for the filing fees from customers. Similarly, Georgia-Pacific contends that the imposition of substantial filing fees for applications under section 7(c) of the NGA is unduly harsh given the uncertainty in the natural gas marketplace following Order No. 436 and that a delay of the final rule's effective date would serve to soften its impact. Georgia-Pacific recommends a 45-day delay in the effective date.

Section 705 of the APA⁵¹ authorizes the Commission to postpone the effective date of action taken when it finds that justice so requires, but the Commission is unable to make that finding here.

First, the petitioners have not shown that implementation of Order No. 433 will cause imminent irreparable harm. Petitioners' claims as to the harm that Order No. 433 will do to small end-users and to pipelines as a result of Order No. 436 are unsubstantiated. Petitioners did not provide the Commission with any statistical data in support of their contentions. Moreover, even if the allegations are true, they would not constitute irreparable harm since the petitioners have not shown that the irreparable harm they cite, specifically monetary loss, cannot be adequately compensated for in any subsequent litigation.⁵²

Second, the Commission does not believe that staying the effectiveness of Order No. 433 is in the public interest. The Commission has the responsibility under the IOAA to establish fees for the services and benefits it provides. The IOAA mandates that "each service or thing of value provided by an agency . . . to a person . . . is to be self-sustaining to the extent possible."⁵³ Order No. 433 implements

this policy with respect to natural gas pipeline matters under the NGA. Accordingly, petitioners' requests for stay are denied.

V. Effective Date

Generally, a rule becomes effective not less than 30 days after it is published in the **Federal Register**. A rule may become effective sooner if it is an interpretive rule or policy statement, if it relieves a restriction or grants an exemption, or if the agency finds that there is good cause to do so.⁵⁴

The Commission finds that the provisions of this order should become effective immediately upon issuance rather than (30) thirty days after it is published in the **Federal Register**. The clarifications contained in the rehearing are the Commission's interpretation of Order No. 433 and as such fall under the provisions of section 553(d) of the APA. The change in the Commission's policy concerning refunds relieves a restriction and can become effective immediately upon issuance under the provisions of § 553(d) of the APA. Finally the Commission has made numerous technical changes to its regulations concerning fees to coincide with the regulations adopted in Order No. 436 and in subsequent rulemakings. As noted a rule can become effective immediately upon issuance where there is good cause to do so. The good cause standard can be met where the agency finds it is impracticable, unnecessary or contrary to the public interest to abide by the 30 day period. The 30 day period is unnecessary when the rule issued is minor, or involves technical amendments which the public is not particularly interested in.⁵⁵ The Commission finds that renumbering various sections of its Regulations to conform to Order 436 and subsequent rulemakings involves technical changes. Therefore these changes will be effective immediately upon issuance under the provisions of section 553(d)(3) of the APA.

List of Subjects

18 CFR Part 2

Administrative practice and procedure, Electric power, Environmental impact statements, natural gas, pipelines.

18 CFR Part 157

Natural Gas.

⁵⁴ 5 U.S.C. 553(d) (1982).
⁵⁵ Department of Justice, *Attorney General's Manual on the Administrative Procedure Act* (1947) at p. 31.

⁴⁷ 18 CFR Part 201 (1986).

⁴⁸ 50 FR 40,332, 40,335 (Oct. 3, 1985). (FERC Statutes and Regulations ¶ 30,662, 31,425).

⁴⁹ Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 50 FR 42,408 (Oct. 18, 1985) (Order No. 436), *reh'g granted*, 50 FR 52,217 (Dec. 23, 1985) (Order No. 436-A), *reh'g granted*, 51 FR 6398 (Feb. 24, 1986) (Order No. 436-B), *reh'g denied*, 51 FR 11,566 (April 4, 1986) (Order No. 436-C), *reh'g denied*, 51 FR 11,569 (Apr. 4, 1986) (Order No. 436-D), *appeal pending*, *Associated Gas Distributors v. FERC*, No. 85-1811 (D.C. Cir. filed Dec. 12, 1985).

⁵⁰ 259 F.2d 921 (D.C. Cir. 1958).

⁵¹ 5 U.S.C. 705 (1982).

⁵² *Virginia Petroleum Job Ass'n v. Federal Power Commission*, 259 F.2d 921 (D.C. Cir. 1958); *FTC v. Standard Oil Co.*, 449 U.S. 223, 101 S. Ct. 448 (1980).

⁵³ 31 U.S.C. 9701(a) (1982).

18 CFR Part 159

Fees and Annual Charges Under the Natural Gas Act.

18 CFR Part 284

Continental Shelf, Natural Gas, Reporting Requirements.

18 CFR Part 381**General Fees.**

In consideration of the foregoing, the Commission amends Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. The authority for Part 157 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717-717w (1982), as amended; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 142 (1978).

2. Section 157.102(a)(1) is revised to read as follows:

§ 157.102 Contents of application and other pleadings.

(a) *General contents.* (1) Any application under this subpart must contain all information necessary to advise the Commission fully concerning the transportation, sales and other services, and facilities, construction, extension, or acquisition and operation for which a certificate and conditional pre-granted abandonment authorization is requested. All applications pursuant to this subpart must be accompanied by the fee prescribed in Part 381 of this chapter or a petition for waiver pursuant to § 381.106 of this chapter.

§ 157.205 [Amended]

3. Section 157.205(b) is amended by removing the words "this chapter and an original" and adding, in lieu thereof, the words "this chapter, except that no fee shall be assessed for abandonment activities under § 157.216(b), and an original".

4. The authority for Part 159 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7102-7352 (1982); E.O. 12009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Natural Gas Act, 15 U.S.C. 717-717w (1982); 43 U.S.C. 1334(c) (1982); E.O. 10085, 3 CFR 970 (1949-1953), unless otherwise noted.

§§ 159.1, 159.2a, 159.3 and 159.4 [Removed]

5. Sections 159.1, 159.2a, 159.3, and 159.4 are removed in their entirety.

§ 159.2 [Amended]

6. Section 159.2 is amended by revising the title now reading "Applications involving construction or acquisition of facilities" to read as follows:

§ 159.2 Applications filed prior to November 4, 1985 involving the construction or acquisition of facilities pursuant to section 7 of the NGA, and projects completed prior to November 4, 1985 involving the construction or acquisition of facilities pursuant to a blanket certificate.

7. Section 159.2 is further amended by removing from the introductory text the words "In addition to the fees prescribed by § 159.1, and except" and adding, in lieu thereof, the word "Except".

8. The authority for Part 284 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717-717w (1982), as amended; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982) E.O. 12009, 3 CFR 142 (1978).

§ 284.221 [Amended]

9. Section 284.221(b)(1) is amended by removing the words "must include;" and adding, in lieu thereof, the words "must be accompanied by the fee prescribed in Part 381 of this chapter or a petition for waiver pursuant to § 381.106 of this chapter and must include:".

§ 284.244 [Amended]

10. Section 284.244 is amended by removing the words "include the following:" in the introductory text and adding, in lieu thereof, the words "be accompanied by the fee prescribed in Part 381 of this chapter or a petition for waiver pursuant to § 381.106 of this chapter and must include the following:".

11. The authority for Part 381 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR (1978); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a-825r (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982).

§ 381.109 [Amended]

12. Section 381.109 is amended by removing the words "Federal Register." and adding, in lieu thereof, the words "Federal Register or, if the fee is inappropriately paid for a filing for which no fee is established. Fees paid in excess of the fees established under this part may be refunded to the extent of the amount paid in excess. To obtain a refund, the applicant must file a motion

requesting refund with the Commission."

13. Section 381.110 is revised to read as follows:

§ 381.110 Fees for substantial amendments.

Fees established under this part for any filing will also be charged, as appropriate, for any substantial amendment to a pending filing. An amendment is considered substantial if it changes the character, nature, or the magnitude of the proposed activity or rate in the pending filing. For purposes of this section, an application for a temporary certificate is not considered to be an amendment to a pending certificate application.

§ 381.207 [Amended]

14. Section 381.207(a) introductory text is amended by removing the words "any application for authorization" and inserting, in lieu thereof, the words: "any application, other than an application for a temporary certificate, for authorization".

15. Section 381.207(a)(1) is amended by removing the words "157.103" and adding, in lieu thereof, the words "157.102", and by removing the words "284.222 and" and adding, in lieu thereof, the words "284.224 and".

§ 381.207 [Amended]

16. Section 381.207(a)(2) is amended by removing the words "§§ 284.107, 284.127, and 284.244" and adding, in lieu thereof, the words "§ 284.244".

17. Section 381.207(b) is amended by removing the words "157.103, 157.204, 284.107, 284.127, 284.221, 284.222" and adding, in lieu thereof, the words "157.102, 157.204, 284.221, 284.224".

[FR Doc. 86-27053 Filed 12-02-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of the Secretary****24 CFR Part 13**

[Docket No. R-86-1289; FR-2226]

Use of Penalty Mail in the Location and Recovery of Missing Children; Correction

AGENCY: Office of the Secretary, HUD.
ACTION: Final rule; correction.

SUMMARY: This document corrects the final rule on the use of penalty mail in the location and recovery of missing children, which was published on June 3, 1986 (51 FR 19829), by (1) correcting the

authority citation and (2) replacing the words "official mail" in § 13.1 with the words "penalty mail".

FOR FURTHER INFORMATION CONTACT: Sandra L. Timbrook, Chief, Mail and Transportation Branch, Office of Administrative and Management Services, Room 5176, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 755-5703. (This is not a toll-free number.)

Accordingly, 24 CFR Part 13 is corrected as follows:

1. The authority citation for Part 13 is corrected to read as follows:

Authority: 39 U.S.C. 3220(a)(2); 5 U.S.C. 301.

§ 13.1 [Amended]

2. Section 13.1 is corrected by replacing the words "official mail" with the words "penalty mail".

Dated: November 26, 1986.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 86-21799 Filed 12-2-86; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 807

Procedures for Issuing Air Force Publications and Forms Outside the Air Force

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: This regulation provides Air Force procedures for issuing publications and forms to private citizens, organizations and commercial activities. The regulation informs the public sector to obtain administrative publications and forms from the local Air Force installation, or where not available from the local installation, the requests are referred to the proper source.

EFFECTIVE DATE: January 2, 1987.

ADDRESS: HQ USAF/DAPD, Bolling AFB, DC 20332-6468.

FOR FURTHER INFORMATION CONTACT: Walter S. Frazer, HQ USAF/DAPD, Bolling AFB, DC 20332-6468, telephone (202) 767-6077.

SUPPLEMENTARY INFORMATION: On April 23, 1986, the Air Force published a proposed rule on issuing Air Force publications and forms outside the Air Force (51 FR 15352). No comments were received.

The Department of the Air Force has determined that this regulation is not a

major rule as defined by Executive Order 12291, is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 32 CFR Part 807

Government contracts, Government procurement.

Accordingly, 32 CFR, Chapter VII, is amended by adding Part 807 as set forth below:

PART 807—ISSUING AIR FORCE PUBLICATIONS AND FORMS OUTSIDE THE AIR FORCE

Sec.

807.1 Issuing publications and forms to private citizens, private organizations, and commercial activities.

807.2 Issuing publications and forms free outside the Air Force.

807.3 Shipments made by contractors.

Authority: Sec. 8012, 70A Stat. 488, 10 U.S.C. 8012.

§ 807.1 Issuing publications and forms to private citizens, private organizations, and commercial activities.

(a) Classified publications, accountable forms, or forms requiring storage safeguards will not be released to private citizens, private organizations or commercial activities except as stated in § 807.2 and Part 806 of this chapter.

(b) Publications marked For Official Use Only (FOUO) and Limited (L) distribution will be processed as follows:

(1) FOUO publications will be processed in accordance with Part 806 of this chapter.

(2) Requests for limited (L) distribution will be referred to the Automatic Data Processing System (ADPS) manager.

(c) Except as stated in paragraphs (a) and (b) of this section, requests from private citizens and organizations will be processed as follows. The fee schedule and charges outlined in Part 813 of this chapter will be used. Non-user charge transactions, waiver or reduced charges, other special charges and exclusions will be processed in accordance with Part 812 of this chapter. Requests will be processed according to locally established procedures.

(1) If requested items are not immediately available from local stocks, the Publishing Distribution Office will obtain them from the Air Force Publishing Distribution Center for release to the requester. Where special release prohibitions are indicated on the

cover or title page, the publication will be processed according to the instructions shown.

(2) If an item is not stocked by the Air Force Publishing Distribution Center, and the index indicates availability from another source, the request will be referred to that source and the requester advised of the referral.

(3) If the request is submitted under the Freedom of Information Act as defined in Part 806 of this chapter, it will be referred to the local Freedom of Information Act Office.

(4) If a request is received by HQ USAF or the Air Force Publishing Distribution Center, it will be referred to the Air Force installation nearest to the requester for processing.

(d) Publications and forms will be issued free to commercial activities only under the conditions set forth in § 807.2; otherwise, Parts 806, 812 and 813 of this chapter apply.

§ 807.2 Issuing publications and forms free outside the Air Force.

(a) If an Air Force publication or form requested concerns invitation for bid, then it is available for review by prospective bidders and may be obtained free from the Air Force procurement authority concerned.

(b) If an Air Force publication or form is needed in connection with contract performance, then it may be obtained free from the Air Force or Defense Logistics Agency (DLA) official responsible for administering the contract, as follows:

(1) One-time issue to contractor.

(2) Followup or recurring issue to contractors of Federal Supply Catalog handbooks and manual chapters when guaranteed by contract (otherwise contractor must purchase from Superintendent of Documents, GPO).

(3) Followup or recurring issue to contractor of Air Force publication or form when the Air Force contract administering official determines issue to be necessary to contract performance.

(c) If an Air Force publication or form is desired in small quantities, and is one-time issue to another federal, state, or local government agency, then it is available free subject to security regulations on classified material; Part 806 of this chapter for FOUO publications; release requirements on L distribution items; and special release statements on individual items. The publications may be obtained from the Publishing Distribution Office or other issuing activity. Recurring requests and requests for large quantities will be referred to the procuring headquarters

for determination of whether reimbursement is required.

§ 807.3 Shipments made by contractors.

(a) Air Force activities responsible for printing and distribution contracts will ensure that contractors comply with this part to the extent it is incorporated into the contract. Appropriate shipping instructions must be included in printing contracts that require initial distribution of the publications being printed.

(b) Backup stock is generally shipped to storage points by freight. However, if the contract requires the contractor to make distribution by mail, the contracting activity is authorized to furnish the contractor with Air Force official mailing labels which carry the return address of the Air Force sponsor. Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-27166 Filed 12-2-86; 8:45 am]

BILLING CODE 3910-01-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 304

Cost of Living Adjustment for Performance of Musical Compositions by Public Broadcasting Entities Licensed to Colleges and Universities

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: In accordance with 37 CFR 304.10(a) the Copyright Royalty Tribunal announces a cost of living adjustment of 1.2%. This adjustment is to be applied to the compulsory royalty rates paid by public broadcasting entities which are licensed to colleges, universities or other nonprofit educational institutions and which are not affiliated with National Public Radio, for their use of copyrighted published nondramatic musical compositions. In accordance with 37 CFR 304.10(b) the Copyright Royalty Tribunal publishes a revised schedule of rates as adjusted by the above change in the cost of living index.

EFFECTIVE DATE: January 2, 1987.

FOR FURTHER INFORMATION CONTACT: Edward W. Ray, Chairman, Copyright Royalty Tribunal, 1111 20th Street, NW., Washington, DC 20036.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 29, 1982 (47 FR 57923) codified at 37 CFR 304.10, the Copyright Royalty Tribunal published a final rule announcing the adjustment of the royalty schedule for the use of certain copyrighted works in connection with noncommercial broadcasting.

Section 304.10 Cost of living adjustment.

(a) On December 1, 1983 the CRT shall publish in the Federal Register a notice of the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) from the May 1982 to the last Index published prior to December 1, 1983. On each December 1 thereafter the CRT shall publish a notice of the change in the cost of living during the period from the first Index published subsequent to the previous notice, to the last index published prior to December 1 of that year.

(b) On the same date of the notices published pursuant to paragraph (a), the CRT shall publish in the Federal Register a revised schedule of rates for § 304.5 alone, which shall adjust those royalty amounts established in dollar amounts according to the change in the cost of living determined as provided in paragraph (a) of this section. Such royalty rates shall be fixed at the nearest dollar.

(c) The adjusted schedule of rates for § 304.5 alone, shall become effective thirty dates after publication in the Federal Register.

Accordingly, it is announced that the change in the cost of living as determined by the Consumer Price Index, is revised as shown below:

List of Subjects in 37 CFR Part 304

Copyrights, Radio, Television.

PART 304—[AMENDED]

§ 304.5 [Amended]

1. The authority citation for Part 304 continues to read as follows:

Authority: 17 U.S.C. 118 and 801 (1976).

2. 37 CFR 304.5(c) is amended by removing the entries containing dollar amounts and inserting the following:

For all such compositions in the repertoire of ASCAP annually.....	\$152
For all such compositions in the repertoire of BMI annually.....	152
For all such compositions in the repertoire of SESAC annually.....	35
For the performances of any other such composition.....	1

Dated: November 26, 1986.

Edward W. Ray,
Chairman.

[FR Doc. 86-27048 Filed 12-2-86; 8:45 am]

BILLING CODE 1410-09-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL-3115-1]

Approval and Promulgation of State Implementation Plans, Colorado; Minor Revisions to Regulation No. 1

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This notice approves revisions to the Colorado Air Quality Control Commission Regulation No. 1 (Emission Control Regulations for Particulates, Smokes and Sulfur Oxides) of the Colorado SIP which were proposed to be approved on November 26, 1985 (40 FR 48613). The revisions were submitted by the Governor on June 22, 1982; on December 6, 1982 and on March 23, 1983. A supplemental submittal dated August 5, 1982 withdrew certain portions of the June 22, 1982 submittal, since said portions were not required by the Clean Air Act. There are also a number of minor revisions, additions and deletions to definitions in the "Common Provisions" for the Colorado Air Quality Regulations. The principal reason for this revision was to require Reasonably Available Control Technology (RACT) for casthouse operations and quenching towers at an existing iron and steel plant. However, subsequent to the State's submittal of this revision, these facilities were permanently closed. Under the circumstances, EPA considers the casthouse and quenching tower submission as surplus and we are not including that submission as part of the SIP. This action also addresses changes in the limitations for wigwam waste-wood burners, which changes maintain the opacity limit and improves the operation and maintenance (O&M) requirements for these burners. Changes were also made to the fugitive dust regulation so that it conforms to a State judicial decision.

EFFECTIVE DATE: January 2, 1987.

ADDRESSES: Copies of the revision are available for public inspection during normal business hours at the following offices:

Environmental Protection Agency,
Region VIII, Air Programs Branch, 999
18th Street, Denver, Colorado 80202-
2413

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

The Office of the Federal Register, 1100 L Street, NW., Room 8301, Washington, DC

FOR FURTHER INFORMATION CONTACT: Steve Frey, Air Programs Branch, Environmental Protection Agency, 999 18th Street, Denver, Colorado 80202-2413, (303) 293-1768.

SUPPLEMENTARY INFORMATION: The major issue initially relating to this action was the time requirement for installation of the Reasonably Available Control Technology (RACT) on the four casthouses located at the CF&I steel plant in Pueblo, Colorado. At the time the SIP proposal was submitted by the Governor, the Pueblo core area was designated as non-attainment for TSP. The timetable for implementation of RACT for the casthouses would have allowed the source to operate them without RACT in an area that would have not met the 1982 attainment date for TSP.

Before EPA took action on the revision, CF&I announced the permanent closure of a number of emission facilities at the plant, including the blast-furnaces and casthouses. After the closure was formalized, EPA took action on an existing request by the State to redesignate the Pueblo area to attainment for the primary TSP standard. This redesignation became effective June 15, 1984. With the emission source in question permanently shut down, the RACT requirement is no longer an issue for the source. If the facilities should return to operation in the future, they would be subject to new source review and permitting requirements. Since these sources are no longer operating, EPA is not including the steel mill RACT requirement in this approval.

This action modifies the regulation for wigwam waste-wood burners (wigwam burners). Previously, Regulation No. 4 contained the emission control requirements for existing wigwam burners. The opacity limitation in that regulation was 40%. However, Regulation No. 4 expired on January 1, 1978. This revision reinstates the 40% opacity limitation for these sources as part of Regulation No. 1, and adds operation and maintenance (O&M) requirements to promote improved operation of the wigwam burners. EPA believes that the 40% opacity limitation together with the new O&M requirements will result in lower actual emissions from these burners. This action, therefore, will have no adverse impact on the attainment status for TSP for the areas where existing burners are located.

The original SIP submittal (dated June 22, 1982) requested approval of requirements for fuel sampling or continuous emission monitoring of sulfur dioxide on any fossil fuel-fired steam generator with greater than 250 million BTU per hour heat input, regardless of whether the source had installed SO₂ removal equipment. The Colorado Air Quality Control Act provides that to the extent a regulation adopted by the Air Quality Control Commission is not required by the Clean Air Act, it shall not be a part of the State Implementation Plan. Since EPA required continuous emission monitoring on only those sources exceeding 250 million BTU per hour heat input which had actually installed SO₂ removal equipment, the state submitted a revision that modified its original requirement via the August 5, 1982 submittal to be consistent with EPA requirements. For boilers under 250 million BTU per hour heat input, the continuous emission monitoring requirement does not apply.

The State has modified its regulation pertaining to fugitive dust sources to require sources of fugitive dust to develop a plan to minimize the emission of fugitive dust into the atmosphere. The State's existing limit of 20% opacity and no visible off property transport had been overturned as being too vague by the State courts. The plan has been revised so that the limits for each source could be tailored to that specific type of source. Although the control scheme does not require all sources to immediately submit a plan, the State program does provide ample opportunity to require a plan from a source that causes a nuisance or is found to exceed either the 20% opacity or the no visible off property transport guidelines during routine inspection. Major sources are inspected by the State each year and minor sources are inspected every three years. The State also routinely responds to citizen complaints by conducting an inspection.

EPA believes that the rule will require the application of RACT to fugitive dust sources in both attainment and nonattainment areas. However, it is possible that a plan could be approved by the State which may not meet the requirements for application of RACT in a nonattainment area. If such a plan was approved by the State, EPA would not be able to enforce a RACT requirement, because the source would be complying with an approved SIP. To ensure that RACT is required in all nonattainment areas, EPA is approving this revision as a framework for fugitive dust RACT control. Under this framework, the state must submit each fugitive dust control

plan in nonattainment areas for approval as a SIP revision.

Comments

EPA Region VIII received no comments on the proposed Colorado SIP revision during the thirty day comment period.

Final Action

EPA approves revisions to Colorado Regulation No. 1 and the Common Provisions for the Colorado Air Quality Regulation.

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

List of Subjects in 40 CFR Part 52

Air pollution control, Sulfur oxides, Particulate matter, fugitive dust, smokes, and Incorporation by reference.

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

Dated: November 12, 1986.

Lee Thomas,
Administrator.

PART 40—[AMENDED]

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

Subpart G—Colorado

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.320 is amended by adding paragraph (c)(30) as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(30) Revisions to Air Pollution Control Commission Regulation No. 1 related to fugitive particulate emissions, were submitted by the Governor on June 22, 1982; on December 6, 1982; and on March 23, 1983, with a technical clarification dated August 5, 1982. Included is approval of requirements for continuous emission monitoring (CEM) of sulfur dioxide on fossil fuel fired steam generator with greater than 250 million BTU per hour heat input. Also addressed is the reinstatement of the 40% opacity limitation for wigwam waste-wood burners into Regulation No. 1. With this is the addition of operation and maintenance (O&M) requirements to promote improved operation of the wigwam burners.

(i) Incorporation by Reference

(A) Emission Control Regulations for Particulates, Smokes and Sulfur Oxides for the State of Colorado, Regulation No. 1.II (Smoke and Opacity); III (Particulates); IV (Continuous Emission Monitoring Requirements for Existing Sources; VII (Statements of Basis and Purpose); and Appendices A and B; which were effective on May 30, 1982.

(B) Colorado Air Quality Control Commission Common Provisions Regulation which was effective on May 30, 1982.

(C) Letter of August 5, 1982, from the State of Colorado to EPA. Clarification of the SIP Re: Continuous Emission Requirements for Oxides of Sulfur from Fossil Fueled Steam Generators.

[FR Doc. 86-27148 Filed 12-2-86; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register

Vol. 51, No. 232

Wednesday, December 3, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 278

[Amdt. No. 280]

Food Stamp Program; Retailer/Wholesaler Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement three provisions of the Food Security Act of 1985 (Pub. L. 99-198, 99 Stat. 1354, *et seq.*) which revised sections 3(k), 9(c) and 12(e) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2011 *et seq.*). The first provision would amend the definition of retail food store to require that sale volume at the time of application be determined by visual inspection, sales records, purchase records, or other inventory or accounting methods which are customary or reasonable in the retail food industry. The second provision would affect the sellers of retail food stores and wholesale food concerns. Owners of such concerns who sell their firms during a disqualification period would be subject to continued disqualification and to a civil money penalty which the Secretary could request the Attorney General collect through civil litigation. A bona fide purchaser or transferee would not be subject to the civil money penalty and would not be required to furnish a bond to be authorized to accept food stamps. The third provision of the Food Security Act contained in this rule concerns the release of information which firms are required to submit to the Food and Nutrition Service (FNS) regarding their participation in the Food Stamp Program (FSP). Under this provision, such information could be released by FNS to State agencies administering the Special Supplemental Food Program for Women, Infants and Children (WIC) so as to improve compliance by participating

retail stores with WIC Program requirements.

This rule also proposes withdrawal from the Food Stamp Program to firms which are removed from the WIC Program as a result of violations of that program's regulations.

DATE: Comments on this proposed rule must be received by February 2, 1987.

ADDRESS: Comments should be submitted to Bruce A. Clutter, Chief, Eligibility and Monitoring Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Room 708, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Emory Rice, Supervisor, Retailer Participation and Program Litigation Section, at the above address. Phone (703) 756-3427.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291. The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The rule will affect the economy by less than \$100 million a year. The rule will not raise costs or prices for consumers, industries, government agencies or geographic regions. There will be no adverse effects upon competition, employment, investment, productivity, innovation, or upon the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified the rule as "not major".

Executive Order 12372. The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.1551. For the reasons set forth in the Final rule, related Notice(s) to 7 CFR 3015, subpart V (Cite 48 FR 29115, June 24, 1983; or 48 FR 54317, December 1, 1983, as appropriate, and any subsequent notices that may apply), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act. This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96-354. Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this action, while affecting some retail food firms, will not have a significant impact on a substantial number of small entities. This rule may have a significant economic impact on some small entities affected by the rule. However, only a small number of firms will be affected.

Paperwork Reduction Act. This regulation does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act.

Background

Determination of Food Sales Volume at Time of Application (§ 271.2). Section 3(k) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2012(k)), was expanded by section 1502 of the Food Security Act of 1985 to state that when determining whether more than one-half of a retail food store's food sales volume consists of staple foods, food sales volume is to be determined by the visual inspection, sales records, purchase records, or other inventory or accounting recordkeeping methods that are customary or reasonable in the retail food industry. This new language of section 3(k) codifies current FNS practice to not require retail food stores to maintain or create records for the exclusive use of the Food and Nutrition Service in determining the food sales volume of retail food stores. The proposed regulation would require FNS to make the 50 percent staple food determination on the basis of existing business records or circumstances rather than force the retailer to create new reports or records as justification.

Withdrawal of Firms of WIC Program Violations (§ 278.1(o)). Currently, the Food Stamp Program Regulations (at 7 CFR 278.1(k)) permit FNS to withdraw the authorization of a firm if FNS finds that the firm lacks sufficient business integrity or reputation as to warrant that firm's withdrawal from the program. One of the factors which may be considered in determining a firm's business reputation and integrity is official records of removal from other Federal, State and local programs (7 CFR 278.1(b)(3)). Based on this authority,

FNS has withdrawn from the Food Stamp Program firms which have been removed from the WIC Program for violations of that program's regulations. However, the authority for withdrawal from the Food Stamp Program for violations of the WIC Program is not specifically spelled out in the regulations.

Both the Food Stamp Program and the WIC Program are food assistance programs intended to improve the nutrition of the needy. Both programs are funded to FNS. The WIC Program delivers benefits in the form of vouchers through States to needy recipients; the Food Stamp Program delivers benefits to recipients through State agencies in the form of food stamps. In both programs food is obtained by recipients exchanging coupons or vouchers in retail grocery firms and firms are reimbursed for the stamps or vouchers with FNS funds. Because of the similarity in the nature of the programs, the fact that many retailers participate in both programs and the fact the FNS funds both programs, it is incumbent upon FNS to oversee cross-compliance with program regulations by retail firms participating in both of these two major Federal feeding programs. In the Food Stamp Program, violations of program rules are uncovered through investigations by Federal officials or analysis of sales data revealing that violations have resulted in excessive food stamp redemptions. In the WIC Program, violations such as selling ineligible foods or the wrong quantities of eligible foods are discovered through investigations and audits conducted by State officials. FNS has already provided in the WIC Program regulations (7 CFR 246.10(k)(1)(iii)) that State agencies may remove stores from the WIC Program for violations of food stamp rules. Some WIC State agencies are exercising this option.

Firms participating in both the Food Stamp and WIC Programs deliver both program benefits through their grocery business. The programs are so similar that where a firm has violated the WIC Program regulations, its business reputation is damaged for Food Stamp Program purposes. A store which had been found, after full due process, to have violated the WIC regulations has clearly damaged its own integrity. The Department believes that a firm should automatically be withdrawn from the Food Stamp Program upon withdrawal from the WIC Program for violations of WIC Program regulations. Such a firm has clearly established by its actions in a related program its lack of business reputation and integrity sufficient to

warrant its removal from the Food Stamp Program. Accordingly, this proposed rule would add to § 278.1 such a provision.

In the WIC Program, a firm may be disqualified for a number of administrative reasons, such as not meeting the State agency's vendor selection criteria, not doing a large enough volume of WIC business to warrant continued approval, etc. However, the Department does not believe that a firm should be removed from the Food Stamp Program merely because the firm was disqualified from the WIC Program for administrative reasons. Rather, Food Stamp Program withdrawal would result from a WIC Program disqualification which is based on any act that constitutes a violation of the WIC regulations and which is shown to constitute misdemeanor or felony violations of law, or for any of the following specific program violations: claiming reimbursement for the sale of an amount of a specific food item with exceeds the store's documented inventory of that food item for a specified period of time; exchanging cash or credit for a WIC food instrument; receiving, transacting and/or redeeming WIC food instruments of outside of authorized channels; accepting WIC food instruments from unauthorized persons; exchanging non-food items for a WIC food instrument; charging the WIC Program for food items not received by WIC customers; charging the WIC Program for food items in excess of those listed on the food instrument; or charging WIC customers more for food than non-WIC customers or charging WIC customers more than current shelf price.

A WIC State agency notifies a firm of removal from the WIC Program with a letter advising of the charged violations and that the firm may request appeal. This rule requires that a firm being removed from the WIC Program be provided with a notice stating that it may also be withdrawn from the Food Stamp Program (FSP) as a result of the WIC violation when that possibility exists. The timing of FNS' notice must be such that the firm will have adequate opportunity to request review of the State agency's determination to remove it from the WIC Program, FSP review rights will of course be attached to the FSP withdrawal action. If the firm requests an appeal of the food stamp withdrawal by an FNS Review Officer as provided for at 7 CFR 278.8, the scope of this review would be limited to confirming that the firm was removed from the WIC Program for violation of that program's rules.

This rule also provides that once a firm has served the period of removal from WIC specified by the State agency, the firm may reapply for Food Stamp Program authorization. If the problems that cause a firm to be removed from WIC are resolved, there is no longer a reason to keep the firm out of the Food Stamp Program. Thus, the firm may then be reauthorized for the Food Stamp Program if it continues to otherwise qualify for authorization.

Release of Information on Firms on WIC State Agencies (278.1(q)). Current rules provide that the information that a firm is required to submit to FNS under section 9(c) of the Food Stamp Act of 1977, as amended, to allow a determination on whether the store qualifies or continues to qualify for program participation, may be disclosed only for purposes directly connected to administration or enforcement of the Food Stamp Act or the regulations issued pursuant to the Act. This limitation has prevented sharing with WIC State agencies information which would be useful to those agencies in monitoring retail food store compliance with WIC Program regulations. Specifically, this limitation has prevented the disclosure of firms' gross sales and food sales figures and information on their redemption of food stamps. This information would also be useful in auditing and investigating stores which may be violating the WIC Program regulations as well as in monitoring their participation in the FSP. Oversight of the compliance of retail stores with WIC rules has been limited by the restriction in the Food Stamp Act prohibiting the disclosure of information obtained from stores for purpose other than administration of the Food Stamp Program.

Congress, in section 1521 of the Food Security Act of 1985, amended section 9(c) of the Food Stamp Act (7 U.S.C. Section 2018(c)) to allow information such as gross sales and food sales data, food stamp redemption figures and other information obtained from firms by FNS, to be shared with WIC State agencies. This proposed rule allows release of this information to WIC State agencies. It is expected that this provision will increase the efficiency and effectiveness of retail oversight efforts by contributing to the prevention and detection of fraud, waste, and abuse in the WIC Program since this information is used for that purpose in the Food Stamp Program. It is noted that Congress did not intend that any irregularities in information relating to a firm's participation in the Food Stamp Program lead to an automatic presumption of irregularities in that

firm's WIC Program participation (House Report 99-271, 99th Cong., 1st Sess., pg. 156, September 13, 1985). No such presumption exists in the proposed regulatory language.

Procedures When a Disqualified Store is Sold (§ 278.6(f)). The Congress amended section 12 of the Food Stamp Act of 1977, (7 U.S.C. Section 2021(e)), to eliminate situations where a retailer or wholesaler violates the provisions of the Food Stamp Act or regulations, reaps profits until caught and disqualified, and then evades sanction through sale of the store (Senate Report 99-145, 99th Cong., 1st Sess., pg. 263, September 30, 1985, and House Report 99-271, 99th Cong., 1st Sess., pg. 156, September 13, 1985). Section 1532 of the Food Security Act of 1985 provides that in the event any retail store or wholesale food concern that has been disqualified from participation in the Food Stamp Program is sold or the ownership otherwise transferred, the person or other legal entity who sells or transfers the firm shall be subjected to a civil money penalty which reflects that portion of the disqualification period that had not expired as of the date of sale or transfer. The amount of the civil money penalty will be determined using the method found at 7 CFR 278.6(g). If the retail store or wholesale food concern has been permanently disqualified, the civil money penalty shall be double the penalty for a ten year disqualification period. In addition, the remaining, unexpired portion of the disqualification period of the firm would continue to apply against the seller(s) of the subject store, even though a civil money penalty has been paid by the seller(s) reflecting this portion of the disqualification period. That is to say, for example, a store subject to a 10 year disqualification period and sold after two years into the period, could be sold but its seller(s) would be subject to a civil money penalty which reflects the remaining eight years disqualification and the disqualification would continue to remain in effect for the seller(s) of the store. The new owner(s) may be authorized, if otherwise eligible and are either (1) a bona fide buyer or purchaser or (2) after the seller pays the full penalty to the Secretary. Historically, in implementing a disqualification of a firm to participate in the program, the Department has made a link between the firm's ownership and location. See, *United States v. Smith*, 572 F. 2d 1089 (C.A. Fla. 1979). Therefore, the impact of this regulatory provision extending the disqualification is that an owner(s) who sells a store during a disqualification period may not subsequently repurchase the store and become authorized until the disqualification period has expired,

even though the seller(s) has paid a civil money penalty to cover the remainder of the disqualification. It should also be noted that an application at another location by the seller(s) of a store still subject to a disqualification penalty will continue to be evaluated under 7 CFR 278.1(b)(3) with respect to business integrity and reputation.

In addition, this rule implements the amendment made by section 1532 of the Food Security Act of 1985 which provides that when the seller(s) of a disqualified store is assessed a civil money penalty, the Department may request the Justice Department institute a civil action against the seller(s) to collect such penalty in a district court of the United States for any district in which the seller(s) is found, resides or transacts business.

Implementation

The provisions of this rule will become effective 30 days after publication of the final rule.

List of Subjects

7 CFR Part 271

Administrative practice and procedures, Food stamps, Grant programs—Social programs.

7 CFR Part 278

Administrative practice and procedure, Banks, Banking claims, Food stamps Groceries—retail, Groceries, General line—wholesaler penalties.

Therefore, 7 CFR Parts 271 and 278 are proposed to be amended as follows:

1. The authority citation for Parts 271 and 278 continues to read:

Authority: 91 Stat. 958 (7 U.S.C. 2011-2029).

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2, Definitions, the definition of "Retail food store" is amended by adding after the words "food sales volume" in paragraph (1) the following: "as determined by visual inspection, sales records, purchase records, or other inventory or accounting recordkeeping methods that are customary or reasonable in the retail food industry."

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

3. In § 278.1:

a. Paragraph (b)(4)(ii) is amended by adding a new sentence after the last sentence.

b. Paragraph (o), (p), and (q) are redesignated as paragraphs (p) (q), and

(r), respectively and a new paragraph (o) is added. Newly designated paragraph (q) is revised.

The additions and the revision read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

(b) * * *

(4) * * *

(ii) * * * A buyer or transferee shall not, as a result of the transfer or purchase of a disqualified firm, be required to furnish a bond prior to authorization.

(6) * * *

(4) * * *

(o) *Removal from the Special Supplemental Food Program, for Women, Infants, and Children (WIC).* FNS shall withdraw the Food Stamp Program authorization of any firm which is disqualified from the WIC Program for any act which constitutes a violation of that program's regulations and which is shown to constitute a misdemeanor or felony violation of law, or for any of the following specific program violations:

(1) Claiming reimbursement for the sale of an amount of a specific food item which exceeds the store's documented inventory of that food item for a specified period of time;

(2) Exchanging cash or credit for a WIC food instrument;

(3) Receiving, transacting and/or redeeming WIC food instruments outside of authorized channels;

(4) accepting WIC food instruments from unauthorized persons;

(5) Exchanging non-food items for a WIC food instrument;

(6) Charging WIC customers more for food than non-WIC customers or charging WIC customers more than current shelf price; or

(7) Charging for food items not received by the WIC customer or for foods provided in excess of those listed on the foods instrument. FNS shall not withdraw the Food Stamp Program authorization of a firm which is disqualified from the WIC Program unless prior to the time set for review of WIC removal, the firm was provided notice that it could be withdrawn from the Food Stamp Program based on the WIC violation. Once a firm has served the period of removal from WIC specified by the State agency, the firm may reapply for Food Stamp Program authorization and be approved if otherwise eligible.

(q) *Safeguarding privacy.* The contents of applications or other

information furnished by firms, including information on their gross sales and food sales volumes and their redemptions of coupons, may not be used or disclosed to anyone except for purpose directly connected with the administration and enforcement of the Food Stamp Act and these regulations, except that such information may be disclosed to and used by State agencies that administer the Special Supplemental Food Program for Women, Infants and Children (WIC). Such purposes shall not exclude the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law.

4. In § 278.6, the text of paragraph (f) is redesignated as paragraph (f)(1). New paragraphs (f)(2), (f)(3), and (f)(4) are added to read as follows:

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

(f) *Criteria for a civil money penalty.*

(2) In the event any retail food store or wholesale food concern that has been disqualified is sold or the ownership thereof is otherwise transferred to a purchaser or transferee, the person or other legal entity who sells or otherwise transfers ownership of the retail food store or wholesale food concern shall be subjected to and liable for a civil money penalty in an amount to reflect that portion of the disqualification period that has not expired, to be calculated using the method found at § 278.6(g). If the retail food store or wholesale food concern has been permanently disqualified, the civil money penalty shall be double the penalty for a ten year disqualification period. The disqualification shall continue in effect at the disqualified location for the person or other legal entity who transfers ownership of the retail food store or wholesale food concern notwithstanding the imposition of a civil money penalty under this subsection.

(3) At any time after a civil money penalty imposed under paragraph (f) (2) of this section has become final under the provisions of Part 279, the Food and Nutrition Service may request the Attorney General to institute a civil action to collect the penalty from the person or persons subject to the penalty in a district court of the United States for any district in which such person or persons are found, reside, or transact business.

(4) A bona fide transferee of a retail food store shall not be required to pay a civil money penalty imposed on the firm prior to its transfer. A buyer or transferee (other than a bona fide buyer or transferee) may not accept or redeem coupons until the Secretary receives full payment of any penalty imposed on such store or concern.

Dated: November 26, 1986.

Robert E. Leard,

Administrator.

[FR Doc. 86-27181 Filed 12-2-86; 8:45 am]

BILLING CODE 3410-30-M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; EFT-2]

Electronic Fund Transfers; Proposed Update to Official Staff Commentary

November 25, 1986.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation.

SUMMARY: The Board is publishing for comment proposed changes to the official staff commentary to Regulation E (Electronic Fund Transfers). The commentary applies and interprets the requirements of Regulation E and is a substitute for individual staff interpretations of the regulation. The proposed revisions address questions that have arisen about the regulation.

DATE: Comments must be received on or before January 30, 1987.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to the 20th Street courtyard entrance (between C Street and Constitution Avenue, NW.), Washington, DC between 8:45 a.m. and 5:15 p.m. weekdays. Comments should include a reference to EFT-2. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Kathleen Brueger or Susan Kraeger, Staff Attorneys, Division of Consumer and Community Affairs, (202) 452-3667 or (202) 452-2412, or Earnestine Hill or Dorothea Thompson, Telecommunication Device for the Deaf (TDD), (202) 452-3224, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: (1) *General.* The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) governs any transfer of funds that is electronically initiated and that debits or credits a consumer's account. This statute is implemented by the Board's Regulation E (12 CFR Part 205). Effective September 24, 1981, an official staff commentary (EFT-2, Supp. II to 12 CFR Part 205) was published to interpret the regulation. The commentary is designed to provide guidance to financial institutions in applying the regulation to specific situations. The commentary is updated periodically to address significant questions that arise. This notice contains the proposed fifth update. It is expected that the update will be adopted in final form in March 1987. The previous updates were published on April 6, 1983 (48 FR 14880), October 18, 1984 (49 FR 40794), April 3, 1985 (50 FR 13180), and April 21, 1986 (51 FR 13484).

(2) *Proposed revisions.* The proposed additions to the commentary—questions 2-12.6, 3-3.6, 7-11.5, and 9-3.5—are self-explanatory. Questions 9-36 and 11-11.5 are proposed revisions of existing commentary provisions, and clarify the regulation's treatment of transfers resulting from cash transactions at merchant point-of-sale terminals—such as electronic check-out terminals at grocery stores.

Question 9-36 deals with the description of these transfers on receipts and periodic statements. The revised question would make clear that transfers resulting from cash only transactions—as well as transfers resulting from purchase only and purchase with cash back transactions—may be described in the same way on both receipts and periodic statements.

Question 11-11.5 would make clear that cash only (and cash back) transactions at merchant point-of-sale (POS) terminals are included in the term "point-of-sale debit card transactions." As a result, error allegations concerning transfers resulting from these transactions are subject to the longer error resolution time periods that are provided for POS debit card transactions.

New language is shown inside bold-faced arrows, while language to be deleted is set off with brackets.

List of Subjects in 12 CFR Part 205

Banks, banking; Consumer protection; Electronic fund transfers; Federal Reserve System; Penalties.

PART 205—[AMENDED]

The authority citation for Part 205 continues to read as follows:

Authority: Pub. L. 95-630 (15 U.S.C. 1693(b)) 92 Stat. 3730.

2. *Text of revisions.* The proposed revisions to the Official Staff Commentary on Regulation E (EFT-2, Supp. II to 12 CFR Part 205) read as follows:

Section 205.2—Definitions and Rules of Construction.

> Q 2-12.6: *Fund transfer—electronic payment of government benefits.* The recipients of a government benefit, such as public assistance or food stamps, receive their benefits from an automated teller machine or a staffed electronic terminal. For example, the recipient presents an identification card to a clerk, the card is run through an electronic terminal, the recipient's identity is verified (by means of a photograph, personal identification number, or signature, for example), and the benefits are given in the form of cash, food stamps, or food items. The benefits are disbursed from an account of the government entity paying the benefits, not an account established by or in the control of the consumers. Are these transactions subject to Regulation E?

A: No, since there is no debit or credit to a consumer asset account. (See questions 2-4 and 2-12.) (§ 205.2(b) and (g))<

Section 205.3—Exemptions

> Q 3-3.6: *Payments of dividends or interest on securities.* A payment of interest or dividends on securities is made by preauthorized electronic transfer into a consumer's account. The payment may be made, for example, by a discount brokerage firm into an account at an affiliated depository institution, or, for government securities, by a Federal Reserve Bank into the consumer's account at a depository institution. Is the transfer covered by Regulation E?

A: Yes. The securities exemption does not apply since there is no purchase or sale of securities. (§ 205.3(c))<

Section 205.7—Initial Disclosure of Terms and Conditions

> Q 7-11.5: *Restrictions on certain deposit accounts.* Regulation D imposes restrictions on the number of payments to third parties that may be made from a money market deposit account (whether made by electronic or nonelectronic means). Must these restrictions be disclosed under Regulation E as limitations on the frequency of electronic fund transfers?

A: Yes, limitations on account activity that restrict the consumer's ability to make electronic fund transfers must be disclosed to the consumer as part of the disclosure statement for EFT services. However, an

institution may disclose the limitations in an accompanying document given along with the principal disclosure statement. If an insert is used, the disclosure statement must refer to the accompanying document. (§ 205.7(a)(4))<

Section 205.9—Documentation of Transfers

> Q 9-3.5: *Receipts—inclusion of promotional material.* A financial institution uses receipts on which there is promotional material (such as discount coupons for food items at restaurants). Is the printing of such promotional material on the receipt prohibited by the regulation?

A: No. The regulation does, however, mandate that the required receipt information be set forth clearly; this may be achieved, for example, by separating it from the promotional material. In addition, a consumer must not be required to surrender the receipt (or that portion containing the required information) in order to take advantage of a promotion. (§ 205.9(a))<

Q 9-3.6: *Receipts/periodic statements—type of transfer.* What degree of specificity is required on terminal receipts and periodic statements for the type of transfer?

A: Common descriptions are sufficient. There is no prescribed terminology, although some examples are contained in the regulation. On periodic statements, [for example,] it is enough simply to show the amount of the transfer in the debit or the credit column if other information on the statement (such as a terminal location or third-party name) enables the consumer to identify the type of transfer. [As a further example, when] >When< a consumer obtains cash from a merchant >at a POS terminal< in addition to purchasing goods, >or obtains cash only.< it is not necessary to [treat the transaction as involving two different types of transfers.] > differentiate the transaction from one involving only the purchase of goods. (See question 9-27.)< (§ 205.9(a)(3) and (b)(1)(iii))<

Section 205.11—Procedures for Resolving Errors

Q 11-11.5: *POS debit-card transactions.* The deadlines for investigating errors are extended for all transfers resulting from POS debit-card transactions, regardless of whether an electronic terminal is involved. For purposes of these deadlines, what types of transactions can be viewed as POS debit-card transactions?

A: POS debit-card transactions >include all debit card transactions at merchants' point-of-sale terminals, including those for cash only. (Transactions at ATMs, however, are not POS transactions even though the ATM may be in a merchant location.) POS debit card transactions< generally take place at merchant locations but also include mail and telephone orders of goods or services involving a debit card. [Transactions at ATMs, however, are not POS even though the ATM may be in a merchant location.] (§ 205.11(c)(4))<

Board of Governors of the Federal Reserve System, November 24, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-27049 Filed 12-2-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 86-ANE-37]

Proposed Amendment to Times of Designation for Restricted Areas R-4102 A and B, Fort Devens, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the times of designation for Restricted Areas R-4102A and R-4102B, Fort Devens, MA, by reducing the published hours to more accurately reflect real time utilization of the airspace as a result of changing mission requirements of the using agency. The proposal would also reduce, from 48 hours in advance to 24 hours in advance, the Notice to Airmen (NOTAM) requirement for activation of R-4102A and R-4102B at other than the specified times.

DATE: Comments must be received on or before January 19, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, New England Region, Attention: Manager, Air Traffic Division, Docket No. 86-ANE-37, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

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: Paul Gallant, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9246.

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. Comments 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-ANE-37." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. 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 73 of the Federal Aviation Regulations (14 CFR Part 73) to reduce the times of designation for Restricted Areas R-4102A and R-4102B from "0000 Friday to 2359 Saturday local time; other times as specified by NOTAM 48 hours in advance." to "0800 to 2200 Saturday local time; other times by NOTAM issued 24 hours in

advance." Section 73.41 of Part 73 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 73

Aviation safety, Restricted areas.

The Proposed Amendment**PART 73—[AMENDED]**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; 14 CFR 11.69.

§ 73.41 [Amended]

2. Section 73.41 is amended as follows:

R-4102A Fort Devens, MA [Amended]

By removing the words "0000 Friday to 2359 Saturday local time; other times as specified by NOTAM issued 48 hours in advance." and substituting the words "0800 to 2200 Saturday local time; other times by NOTAM issued 24 hours in advance."

R-4102B Fort Devens, MA [Amended]

By removing the words "0000 Friday to 2359 Saturday local time; other times as specified by NOTAM issued 48 hours in advance." and substituting the words "0800 to 2200 Saturday local time; other times by NOTAM issued 24 hours in advance."

Issued in Washington, DC, on November 25, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-27183 Filed 12-2-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Part 943****Public Comment Period and Opportunity for Public Hearing on an Amendment to the Texas Permanent Regulatory Program**

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for a public hearing on the substantive adequacy of amendments submitted by the State of Texas to amend its permanent regulatory program (hereinafter referred to as the Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Texas regulatory program concerning water quality standards and effluent limitations, prime farmland, notices of violation and lands unsuitable for mining.

This notice sets forth the times and locations that the proposed amendment is available for public inspection, the comment period during which interested persons may submit written comments on the proposed program amendment and information pertinent to the public hearing.

DATES: Comments not received on or before 4:00 p.m. January 2, 1987, will not necessarily be considered.

If requested, a public hearing on the proposed modifications will be held on December 16, 1986, beginning at 10:00 a.m. at the location shown below under "ADDRESSES."

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 333 West 4th Street, Room 3014, Tulsa, Oklahoma 74103.

If a public hearing is held, its location will be at: The Federal Building, Room 577, 300 East 8th Street, Austin, Texas 78701.

See "SUPPLEMENTARY INFORMATION" for addresses where copies of the Texas program amendment and administrative record on the Texas program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSMRE Tulsa Field Office listed above.

FOR FURTHER INFORMATION CONTACT:

Mr. James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 333 West 4th Street, Room 3014, Tulsa, Oklahoma 74103; Telephone: (918) 581-7927.

SUPPLEMENTARY INFORMATION:**Availability of Copies**

Copies of the Texas program amendment, the Texas program and the administrative record on the Texas program are available for public review and copying at the OSMRE offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 333 West 4th Street, Room 3014, Tulsa, Oklahoma 74103; Telephone: (918) 581-7927

Office of Surface Mining Reclamation and Enforcement, 1100 L Street, NW., Room 5315, Washington, DC 20240; Telephone: (202) 343-4855

Railroad Commission of Texas, Surface Mining Reclamation Division, Capitol Station, P.O. Drawer 12967, Austin, Texas 78711; Telephone: (512) 463-6900.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than Tulsa, Oklahoma, will not necessarily be considered and included in the Administrative Record for this final rulemaking.

Public Hearing

Persons wishing to comment at a public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by the close of business December 11, 1986. If no one requests to comment at a public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will also allow OSMRE officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard.

Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendments may request a meeting at the OSMRE office listed in "ADDRESSES" by contacting the person listed under "FOR FURTHER INFORMATION CONTACT."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

Background

On July 20, 1979, the Secretary of the Interior received a proposed regulatory program from the State of Texas. On February 16, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary conditionally approved the Texas program (45 FR 12998, February 27, 1980).

Information pertinent to the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the condition of approval of the Texas program, can be found in the February 27, 1980 *Federal Register*. Subsequent actions concerning the Texas program are identified in 30 CFR 943.15 and 943.16.

Proposed Amendment

On October 22, 1986, the State of Texas submitted to OSMRE amendments to its approved permanent regulatory program. The amendments consist of proposed modifications to Texas regulations concerning water quality standards and effluent limitations, prime farmland, notices of violation and lands unsuitable for mining.

The proposed changes are summarized briefly below.

Water Quality and Effluent Limitations

1. Texas proposes to amend rules 051.07.04.340 and 051.07.04.510 concerning water quality standards and effluent limitations. The amended rules would be similar to the rules approved by OSMRE on July 9, 1985 (50 FR 27947) except that the language that appeared in 051.07.04.340 paragraph (d)(1) and provided an exemption for waste

discharge permits issued by the Texas Department of Water Resources, is deleted. Other minor changes are proposed in both rules.

Prime Farmland

Texas proposes to amend its rules concerning prime farmland. The amended rules would be similar to those approved by OSMRE on July 9, 1985 (50 FR 27947) with the exceptions noted below.

2. Texas proposes to amend, at rule 051.07.04.008, the definition of "historically used for cropland" so that it closely resembles the Federal definition at 30 CFR 701.5.

3. Texas proposes to delete the definition of "support facilities." In the July 1985 *Federal Register* notice, OSMRE noted that Texas' definition of "support facilities" was inconsistent with a court decision in *In re: Permanent Surface Mining Regulation Litigation, II*, and OSMRE therefore deferred action on the definition to allow Texas to amend it to concur with the court decision.

4. Texas proposes to amend 051.07.04.138(b)(2) on prime farmland investigation, to modify the requirements for the test for prime farmland based on 10% or greater slope. Other minor word changes are also proposed for 051.07.04.138.

5. Texas proposes to amend 051.07.04.184(b)(2) on prime farmland investigation to modify the requirements for the test for prime farmland based on 10% or greater slope (as in 051.07.04.138). Minor word changes are also proposed in 051.07.04.184.

6. Texas proposes to amend rule 051.07.04.201 on prime farmland to change references to "State Conservationist" to "principal officer in Texas of the U.S. Soil Conservation Service" and to add language explaining that the State Conservationist is the principal officer in Texas of the U.S. Soil Conservation Service and is responsible for consultation and review of prime farmland plans. Other minor changes are also proposed.

7. Texas proposes to amend rule 051.07.04.620 on prime farmland applicability and special requirements to delete the term "support facilities" from the applicability paragraph.

8. Rule 051.07.04.624 on soil replacement proposes one minor word change ("paragraph" instead of "subsection").

9. Minor word changes are proposed in 051.07.04.625.

Notices of Violation

10. Texas is proposing to modify its rules for notices of violation at 051.07.04.681. Texas proposes to revise paragraph (c) and add paragraphs (f) through (j). The revisions pertain to granting of abatement periods of longer than 90 days under certain circumstances.

Lands Unsuitable for Mining

Texas is proposing various amendments to its provisions on lands unsuitable for mining.

11. Texas proposes to amend rule 051.07.04.069 on objectives, to delete existing language and replace it with a general introductory paragraph.

12. Rule 051.07.04.070 would be amended to revise certain definitions pertaining to lands unsuitable for mining. These include the definitions for: owner of record or ownership interest of record; public building; public park; public road; publicly-owned park; and significant recreational, timber, economic or other values incompatible with surface coal mining operations.

13. Rule 051.07.04.071, titled "Areas Where Mining is Prohibited or Limited," is amended to add paragraph (b) concerning mining on Federal lands within a National Forest, to add under paragraph (e) another exemption to the restriction of mining within 300 feet of an occupied dwelling, and to add paragraph (h) prohibiting surface mining and exploration in certain Federal lands. Other minor changes are proposed.

14. Various changes are proposed in rule 051.07.04.072 to clarify procedures for determining whether proposed surface coal mining operations are limited or prohibited. Paragraph (d)(4) is amended to clarify how, and within what time-frame, a written finding concerning protection of the public and landowner interests will be made. A provision is added concerning protection of public and landowner interests as regards mining within 100 feet of a right-of-way and road relocation or closing. Provisions are added under paragraph (e) to expand and clarify provisions concerning owner or dweller waivers of rights. Paragraph (f) would be amended concerning publicly owned parks or places and notice to be sent to Federal, State or local agencies with jurisdiction over the publicly-owned parks or places. Other changes are proposed as well, to clarify and modify requirements.

15. Definitions concerning lands unsuitable for mining are amended at 051.07.04.074. These include the definitions for fragile lands, historic lands, natural hazard lands, renewable

resource lands, and substantial legal and financial commitments in a surface coal mining operation.

16. Minor changes are proposed in rule 051.07.04.075, criteria for designating lands as unsuitable; rule 051.07.04.076, land exempt from designation; and rule 051.07.04.077, exploration on land designated as unsuitable, to clarify requirements.

17. A minor change is made to the general paragraph under 051.07.04.078, procedures.

18. Procedures for petitions at 051.07.04.079 would be amended. Persons who wish to petition to have an area designated unsuitable for mining would be required to demonstrate an "injury in fact."

Paragraph (b) would be amended to provide that the Railroad Commission of Texas (RCT) shall determine what information a petitioner must provide, and to amend the requirements for minimum information required. Paragraph (c) lists information required to petition to terminate a lands unsuitable designation.

19. Texas proposes to amend rule 051.07.04.080 on processing, recordkeeping and notification procedures. Paragraphs (a)(1) and (a)(4) would clarify what is meant by a complete petition and by a frivolous petition. Paragraph (a)(7) would allow the RCT to determine not to process a petition for lands for which an administratively complete permit application had been filed and the first newspaper notice published. Paragraph (a)(8) concerns permit applications received on areas for which a petition has been suspended. Paragraph (b) covers notice and hearing requirements. Paragraph (c) concerns intervention and paragraph (d), availability of records.

20. Texas proposes to amend rule 051.07.04.081 concerning hearing requirements.

21. Texas proposes to amend rule 051.07.04.082 concerning notification of the petition decision to appropriate persons, and information to be placed in the record of the administrative proceeding.

22. Minor changes are proposed in rule 051.07.04.083 which covers data base and inventory. Rule 051.07.04.084 on public information, would be amended to add a confidentiality provision concerning properties proposed to be nominated to, or listed in, The National Register of Historic Places. A minor change is proposed for provisions on implementation responsibility in 051.07.04.085.

Therefore, the Director, OSMRE is seeking public comment on the adequacy of the proposed program

amendments. Comments should specifically address whether the proposed amendments are in accordance with SMCRA and no less effective than its implementing regulations.

Additional Determinations

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

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

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

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

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

List of Subjects in 30 CFR Part 943

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

Dated: November 25, 1986.

James W. Workman,
Deputy Director, Operations and Technical Services.

[FR Doc. 86-27101 Filed 12-2-86; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 169, 169a, and 171

[DoD Instruction 4100.33]

Commercial Activities Program; Procedures

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of Defense (DoD) is proposing to incorporate substantive changes to Part 169a required by OMB Circular A-76 "Performance of Commercial Activities," August 3, 1983. This part implements the policies established in 32 CFR Part 169 and DoD Directive, Installation Management, dated September 4, 1986. This part establishes procedures and criteria for use by DoD to determine whether DoD commercial activities should be performed by DoD personnel in-house or by contract with commercial sources. 32 CFR Part 169 Commercial Activities Program and 32 CFR Part 169a Commercial Activities Program Procedures are proposed to be removed in its entirety.

DATE: Comments must be received on or before: January 2, 1987.

ADDRESS: Office of the Assistant Secretary of Defense (Acquisition and Logistics), Installation Assistant, Pentagon, Washington DC 20301.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Hansen, telephone 202-325-0537.

SUPPLEMENTARY INFORMATION: Part 169 outlined the policy for commercial activities program, published September 16, 1985 (50 FR 37527). Part 169a was published in the *Federal Register* on October 7, 1985 (50 FR 40804), prescribing the procedures and criteria for use by DoD to determine whether DoD commercial activities should be performed by DoD personnel in-house or by contract with commercial sources. Comments will be available for public inspection by request. Because of the anticipated number of comments, DoD does not plan to acknowledge or respond to individuals comments. However, DoD will respond to comments in the preamble of the final rule.

List of Subjects in 32 CFR Part 171

Armed forces, Government procurement.

PART 169—[REMOVED]

Title 32 CFR Part 169 (Commercial Activities Program) is proposed to be removed in its entirety.

PART 169a—[REMOVED]

Title 32 CFR Part 169a (Commercial Activities Program Procedures) is proposed to be removed in its entirety.

Accordingly, 32 CFR Part 171 is added to read as follows:

PART 171—COMMERCIAL ACTIVITIES PROGRAM

Sec.	
171.1	Reissuance and purpose.
171.2	Applicability and scope.
171.3	Definitions.
171.4	Policy.
171.5	Responsibilities.
171.6	Commercial activities (CA) process.
171.7	Notification and reporting requirements.
Appendix A—	Commercial activities review procedures.
Appendix B—	Performance work statement (PWS)/solicitation guidance.
Appendix C—	Most efficient organization guidance.
Appendix D—	Full cost comparison process.
Appendix E—	Notification and reporting requirements.
Authority: 5 U.S.C. 301 and 552 and Pub. L. 93-400.	

§ 171.1 Reissuance and purpose.

This part:

(a) Replaces Parts 169 and 169a to update policy, procedures, and responsibilities required by OMB Circular A-76, DoD Directive 5128.1,¹ and DoD Directive 4001.1¹ for the use by the Department of Defense (DoD) to determine whether needed commercial activities (CAs) should be accomplished by DoD personnel or by contract with a commercial source.

§ 171.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

(b) Its provisions contain DoD procedures for CAs in the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) This part does not:

(1) Apply when contrary to law, executive orders, or any treaty or international agreement.

(2) Apply in times of a declared war or military mobilization.

(3) Provide authority to enter into contracts.

(d) Justify conversion to contract solely to avoid personnel ceilings or salary limitations.

(e) Authorize contracts that establish an employer employee relationship between the Department of Defense and contractor employees as described in the Federal Acquisition Regulation (FAR) 37.104.

¹ Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 301, 5801 Tabor Avenue, Philadelphia, PA 19120.

§ 171.3 Definitions.

Commercial activity review. The process of evaluating CAs for the purpose of determining whether or not a cost comparison will be conducted.

Commercial source. A business or other non-Federal activity located in the United States, its territories and possessions, the District of Columbia, or the Commonwealth of Puerto Rico, that provides a commercial product or service.

Conversion to contract. The changeover of a CA from performance of DoD personnel to performance under contract by a commercial source.

Conversion to in-house. The changeover of a CA from performance under contract by a commercial source to performance by DoD personnel.

Cost comparison. The process of developing an estimate of the cost of performance of a CA by DoD employees and comparing it, in accordance with the requirements in this part, to the cost to the Government for contract performance of the CA.

Directly affected parties. DoD employees and their representative organizations and bidders or offerers on the solicitation.

Displaced DoD employee. Any DoD employee affected by conversion to contract operation (including such actions as job elimination, grade reduction or reduction in rank). It includes both employees in the function converted to contract and to employees outside the function who are affected adversely by conversion through reassignment or the exercise of bumping or retreat rights.

DoD commercial activity (CA). An activity that provides a product or service obtainable (or obtained) from a commercial source. A DoD CA is not a Governmental function. A DoD CA may be an organization or part of another organization. It must be a type of work that is separable from other functions or activities so that it is suitable for performance by contract. A representative list of the functions performed by such activities is provided in paragraph E., Part 3, Appendix E. A DoD CA falls into one of two categories:

(a) **In-house CA.** A DoD CA operated by a DoD Component with DoD personnel.

(b) **Contract CA.** A DoD CA managed by a DoD Component operated with contractor personnel.

DoD employee. Refers to only civilian personnel of the Department of Defense.

DoD governmental function. A function that is related so intimately to the public interest as to mandate performance by DoD personnel. These

functions require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Department of Defense. Services or products in support of Governmental functions, such as those listed in paragraph E, Atch 3, Appendix E, are CAs and are normally subject to this part. Governmental functions normally fall into two categories:

(a) The act of governing; that is, the discretionary exercise of Government authority. Examples include criminal investigations, prosecutions, and other judicial functions; management of Government programs requiring value judgments, as in direction of the national defense; management and direction of the Armed Services; activities performed exclusively by military personnel who are subject to deployment in a combat, combat support, or combat service support role; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers, and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.

(b) Monetary transactions and entitlements, such as tax collection and revenue disbursements; control of the treasury accounts and money supply; and the administration of public trusts.

DoD personnel. Refers to both military and civilian personnel of the Department of Defense.

Expansion. The modernization, replacement, upgrading, or enlargement of a DoD CA involving a cost increase exceeding either 30 percent of the total capital investment or 30 percent of the annual personnel and material costs. A consolidation of two or more CAs is not an expansion unless the proposed total capital investment or annual personnel and material costs of the consolidation exceeds the total of the individual CAs by 30 percent or more.

Installation. An installation includes the land, buildings, structures, and utilities constructed or acquired for the operation and support of the mission of a post, camp, station, hospital, depot, base, arsenal, detachment, office, etc. Activities that are located within the confines of another installation and occupying portions of land, buildings, and structures of the main installation are considered to be tenants.

Installation commander. A commanding officer, or equivalent, of an installation. For the purpose of this part the term "installation commander" shall

also apply to the commander of a tenant activity.

New requirement. A newly established need for a commercial product or service. A new requirement does not include interim in-house operation of essential services pending reacquisition of the services prompted by such action as the termination of an existing contract operation.

Preferential procurement programs. Preferential procurement programs are mandatory source programs such as Federal Prison Industries (FPI) and the workshops administered by the Committee for Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act. Also included are small, minority and disadvantaged businesses, and labor surplus area set-asides and awards made under section 8(a) of the Small Business Act.

§ 171.4 Policy.

It is DoD Policy to:

(a) Provide excellent facilities and base services. High quality facilities and services are a good investment because they engender pride in the people who work and live on military installations thereby greatly enhancing their performance.

(b) Encourage competition with the objective of securing ever increasing quality at an acceptable price. Consider quality history in the source selection process and reward high quality performance.

(c) Delegate to the commanding officer of an installation authority to decide how best to accomplish the mission and accountability for all resources applied to the mission (DoD Directive 4001.1).

(d) Make available to the commanding officer of an installation a share of any resources saved or earned so that he may improve the operations and the working and living conditions at the installation (DoD Directive 4001.1).

(e) Provide employment opportunities to people whose Federal jobs are eliminated through CA competitions.

§ 171.5 Responsibilities.

(a) The *Deputy Assistant Secretary of Defense (Installations)*, or his designee, shall:

(1) Maintain an inventory of in-house DoD CAs and the Commercial Activities Management Information System (CAMIS).

(2) Encourage and facilitate program implementation.

(3) Develop National Defense criteria.

(b) The *Assistant Secretary of Defense (Comptroller)* shall provide inflation factors/price escalation indices

and policy guidance to the DoD Components on procedures and systems for obtaining cost data for use in preparing the in-house cost estimate.

(c) The *Deputy Assistant Secretary of Defense (Logistics)* shall approve or disapprove core logistics waiver requests provided for in § 171.6(b)(5).

(d) The *Heads of DoD Components* shall:

(1) Encourage and facilitate CA competitions.

(2) Develop detailed criteria for Installation Commander's use in decision making consistent with the National Defense criteria contained in § 171.6(b)(4).

(3) Establish a central point of contact office for the Commercial Activities Program.

(4) Establish administrative appeal procedures (see § 171.6(c)(7)).

(5) Exert maximum effort to find suitable employment for any displaced DoD employee, including:

(i) Placing them in the DoD Priority Placement Program.

(ii) Paying reasonable costs for training and relocation when these will contribute directly to placement.

(iii) Coordinating with the Office of Personnel Management (OPM) to ensure displaced DoD Component employees have access to Government-wide placement programs, including the OPM-operated Displaced Employee Program (DEP) and the Interagency Placement Assistance Program (IPAP).

(iv) Coordinating with the Department of Labor and other agencies to promote private sector employment for separated workers.

(v) Consistent with postemployment restrictions, advising DoD Component displaced employees that they have the right to first refusal for employment on the contract in positions for which they are qualified, and assisting them in applying for such employment.

(6) Ensure that all notification and reporting requirements are satisfied (see Appendix E).

(e) The *Commanding Officer of an Installation* shall:

(1) Annually prepare and report an inventory of in-house CAs (see Appendix E).

(2) Decide which CAs to subject to competitive bidding (see § 171.6(b)).

(3) Decide which CAs to convert directly to contract performance (see § 171.6(b)(2)).

(4) Decide whether CAs should be competed individually or in groups and the composition of those groups.

(5) Choose, in close consultation with the Contracting Officer, the contract type, the method of solicitation (sealed

bid or negotiated), the procedure for evaluation of contractors' bids or proposals, the type of contract monitoring to be used (award fee, incentive fee, deduct clause, or combination thereof), and the length of the contract plus option years (subject to FAR 17.204(e)).

(6) Submit all required reports in a timely manner (see paragraph (7)).

(7) Conduct the competitive bidding process before starting a new in-house CA or significantly expanding a current in-house CA, unless contractor operation is infeasible.

(8) Complete a competition once it has been solicited. Competitions will not be cancelled except when required by law or by the independent reviewing agency.

(9) Exert maximum effort to find suitable employment for any displaced employee.

§ 171.6 Commercial activities (CA) process.

(a) *Inventory.* Installation Commanders shall annually prepare an inventory to identify the functions that shall be subject to this part. The inventory shall be reported in accordance with the guidance contained in Atch 3 of Appendix E.

(1) Functions that will not be reflected in the inventory are:

(i) Governmental functions as defined in § 171.2.

(ii) CAs staffed solely with civilian personnel paid by nonappropriated funds.

(iii) CAs involved in the conduct of research and development, except for severable in-house CAs in support of research and development, such as those listed in paragraph E., Atch 3, Appendix E.

(2) Installation Commanders shall establish and report review schedules of their functions subject to this part. See Atch 3, Appendix E for amplification. CAs approved for retention in-house, for any reason, shall be reviewed at least once every 5 years.

(b) *Review.* Installation Commanders shall evaluate their functions to determine:

(1) CAs eligible for full cost comparison under the procedures of this part.

(2) CAs that may be converted to contract performance without a full cost comparison. See Appendix A for amplification.

(3) Contractor performed CAs to be considered for return to in-house performance when contract costs become unreasonable or performance becomes unsatisfactory. See Appendix A for amplification.

(4) CAs exempt from the requirements of this part for reasons of national defense. See Appendix A for amplification.

(5) Core Logistics Activities exempt from the requirements of this part unless a waiver is approved. See Appendix A for amplification.

(6) CAs where no satisfactory commercial source is available. See Appendix A for amplification.

(7) CAs involved in direct patient care. See Appendix A for amplification.

(8) CAs performing firefighting and security guard functions where contracting is prohibited by law. See Appendix A for amplification.

(9) CAs exempt from a cost comparison when an economic analysis is required by Pub. L. 97-214.

(c) *Procedures.* Activities selected for competition with private industry under full cost comparison, simplified cost comparison, and direct conversions military personnel CAs are subject to the following guidance.

(1) *Notification.* The Installation Commander shall make notification of a decision to perform a full cost comparison or a decision to directly convert an in-house CA based on a simplified cost comparison. Appendix E contains notification procedures.

(2) *Performance work statement (PWS).* (i) The Installation Commander shall prepare a PWS and Quality Assurance Plan for each full cost comparison, simplified cost comparison, and direct conversions of military personnel CAs. The PWS shall be developed as comprehensively as possible and in a manner which logically presents the requirements of the function to be performed. Atch 2 of Appendix B is available as a guide for preparing PWSs and Quality Assurance Plans, but its use is not mandatory. The PWS shall include reasonable performance standards to ensure a comparable level of performance for both Government and contractor. PWSs will be developed and solicitations conducted in a manner that will encourage high quality performance of the function at acceptable prices.

(3) *Management study.* The Installation Commander shall perform a management study to analyze completely the method of operation necessary to establish the most efficient and cost-effective in-house organization (MEO) needed to accomplish the requirements in the PWS. Management studies are not required for simplified cost comparisons involving 10 or fewer civilian personnel and direct conversions of military personnel CAs. Guidance for developing an MEO is contained in Appendix C.

(4) *Full cost comparisons.* Full cost comparisons shall include all significant costs of both Government and contract performance. Common costs; that is, costs that would be the same for either in-house or contract operation, need not be computed, but the basis of those common costs must be identified and included in the cost comparison documentation. In-house cost estimates and contract cost estimates shall be evaluated on the same basis to determine the best value to the government. Guidance for developing the costs and preparing the cost comparison forms is contained in Atch 1 of Appendix D. Solicitation considerations for a cost comparison are contained in Atch 2 of Appendix D.

(5) *Direct conversions.* CAs involving 45 or fewer civilian employees may be converted directly to contract performance based on a simplified cost comparison. CAs performed exclusively by military personnel may be converted directly to contract performance without a full cost comparison. See Appendix A for further amplification.

(6) *Independent review.* (i) The estimates of in-house and contract costs that can be computed before the cost comparison shall be reviewed by a qualified activity, independent of the Task Group preparing the cost comparison. This review shall be completed far enough in advance of the bid or initial proposal opening date to allow the Installation Commander to correct any discrepancies found before sealing the in-house cost estimate.

(ii) The independent review shall substantiate the currency, reasonableness, accuracy, and completeness of the cost comparison. The review shall ensure that the in-house cost estimate is based on the same required services, performance standards, and workload contained in the solicitation. In addition, the review shall ensure the same evaluation criteria apply to both in-house contract bids. The reviewer shall scrutinize and attest to the adequacy and authenticity of the supporting documentation. Supporting documentation shall be sufficient to require no additional interpretation.

(iii) The purpose of the independent review is to ensure costs have been estimated and supported in accordance with provisions of this Instruction. If no (or only minor) discrepancies are noted during this review, the reviewer indicates the minor discrepancies, signs, dates, and returns the CCF to the preparer. If significant discrepancies are noted during the review, the discrepancies shall be reported to the

preparer for recommended correction and resubmission.

(iv) The independent review is not required for simplified cost comparisons or direct conversions of military personnel CAs.

(7) *Administrative appeal procedures of full and simplified cost comparison decisions.* (i) Each DoD Component shall establish an administrative appeals procedure to resolve questions from directly affected parties relating to determinations resulting from cost comparisons performed in compliance with this part. The appeal procedure will not apply to questions concerning the following:

(A) Award to one contractor in preference to another;

(B) DoD management decisions.

(ii) The appeals procedure is to provide an administrative safeguard to ensure that DoD Component decisions are fair, equitable, and in accordance with procedures in this part. The procedure does not authorize an appeal outside the DoD Component or a judicial review.

(iii) The appeals procedure shall be independent and objective and provide for a decision within 30 calendar days of receipt of the appeal. The decision shall be made by an impartial official at a level organizationally higher than the official who approved the original cost comparison decision. The appeal decision shall be final, unless the DoD Component procedures provide for further discretionary review within the DoD Component.

(iv) The Installation Commander shall make available all detailed documentation supporting a full cost comparison to directly affected parties upon request when the initial decision is announced. The detailed documentation shall include, at a minimum, the following: The in-house cost estimate with detailed supporting documentation as required by this part, the completed Cost Comparison Form (CCF), name of the tentative winning contractor (if the initial decision is to contract), or the price of the bidder whose bid or proposal would have been most advantageous to the Government (if the initial decision is to perform in-house). If the documentation is not available when the initial decision is announced, the time allotted for submission of appeals shall be extended the number of days equal to the delay. Installation Commanders shall make available, on request, the documentation supporting a decision to directly convert to contract a CA being performed by 40 or fewer civilian personnel. The documentation shall be available when the initial

decision is announced in the CBD and FR.

(v) To be considered eligible for review under the DoD Component appeals procedures, appeals shall:

(A) Be received by the DoD Component in writing within 15 working days after the date the supporting documentation is made available to directly affected parties for full cost comparisons. In the case of simplified cost comparisons, the appeal must be filed within 30 calendar days of the date of the CBD and FR notification of a decision to directly convert to contract performance.

(B) Address specific line items on the CCF for full cost comparisons or the simplified cost comparison form with rationale for questioning those items.

(C) Demonstrate that the result of the appeal may change the decision.

(vi) Since the appeal procedure is intended to protect the rights of all directly affected parties, the DoD Component's procedures, as well as the decision upon appeal, will not be subject to negotiation, arbitration, or agreement.

(vii) DoD Components shall include administrative appeal procedures as part of their implementing documents.

§ 171.7 Notification and reporting requirements.

The Commercial Activities Program requires several forms of notification and reports prior to, during, and upon completion of various steps in the process. Some of these requirements are: mandated by law, such as, Congressional notifications and announcements; established in OMB Circular A-76, such as, FR and CBD notifications and the Inventory; and some are in the best interest of the Installation Commander to promote good relations, such as, local notification. See Appendix E for detailed requirements.

Appendix A—Commercial Activities Review Procedures

Atch 1—Evaluation Criteria

Atch 1 contains the guidance for reviewing activities eligible for full or simplified cost comparison procedures and those which may be exempted from a cost comparison.

A. *Existing in-house CAs.* Installation Commanders shall conduct reviews of in-house CAs in accordance with their established review schedules. CAs shall be retained in-house without a cost comparison only when the following conditions are satisfied.

1. *National defense.* In most cases, application of this criteria shall be made considering the wartime and peacetime duties of the specific positions involved rather than in terms of broad functions.

a. A CA, staffed with military personnel who are assigned to the activity, may be retained in-house for national defense reasons when the following apply:

b. The CA is essential for training or experience in required military skills;

c. The CA is needed to provide appropriate work assignments for a rotation base for overseas or sea-to-shore assignments; or

d. The CA is necessary to provide career progression to needed military skill levels.

e. If the Installation has a large number of similar CAs with a small number of essential military personnel in each CA, action shall be taken, when appropriate, to consolidate the military positions consistent with military requirements so that economical performance by either DoD civilian employees or by contract can be explored for accomplishing a portion of the work.

2. *Core logistics activities.* Section 307 of the DoD Authorization Act, 1985 (Pub. L. 98-525) as amended by section 1231 of the DoD Authorization Act, 1986 (Pub. L. 99-145) listed activities performing depot-level maintenance of mission-essential materiel that are to be retained for performance by DoD personnel.

a. The Act provides for waivers in order to conduct commercial activities cost comparison of these core logistics activities. In order to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to mobilization, national defense contingency situation, and other emergency requirements, core logistics activities may only be considered for commercial activities cost comparison when:

(1) Private sector performance will not result in adverse impact upon mobilization requirements or other readiness considerations;

(2) The private sector is capable of providing the technical competence and resources necessary to perform the activity;

(3) The private sector is capable of performing if surges occur;

(4) The activity is separable from those core logistics activities that do require performance by DoD personnel;

(5) Essential management responsibility is retained by government personnel; and

(6) Essential government facilities and equipment are retained.

b. If an activity meets the above criteria, the DoD Component may submit a request for a waiver. The waiver request must be based upon and include a written certification by the requesting Military Department or Defense Agency that government performance of the activity is no longer required for national defense reasons. Waiver requests shall contain factual information keyed to the above criteria, and should include the following information:

(1) Title of the activity,

(2) Location of the activity,

(3) Numbers of personnel involved (military/civilian),

(4) Brief narrative description of the activity, and a

(5) Brief narrative which explicitly addresses each waiver criteria and provides a description of the circumstances and rationale why in-house performance of the

activity is no longer required for national defense reasons.

c. Waiver requests shall be submitted to the Director, Maintenance Policy, Office of the Deputy Assistant Secretary of Defense (Logistics). After waiver approval is received, the DoD Component shall submit the report prescribed by section 307 to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include a statement that the activity involved is a core logistics activity as defined by sections 307 of Pub. L. 98-525 and 1231 of Pub. L. 99-145, and that a waiver, as provided for in section 307 of Pub. L. 98-525 has been approved. After submission of the report, the required waiting period specified in the law must be observed before actually commencing the cost comparison.

(1) The above procedures are not intended to replace or modify normal depot workloading decisions, including application of the decision tree, made in accordance with 32 CFR Part 179.

3. *No satisfactory commercial source available.* A DoD CA may be performed by DoD personnel when in the judgement of the Installation Commander it can be demonstrated that:

(a) There is no satisfactory commercial source capable of providing the product or service that is needed. Before concluding that there is no satisfactory commercial source available, the Installation Commander shall make all reasonable efforts to identify available sources.

(b) Installation Commander's efforts to find satisfactory commercial sources shall be carried out in accordance with the FAR and DoD FAR supplement (DFAR).

(c) Where the availability of commercial sources is uncertain, the Installation Commander will place at least three notices of the requirement in the *Commerce Business Daily* (CBD) over a 90 calendar-day period, with a minimum of 30 calendar days between each. (Notices will be in the format specified in FAR, Chapter I, Part 5. When a bona fide urgent requirement occurs, the publication period in the CBA may be reduced to two notices over a 30 calendar-day period, with a minimum of 15 calendar days between each. Specifications and requirements in the notice will not be unduly restrictive and will not exceed those required of Government personnel or operations.

(d) Use of a commercial source would in the judgement of the Installation Commander cause an unacceptable delay or disruption of an activity's essential program.

(e) Use of an exemption due to an unacceptable delay or disruption of an essential program shall be approved by the Installation Commander.

4. *Patient care.* Commercial activities at DoD hospitals may be performed by DoD personnel when it is determined by the head of the DoD Component or his designee, in consultation with the DoD Component's chief medical director, that performance by DoD personnel would be in the best interest of direct patient care.

5. *Economic analysis.* Economic analyses required by Public Law 97-214 obviate the need for a cost comparison of the CA.

B. *Contracts.* 1. When contract costs become unreasonable or performance

becomes unsatisfactory, the Installation Commander shall conduct a full cost comparison of the contracted CA in accordance with Appendices B, C, and D if the following apply:

(a) Re-competition with other satisfactory commercial sources does not result in reasonable prices.

(b) In-house performance is feasible.

2. Contracted CAs that are justified for conversion to in-house performance based on cost comparisons, national defense, or in the best interest of direct patient care will be allowed to expire (options will not be exercised) once in-house capability is established.

C. *Expansions.* In cases where a significant expansion of an in-house CA is anticipated, the Installation Commander shall conduct a review of the entire CA, including the proposed expansion, to determine if performance by DoD personnel is authorized for national defense reasons, because no commercial source is available, or because it is in the best interest of direct patient care. If performance by DoD personnel is not justified under these criteria, a cost comparison of the entire activity shall be performed. Government facilities and equipment normally will not be increased to accommodate expansions if adequate and cost effective contractor facilities are available.

D. *New Requirements.* 1. In cases where a new requirement for a commercial product or service is anticipated, the Installation Commander shall conduct a review to determine if performance by DoD personnel is authorized for national defense reasons, because no commercial source is available, or because it is in the best interest of direct patient care. If performance by DoD personnel is not justified under these criteria, then the new requirement normally shall be performed by contract.

2. If there is reason to believe that commercial prices may be unreasonable, a preliminary cost analysis shall be conducted to determine whether it is likely that the work can be performed in-house at a cost that is less than anticipated for contract performance. If in-house performance appears to be more economical, a cost comparison shall be scheduled. The appropriate conversion differentials will be added to the preliminary in-house cost before it is determined that in-house performance is likely to be more economical.

3. Government facilities and equipment normally will not be expanded to accommodate new requirements if contractor facilities capable of providing a quality service/product at an acceptable price are available. The requirement for Government ownership of facilities does not obviate the possibility of contract operation. If justification for in-house operation is dependent on relative cost, the cost comparison may be delayed to accommodate the lead time necessary for acquiring the facilities.

4. Approval to budget for a major capital investment associated with a new requirement will not constitute OSD approval to perform the new requirement with DoD personnel. Government performance shall be determined in accordance with this part.

E. *CAs involving forty or fewer DoD civilian employees.* 1. When adequately justified under the criteria required in Atch 2 of this Appendix, CAs involving 45 or fewer DoD civilian employees may be converted directly to contract based on simplified cost comparison procedures. Such conversions shall be approved by the Installation Commander. Paragraph B, Atch 1 of Appendix D, shall be utilized to define the specific elements of cost to be estimated in the simplified cost comparison.

2. A full cost comparison shall be performed when a simplified cost comparison fails to clearly support direct conversion to contract.

3. If the activity involves 11 to 45 DoD civilian employees, the simplified cost comparison shall include certification that an analysis of the most efficient and cost-effective organization has been completed and that the in-house cost estimate is based on this analysis.

4. In no case shall any CA involving more than 45 DoD civilian employees be modified, reorganized, divided, or in any way changed for the purpose of circumventing the requirement to perform a full cost comparison.

5. Upon approval of a direct conversion, a copy of the approval along with the simplified cost comparison fact sheet and back-up data shall be provided to: Mr. Del Davis, Committee on Appropriations, U.S. House of Representatives, H-218, The Capitol, Washington, DC 20515. Copies of the package shall also be provided to Dr. Mike West, Professional Staffer, Committee on Armed Services, U.S. House of Representatives, Washington, DC 20515 and to the Office of the Deputy Assistant Secretary of Defense (Installations) Installation Assistance (OASD(A&L)IA), Room 3D812, The Pentagon, Washington, DC 20301.

F. *Military personnel CAs.* Commercial activities performed exclusively by military personnel may be converted to contract without a cost comparison, when adequate competition is available and reasonable prices can be obtained from qualified commercial sources.

G. *Special considerations.* 1. *Communications security and signals intelligence.* Before making a determination that an activity involving Signals Intelligence (SIGINT), as prescribed in Executive Order 12333, or the full maintenance of communications security (COMSEC) equipment should be subjected to a cost comparison, a determination must be made of the risk to national security of using commercial sources. The DoD Component shall provide its assessment of the risk to national security of using commercial sources to the Director, NSA. The Director, NSA, shall make the determination if the risk to national security is unacceptable, consulting with other organizations as deemed necessary, and shall provide the decision to the DoD Component. NSA shall notify the DASD(I) within 30 days of action taken by the Director, NSA, to grant or deny a request for a waiver to the provisions of 32 CFR Part 171.

2. **National Intelligence.** Before making a determination that an activity involving the collection/processing/production/dissemination of national intelligence as prescribed in Executive Order 12333 should be subjected to a cost comparison, the DoD Component must specifically identify the risk to national intelligence of using commercial sources. Except as noted in paragraph G.1. of this Appendix the DoD Component shall provide its assessment of the risk to national intelligence of using commercial sources to the Director, DIA, who shall make the determination if the risk to national intelligence is unacceptable. DIA shall consult with other organizations as deemed necessary and shall provide the decision to the DoD Component. DIA shall notify DASD(I) within 30 days of action taken by the Director, DIA, to grant or deny a request for a waiver to the provisions of this part.

3. **Accountable officer.** (a) The functions and responsibilities of the Accountable Officer are defined by DoD 7200.10-M. Those functions of the Accountable Officer that involve the exercise of substantive discretionary authority in determining the Government's requirements and controlling Government assets cannot be performed by a contractor and must be retained in-house. The responsibilities of the Accountable Officer as an individual and the position of the Accountable Officer are not contractable.

(b) Contractors can perform functions in support of the Accountable Officer and functions where they are performing in accordance with criteria defined by the Government. For instance, contractors can process requisitions, maintain stock control records, perform storage and warehousing, and make local procurements of items specified as deliverables in the contract.

(c) The responsibility for administrative fund control must be retained in-house. The contractor can process all required paperwork up to funds obligation which must be done by the Government employee designated as responsible for funds control. The contractor can also process such documents as reports of survey and adjustments to stockage levels, but approval must rest with the Accountable Officer. In all cases the administrative control of funds must be retained by the Government since a contractor or his employees cannot be held responsible for violations of former section 3679 of the revised statutes (now codified at sections 1341, 1342, and 1517 of title 31, United States Code).

Atch 2—Simplified Cost Comparison Guidance and Fact Sheet

This Atch provides guidance regarding procedures to be followed in order to convert a commercial activity employing 45 or fewer DoD civilian employees directly to contract performance without a full cost comparison. Simplified cost comparisons are to be conducted on these smaller activities to ensure that cost data are fully considered in decisions on commercial activities.

The proposed direct conversion must meet the following criteria:

1. The activity is currently performed by 40 or fewer civilian employees.
2. The direct conversion makes sense from a management or performance standpoint.

3. The direct conversion is cost effective.
4. The affected civilian employees can be placed elsewhere within the government or with the private contractor through a right of first refusal clause.

5. An MEO analysis has been completed if the activity contains 11 to 45 civilian employees.

6. Certification of the MEO analysis will be provided to the Committee on Appropriations of the House of Representatives and the Senate after approval, but prior to conversion to contract performance for activities involving 11 to 45 civilian employees.

Fact Sheet (example) is a format for submitting direct conversion requests for approval. Each potential candidate for direct conversion shall be reviewed on a case-by-case basis to ensure that both the in-house and contractor cost estimates are as accurate as possible without a performing full cost comparisons.

The following provides general guidance for completion of a simplified cost comparison:

1. Estimated contractor costs should be based on either the past history of similar contracts at other installations or on the contracting officer's best estimate of what would constitute a fair and reasonable price.

2. For activities small in total size (10 or fewer civilian and military personnel):

a. Estimated in-house costs generally should not include overhead costs, as it is unlikely that they would be a factor for a small activity.

b. Similarly, estimated contractor costs generally should not include contract administration, one-time conversion costs, or other contract price add-ons associated with full cost comparisons.

3. For activities large in total size (11 to 45 civilian employees or 10 or fewer civilian employees but a significant number of military personnel) all cost elements should be considered for both in-house and contractor estimated costs.

4. In either case, large or small, the 10 percent conversion differential contained in Atch 1, paragraph B, Appendix D should be applied.

5. Atch 1, paragraph B, Appendix D shall be utilized to define the specified elements of cost to be estimated in the simplified cost comparison.

Fact Sheet (Example)

Title: Direct Conversion Request for (Activity/Function) _____ at (Installation) _____

Description of activity: _____

Number of affected personnel: CIV _____

(Authorizations) _____ MIL _____

(Authorizations) _____
Status of affected civilian employees: _____

(Special considerations such as a number of employees classified as Section 3310 preference eligible veterans, minorities, handicapped. Also, include number of civilian authorizations currently vacant or filled by temporaries.)

Placement plans for affected civilian employees: _____

Justification for direct conversion: (Narrative justification other than cost.) _____

Simplified Cost Comparison (details attached):

Estimated In-House Cost:

—Personnel cost (including fringe benefits).....
—Material and supply cost.....
—Other in-house cost (if appropriate).....
—Total estimated in-house cost.....
Estimated contractor cost:
—Estimated contract price.....
—Contract administration (if appropriate).....
—Other estimated contractor cost (if appropriate).....
—Total estimated contractor cost.....
—Conversion differential (10 percent of in-house personnel cost).....
—Adjusted contractor cost.....

Certification: (For activities involving 11 to 45 DoD civilian employees) The Estimated In-House Cost for this simplified cost comparison is based on a completed most efficient and cost effective organization analysis. Certification of this MEO analysis will be provided to the Committees on Appropriations of the House of Representatives and the Senate prior to conversion to contract performance.
Point of Contact: _____

Appendix B—Performance Work Statement (PWS)/Solicitation Guidance

Atch 1—PWS Considerations

A. The Installation Commander shall prepare a PWS and Quality Assurance Plan for each full cost comparison, simplified cost comparison, and direct conversion of military personnel CAs. The PWS shall be developed as comprehensively as possible and in a manner which logically presents the requirements of the function to be performed. The PWS should encourage the use of incentives and/or awards to allow for continuous quality improvement at acceptable prices. The PWS shall include reasonable performance standards to ensure a comparable level of performance for both Government and contractor. PWSs shall be developed and solicitations conducted in a manner that will encourage quality performance of the function at acceptable prices. Part 2 of this Appendix is available as a guide for preparing PWSs and Quality Assurance Plans, but its use is not mandatory.

B. Prototype PWSs are available through the Defense Logistics Studies Information Exchange (DLSIE) at Fort Lee, Virginia, (autovon 687-4255, FTS 775-4255, or commercial (804) 734-4255). DLSIE also contains some prototype PWSs for other Government Agencies.

C. Employees and/or their bargaining unit representatives should be encouraged to participate in preparing or reviewing the PWS.

D. Guidance on Government property:
1. For the purposes of this part, Government property is defined in

accordance with the Federal Acquisition Regulations (FAR) Part 45.

2. The decision to offer or not to offer Government property to a contractor shall be determined by a cost-benefit analysis justifying that the decision is in the best interest of the Government. The determination on Government property must be supported by current, accurate, complete information and be readily available for the independent reviewing activity. The design of this analysis shall not give a decided advantage/disadvantage to either in-house or contract competitors. The management of Government property offered to the contractor shall also be in compliance with FAR Part 45.

E. If a CA provides critical or sensitive services, the PWS shall include sufficient data for the in-house organization and commercial sources to prepare a plan for expansion in emergency situations.

F. DoD Installations that provide interservice support to other DoD Components or Federal agencies through interservice support agreements or other arrangements shall ensure that the PWS includes this work load and is coordinated with all affected components and agencies.

G. If there is a requirement for the commercial source to have access to classified information in order to provide the product or service, the commercial source shall be processed for a facility security clearance under the Defense Industrial Security Program in accordance with DoD Directive 5220.22¹ and DoD 5200.22-R. However, if no *bona fide* requirement for access to classified information exists, no action shall be taken to obtain security clearance for the commercial source.

H. Employees of commercial sources who do not require access to classified information for work performance, but require entry into restricted areas of the installation, may be authorized unescorted entry only when the provisions of DoD 5200.2-R apply.

Atch 2—Solicitation Considerations

A. The Installation Commander, in close consultation with the Contracting Officer, shall choose; the contract type, the method of solicitation (sealed bid or negotiated), the procedure for evaluation of contractor bids or proposals, the type of contract performance monitoring to be used (award fee, incentive fee, deduct clause, or combination thereof), and the length of the contract plus option years (subject to FAR 17.204(e)).

B. The solicitation will not be canceled even if there are significant changes, omissions, or defects in the Government's in-house cost estimate. Such corrections shall be made before the expiration of bids or proposals and may require the extensions of bids or proposals. The solicitation shall only be cancelled when required by law or by the independent reviewing agency.

C. Bidders or offerors shall be informed that an in-house cost estimate is being developed and that a contract may or may not result. This requirement does not apply to simplified cost comparisons or direct conversion of military personnel.

D. Bids or proposals shall be on at least a 3-year multi-year basis (when appropriate) or shall include prepriced renewal options to cover 2 fiscal years after the initial period. Bids or proposals longer than 3 years are encouraged in order to receive quality bids or proposals from quality contractors. Currently, there are not statutory limitations on option provisions, since they are unilateral in nature, unfunded, and not contractually binding, however a deviation from FAR 17.204(e) is required for base plus options exceeding five years.

E. All contracts awarded as a result of a conversion (whether or not a cost comparison was performed) shall:

1. Comply with all requirements of the FAR and DFAR.

2. When determined to be necessary in accordance with FAR 22.101-1(e), include the clause at FAR 52.222-1, Notice to the Government of Labor Disputes, requiring the contractor to provide notice of actual and impending labor disputes.

3. Include in contracts for critical or sensitive services a requirement for the contractor to develop a contingency plan explaining how the contractor will expand operations in emergency situations and ensure there will be no significant interruption of routine contract services due to labor disputes.

4. Include all applicable clauses and provisions related to the right of first refusal for employment by displaced DoD employees, equal employment opportunities, veterans preference, and minimum wages and fringe benefits.

F. Solicitations shall be restricted for preferential procurement when the requirements applicable to such programs (such as, small business set-asides or other required sources of supplies and services) are met, in accordance with the FAR.

G. Solicitations will not be restricted for preferential procurement unless the contracting officer determines that there is a reasonable expectation that the commercial prices will be fair and reasonable in accordance with the FAR.

H. Contract defaults may result in temporary performance by Government personnel or other suitable means; such as, an interim contract source. Personnel detailed to such a temporary assignment should be clearly informed that they will return to their permanent assignment when a new contract is awarded. If the default occurs within the first year of contract performance, the following procedures apply:

1. If, after consultation with the Department of Labor, it is determined that the contract wage rates are still valid, the contracting officer will review the availability among the next lowest responsible and responsive bidders/offers for a successor contract without in accordance with established contracting practice. If the next low bidder/offers is willing to accept the balance of the contract work at the price bid/offered, adjusted on an appropriate prorata basis for the remainder of the contract term, the contracting officer may award to that bidder/offers. If the Government is the next lowest bidder/offers, the function may be returned to in-

house performance, as bid, if still feasible. If performance by DoD employees is no longer feasible, the contracting officer may elect either to award to the next lowest responsible and responsible commercial bidder/offers if that firm is willing to perform at its bid/offered price, adjusted appropriately for the remainder of the term, or to resolicit as specified in the next paragraph.

2. If the contract wage rates are no longer valid or if the contracting officer, after a review of the availability of the next lowest responsible and responsive bidders/offers, determines that resolicitation is appropriate, the Government may submit a bid for comparison with other bids/offers from the private sector. In such cost comparisons, the conversion differentials will not be applied to the costs of either in-house or contract performance.

1. If contract default occurs during the second or subsequent year of contract performance, the procedures of paragraph B.1., Atch I of Appendix A apply.

J. *Grouping of Commercial Activities.* 1. The Installation Commander shall determine carefully which CAs should be grouped in a single solicitation. The Installation commander should keep in mind that the grouping of CAs can influence the amount of competition (number of commercial firms that will bid or submit proposals) and the eventual cost to the Government.

2. The Installation Commander's decision to group CAs should reflect an analysis of all relevant factors including the following:

- The effect on competition.
- The duplicative management functions and costs to be eliminated through grouping.
- The economies of administering multifunction vs. single function contracts, including cost risks associated with the pricing structure of each.
- The feasibility of separating unrelated functional tasks or groupings.
- The effect grouping will have on the performance of the functions.

3. It is recognized that in some cases, decisions will result in the elimination of prime contracting opportunities for small business. In such cases special measures shall be taken. At a minimum, small and small disadvantaged business concerns shall be given preferential consideration by all competing prime contractors in the award of subcontracts. For negotiated procurements the degree to which this is accomplished will be a weighted factor in the evaluation and source selection process leading to contract award.

K. If no bids or proposals, or no responsive or responsible bids or proposals are received in response to a solicitation, the in-house cost estimate shall remain unopened. The contracting officer shall examine the solicitation to ascertain why no responses were received. Depending on the results of this review, the contracting officer shall consider restructuring the requirement, if feasible, and reissue it under restricted or unrestricted solicitation procedures, as appropriate.

L. Continuation of an in-house CA for lack of a satisfactory commercial source will not

¹ See § 171.7(a)

be based upon lack of response to a restricted solicitation.

M. The Installation Commander shall ensure the the Office of Federal Procurement Policy (OFPP) Policy Letter No. 78-3 is considered in responding to requests for disclosure of contractor-supplied information obtained in the course of procurement.

N. The Installation Commander shall ensure that changes to the contract affecting the original PWS are provided to the office responsible for maintaining the PWS in order that they may be incorporated prior to resoliciting the requirements.

O. The solicitation consideration guidance also applies to simplified cost comparisons and direct conversions of military personnel CAs.

Atch 3—Office of Procurement Policy (OFPP) Pamphlet No. 4

Atch 3 will contain the verbatim text of Part II of the Supplement to the Office of Management and Budget Circular No. A-76 (Revised) ² of August 4, 1983. In the interim, Installation Commanders should use the Office of Federal Procurement Policy Pamphlet No. 4 for guidance purposes.

The guidance in this Atch does not purport to replace the Installation Commander's own policies for developing a PWS, but contains guidelines the Installation Commander may find of benefit.

Appendix C—Most Efficient Organization Guidance

Atch 1—DoD Considerations

A. In performing the management study the Installation Commander shall analyze completely the method of operation necessary to establish the most efficient and cost-effective in-house organization (MEO) needed to accomplish the requirements in the PWS. The MEO must reflect only approved resources for which the CA has been authorized.

B. DoD Components have formal programs and training for the performance of management studies, and those programs are appropriate for teaching how to conduct CA management studies.

C. If a CA provides critical or sensitive services, the management study shall include a plan for expansion in emergency situations.

D. Early in the management study, the Installation Commander should solicit the views of the employees in the CA under review, and/or their representatives for their recommendations as to ways to improve the method of operation.

E. If there are incentive and award fees for the contractor in the solicitation, the same provisions should be used to encourage quality performance from the in-house workforce. The amounts may differ because contractors are, by necessity, profit oriented. See Atch 2 of Appendix D, paragraph A.1.a.

F. The Installation Commander may make use of his military personnel in configuring his MEO. These positions will be costed in

accordance with Atch 1 of Appendix D, paragraph A.1.d.

G. The management study will be the basis on which the Installation Commander certifies that the in-house cost estimate is based on the most efficient and cost-effective organization practicable.

H. The Installation Commander shall implement the MEO no later than 1 month after cancellation of the solicitation. Implementation shall be completed within 6 months.

I. A management study is not required for simplified cost comparisons involving 10 or fewer DoD civilian employees or direct conversions of military personnel CAs.

Atch 2—Management Study

Atch 2 of this Appendix does not purport to replace the Installation Commander's own management techniques, but merely to provide a guide for conduct of a management study and the interrelationship between the management study and the PWS.

This Atch will contain the verbatim text of Part III of the Supplement to the Office of Management and Budget Circular No. A-76 (Revised) ¹ of August 4, 1983. This Atch is available as a guide for preparing a management study, but its use is not mandatory.

Appendix D—Full Cost Comparison Process

Atchs 1 and 2 of this Appendix provide the basic guidance for conducting full cost comparisons. Appendix A provides guidance for conducting simplified cost comparisons. The guidance contained below is intended to establish uniformity and ensure all factors are considered when making cost comparisons. In-house and contractor cost estimates shall be evaluated on the same basis to determine the best value to the government. Deviation from the guidance contained in Atch 2 will not be allowed, except as provided for in Atch 1 and its paragraphs.

Atch 1—Cost Comparison Considerations

A. *In-house cost estimate.* The in-house cost estimate shall be based on the most efficient and cost-effective in-house organization needed to accomplish the requirements in the PWS. If there are incentive and award fees for the contractor in the solicitation, their costs, other than the base fee, shall not be included in the cost comparison nor shall the equivalent costs for the in-house workforce.

2. The Installation Commander shall certify that the in-house cost estimate is based on the most efficient and cost-effective operation practicable. Such certification shall be made before the bid opening or the date for receipt of initial proposals.

3. The ASD (Comptroller) shall provide inflation factors/price escalation indices for adjusting costs for the first and subsequent performance periods. These factors, published in January are based on budget

guidance provided by OMB and are used in preparation of the annual budget and supporting justification materials. Selected Acquisition Reports (SARS), and Program Objective Memoranda. These factors shall be the only acceptable factors for use in cost comparisons. Inflation factors for outyear (second and subsequent) performance periods will not be applied to portions of the in-house estimate that are comparable with those portions of the contract estimate subject to economic price adjustment clauses. These factors apply to all studies in process where bid opening or receipt of best and final offers has not occurred. If the in-house bid has been sealed, adjustment should be made at the time adjustments are made to the contractor portion of the cost comparison form. The new factor(s) should be applied to the cost element at the largest aggregate level.

4. Military positions in the MEO shall be costed using current military composite standard rates and applicable add-on factors for operating appropriation support. These rates are issued on a fiscal year basis by each Military Service.

5. The Wholesale Stock Fund Rate of 19.1 percent and the Direct Delivery rate of 13.6 percent for supplies and materials acquired from the DoD Component supply systems shall be used.

6. For the purposes of depreciation computations it is assumed that residual value is equal to the disposal values listed in Appendix C, Atch 2 of this Appendix, if more precise figures are not available from the property disposal officer or other knowledgeable authority. Therefore, the basis for depreciation shall be the original cost plus the cost of capital improvements (if any) less the residual value. The original cost plus the cost of capital improvements less the residual value shall be divided by the useful life (as projected for the CA cost comparison) to determine the annual depreciation.

7. Purchased services which augment the current in-house work effort and that are included in the PWS should be included in line 3 (other specifically attributable costs). When these purchased services are long-term and contain labor costs subject to economic price adjustment clauses, then the applicable labor portion will not be escalated by outyear inflation factors. In addition, purchased services shall be offset for potential Federal income tax revenue by applying the appropriate rate in Appendix D, Atch 2 of this Appendix to the total cost of purchased services.

8. Overhead costs shall be computed only when such costs will not continue in the event of contract performance. This includes the cost of any position (full time, part time, or intermittent) that is dedicated to providing support to the activity(ies) under cost comparison regardless of the support organization's location. Military positions providing overhead support shall be costed using current military composite standard rates and applicable add-on factors for operating appropriation support. These rates are issued on a fiscal year basis by each Military Service.

² Copies may be obtained, if needed, from the Federal Productivity Resource Center, Room 6235, New Executive Office Building, Office of Management and Budget, Washington, D.C. 20503

¹ Copies may be obtained, if needed, from the Federal Productivity Resource Center, Room 6235, New Executive Office Building, Office of Management and Budget, Washington, DC 20503.

B. *Cost of contract performance.* 1. The contract cost estimate shall be based on firm bids or negotiated proposals competitively obtained and solicited in accordance with the FAR and the DoD FAR Supplement (DFAR). Existing contract prices (such as those from GSA Supply Schedules) will not be used in a cost comparison. For simplified cost comparisons, the guidance in Atch 2, Appendix A applies.

2. Standby costs are costs incurred for the upkeep of property in standby status. Such costs neither add to the value of the property nor prolong its life, but keep it in efficient operating condition or available for use. When an in-house activity is terminated in favor of contract performance and an agency elects to hold Government equipment and facilities on standby solely to maintain performance capability, this is a management decision, and such standby costs will not be charged to the cost of contracting.

3. The Installation Commander may elect to use contract administration factors that exceed the limits established in table 3-1, Atch 2 of this Appendix. The reason for the deviation from the limits, the supporting alternative computation, and other documentation for the decision shall be part of the supporting documentation available for review by independent reviewing authority.

4. The following guidance pertains to one-time conversion costs:

a. *Material related costs.* The cost factors below shall be used, if more precise costs are not known, to estimate the cost associated with disposal/transfer of excess government material which result from a conversion to contract performance:

Percentage of Current Replacement Cost	Percent
Packing, Crating, and Handling (PCH).....	3.5
Transportation.....	3.75

b. *Labor related costs.* (1) The Installation Commander may elect to employ an alternative methodology other than a strict application of the 2% factor for computation of severance pay if this method under states or overstates this cost.

(2) Documentation for the decision shall be part of the supporting documentation available for review by the independent reviewing activity.

c. *Other transition costs.* (1) Normally, government personnel assistance after the contract start date (to assist in transition from in-house performance to contract performance) should not be necessary. When transition assistance will not be made available, this condition should be stated clearly in the solicitation so that contractors will be informed that they will be expected to meet full performance requirements from the first date of the contract. Also, when circumstances require full performance on the contract start date, the solicitation shall state that time will be made available from contractor indoctrination prior to the start date of the contract.

(2) Documentation for the decision shall be part of the supporting documentation

available for review by the independent reviewing activity.

5. *Gain or loss on disposal/transfer of assets.* If more precise costs are not available from the Property Disposal Office or appropriate authority, then:

a. The Same factor for PCH and transportation costs as prescribed in paragraph B.4.a, Atch 1 of Appendix E the costs associated with disposal/transfer of materials may be used.

b. The estimated disposal value may be calculated from the net book value as derived from the table in Appendix C, Atch 2 of this Appendix, minus the disposal/transfer costs. This figure shall be entered as a gain or loss on line 11 or line 13 of the cost comparison form as appropriate.

Note.—If a cost-benefit analysis, as prescribed in paragraph D., Atch 1 of Appendix B indicates that the retention of Government-owned facilities, equipment, or real property for use elsewhere in the Government is cost advantageous to the Government, then the cost comparison form shall reflect a gain to the Government and therefore a decrease to the cost of contracting on line 11 or line 13 of the cost comparison form as appropriate.

Atch 2—A-76 Cost Comparison Handbook

This Atch will incorporate the text of Part IV of the Supplement to the Office of Management and Budget Circular No. A-76 (Revised) ¹ of August 4, 1983. DoD Components shall comply with Part IV and the guidance contained in Atch 1, Appendix E of this part. Amendments to the Circular, provided by Transmittal Memorandum No. 1, have been incorporated into the text of this enclosure. The amended areas are annotated in the margin with ** and Appendix D, Atch 2 of this Appendix has been replaced in its entirety. (The tables and examples in the Handbook may not reflect the current factors to be applied.)

Appendix E—Notification and Reporting Requirements

Atch 1—Notification Requirements

A. *Congress.* DoD Components shall notify Congress of an Installation's intent to do a cost comparison for each CA. DoD Components shall annotate the notification when a cost comparison is planned at an activity listed in the report to Congress on core logistics (see Appendix A, Atch 1, paragraph A.1.b.). The DoD Component shall notify DASD(I) of any such intent at least 5 working days before the Congressional notification. The cost comparison process begins on the date of Congressional notification.

B. *Commerce Business Daily/Federal Register.* The Installation Commander shall publish their schedules for conducting cost comparisons as soon as practicable after Congressional notification, but at least annually in the CBD and the Federal Register

¹ Copies may be obtained, if needed, from the Federal Productivity Resource Center, Room 6235, New Executive Office Building, Office of Management and Budget, Washington, DC 20503.

(FR). Schedules for cost comparisons not requiring Congressional notification and decisions to convert directly to contract shall also be published in the CBD/FR as soon as practicable after the decision. The cost comparison schedule shall include for each activity, the name, location, and date, and the date the cost comparison began or the estimated date the direct conversion will occur.

C. *Local.* It is suggested that upon Congressional notification the Installation Commander make an announcement of the cost comparison, including a brief explanation of the cost-comparison process to the employees of the activity and the community. The installation's labor relations specialist also should be appraised to ensure appropriate notification to employees and their representatives in accordance with applicable collective bargaining agreements. Local Interservice Support Coordinators (ISCs) and the Chairman of the appropriate Joint Interservice Resource Study Group (JIRSG) should also be notified of a pending cost comparison.

D. *Joint Committee on Printing notification.* The Installation Commander shall notify the Joint Committee on Printing (JCP) at least 30 days before commencing a cost comparison on a field printing operation. These JCP notifications shall be coordinated with the appropriate legal counsel.

E. *Communications security and signals intelligence.* The Director, NSA must be consulted in accordance with Atch 1 of Appendix B before making a determination that an activity involving Signals Intelligence (SIGINT), as prescribed in Executive Order 12333, or the full maintenance of communications security (COMSEC) equipment should be subjected to a cost comparison.

F. *National intelligence.* The Director, DIA must be consulted in accordance with Atch 1 of Appendix B before making a determination that an activity involving the collection/processing/production/dissemination of national intelligence as prescribed in Executive Order 12333 should be subjected to a cost comparison.

Atch 2—Reporting Requirements

A. *Annual reports to Congress.* To ensure consistent application of the requirements stated in Pub. L. 96-342 as amended by Pub. L. 97-252 and Pub. L. 99-190, hereafter referred to as section 502 (Atch 5 of this Appendix), the following guidance is provided:

(1) The geographic scope of section 502 applies to the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) Section 502 applies to proposed conversions of DoD CAs that on October 1, 1980, were being performed by more than 40 DoD civilian employees.

(3) The DoD Components shall notify DASDI at least 5 working days before sending the detailed summary report required by section 502(a)(2)(B) to Congress. The detailed summary of the cost shall include: the amount of the offer accepted for the

performance of the activity by the private contractor; the estimated cost of performance of the activity by the most efficient Government organization; a statement indicating the life of the contract; and certifications that the entire cost comparison is available, and that the Government calculation for the cost of performance of such function by DoD employees is based on an estimate of the most efficient and cost-effective organization for performance of such function by DoD employees.

(4) The potential economic effect on the employees affected, the local community, and the Federal Government of contracting for performance of the function shall be included in the report to accompany the above certifications, if more than 75 total employees (including military and civilian, both permanent and temporary) are potentially affected. It is suggested that the Army Corps of Engineers' model (or equivalent) be used to generate this information. The potential impact on affected employees shall be included in the report, regardless of the number of employees involved. Also include in the report a statement that the decision was made to convert to contractor performance, the projected date of contract award, the projected contract start date, and the effect of contracting the function on the military mission of that function.

(5) By December 15th of each year, each DoD Component shall submit to the ASD(A&L) the data required by section 502(c). In describing the extent to which CA functions were performed by DoD contractors during the preceding fiscal year, include the estimated number of work years for the in-house operation as well as for contract operation (including percentages) by major OSD functional areas in paragraph E., Atch 3, Enclosure E; such as, Social Services, Health Services, Installation Services, etc. For the estimate of the percentage of CA functions that will be performed in-house and those that will be performed by contract during the fiscal year during which the report is submitted, include the estimated work years for in-house CAs as well as for contracted CAs and the rationale for significant changes when compared to the previous year's data.

B. Certification of MEO analysis.
Certification of the most efficient and cost-effective organization analysis shall be provided to the Committees on Appropriations of the House of Representatives and the Senate prior to conversion to contract performance of any activity involving more than 10 DoD civilian employees for both full cost comparisons and simplified cost comparisons.

C. Inventory and review schedule (Report Control Symbol DD-MIL(A) 1540). See Atch 3 of this Appendix.

D. Commercial Activities Management Information System (CAMIS) (Report Control Symbol DD-MIL(Q) 1542). See Atch 4 of this Appendix.

Atch 3—Inventory and Review Schedule

A. Reporting guidance. Installation Commanders shall annually compile an inventory and five year review schedule for all their in-house CAs. This information shall be provided to the DoD Component's Central

Point of Contact Office. Information in each DoD Component's inventory and five year review schedule shall be used to assess overall DoD implementation of OMB Circular A-76 and for other purposes. The inventory shall be updated at least annually to reflect changes to the Installation Commander's review schedule and the results of reviews, cost comparisons, and direct conversions. Updated inventories for all DoD Components except the National Security Agency/Central Security Service (NSA/CSS) and the Defense Intelligence Agency (DIA) shall be submitted to the Deputy Assistant Secretary of Defense (Installations) within 90 days after the end of each fiscal year. Inventory data pertaining to NSA/CSS and DIA shall be held at the specific Agency concerned for subsequent review by properly cleared personnel. Atch 2 of this Appendix provides the codes and explanations for functional areas and Atch 3 of this Appendix provides the procedures for submitting the inventory.

B. Commercial Activities Inventory Report and Five-Year Review Schedule—1. General Instructions. a. Submit reports to the Assistant Secretary of Defense (Acquisition and Logistics) before 1 January. Reports are assigned Reports Control Symbol DD-MIL(A) 1540 and may be transmitted using magnetic tape or terminals as a medium.

b. If tape is medium chosen, then use nine-track tape Extended Binary Coded Decimal Interchange Code (EBCDIC), 1600 or 6250 density, even parity. The data record must contain 68 characters, blocked 10 logical records to a block. Omit headers and trailers. Use a tape mark (end of file) to follow the data. An external label shall be used on the reel to identify the organization to which the reel is to be returned, the title of the report, the fiscal year covered, and the tape characteristics.

c. If a remote work station terminal is to be used as the transmittal medium, then concurrence and interface requirements shall be established between the Defense Manpower Data Center (DMDC) and sender before transmission of data.

e. Data Format: In-house DOD Commercial Activities.

Data element	Tape positions	Field	Type ¹ data
Designator.....	1	A.....	A
Installation.....		A1.....	
—State.....	2-3	A1a.....	N
—Territory, or Possession.....			
—Place.....	4-9	A1b.....	A/N
*Function.....	10-14	A2.....	A/N
In-House Civilian Workload.....	15-20	A3.....	N
Military Workload.....	21-26	A4.....	N
*Reason for In-House Operation.....	49	A8.....	A
*Most Recent Year In-House Operation Approved.....	50-51	A9.....	N

Data element	Tape positions	Field	Type ¹ data
*Year DoD CA Scheduled for Next Review.	52-53	A10.....	N

¹ A=Alpha; N=Numeric.

A and A/N data shall be left justified space filled, N data shall be right justified and zero filled.

General Note for Personnel Processing These Reports

Coding shall be as indicated in the instructions. When specific coding instructions are not provided, reference must be made to DoD 5000.12-M. Failure to comply with the coding instructions contained herein or those published in DoD 5000.12-M will make the noncomplier responsible for required concessions in data base communication. Items marked with an asterisk (*) have been registered in the DoD Data Element Dictionary.

f. Instruction for preparing data entries.

Field and Instruction

A—Enter an A to designate that the data to follow on this record pertains to a particular DoD CA.

Ala—Enter the two-position numeric code for State or U.S. territory or possession as shown in paragraph C, Atch 3, enclosure E.

Alb—Enter the unique alpha-numeric code established by the DoD Component for military installation, named populated place, or related entity where the CA workload was performed during the fiscal year covered by this submission. A separate look-up listing or file should be provided showing each unique place code and its corresponding place name.

A2—Enter the function code from Appendix A that best describes the type of CA workload principally performed by the CA covered by this submission. Left justify.

A3—Enter total (full- and part-time) in-house civilian workyear equivalents applied to the performance of the function during the fiscal year. Round off to nearest whole workyear equivalent. (If amount is equal to or greater than .5, round up. If amount is less than .5, round down. Amounts between zero and 0.9 should be entered as one.) Right justify. Zero fill.

A4—Enter total military workyear equivalents applied to the performance of the function in the fiscal year. Round off to the nearest whole workyear equivalent. (Amounts between zero and one should be entered as one). Right justify. Zero fill.

A8—Enter the reason for in-house operation of the CA as shown in paragraph D, Atch 3, Appendix E.

A9—Enter the last two digits of the most recent fiscal year corresponding to the reason for in-house operation of the CA as stated in field A8. If field A8 is coded "N," this field should be left blank; otherwise an entry is required.

A10—Enter the last two digits of the fiscal year in which next review is scheduled to begin for the DoD CA. (Data element

reference YE-NA.) Enter WR if a waiver of review has been approved by the ASD(A&L).

C. Codes for denoting States, territories, and possessions of the United States.

1. Numeric State codes.

Code	
01	Alabama
02	Alaska
04	Arizona
05	Arkansas
06	California
08	Colorado
09	Connecticut
10	Delaware
11	District of Columbia
12	Florida
13	Georgia
15	Hawaii
16	Idaho
17	Illinois
18	Indiana
19	Iowa
20	Kansas
21	Kentucky
22	Louisiana
23	Maine
24	Maryland
25	Massachusetts
26	Michigan
27	Minnesota
28	Mississippi
29	Missouri
30	Montana
31	Nebraska
32	Nevada
33	New Hampshire
34	New Jersey
35	New Mexico
36	New York
37	North Carolina
38	North Dakota
39	Ohio
40	Oklahoma
41	Oregon
42	Pennsylvania
44	Rhode Island
45	South Carolina
46	South Dakota
47	Tennessee
48	Texas
49	Utah
50	Vermont
51	Virginia
53	Washington
54	West Virginia
55	Wisconsin
56	Wyoming

2. Numeric codes for territories and possessions.

60	American Samoa
66	Guam
67	JA Johnston Atoll
69	Northern Marianna Islands
71	Midway Islands
72	Puerto Rico
75	Trust Territory of the Pacific Islands
76	Navassa Island
77	U.S. Misc. Pacific Islands
78	Virgin Islands
79	Wake Island

D. Codes Reasons for In-House operations of Planned Changes in Method Performance.

1. In-house Performance (for entry in field A8).

Code and Explanation

A. Indicates that the DoD CA has been retained in-house for national defense reasons in accordance with § 171.6(b)(4), other than CAs reported under code "C" below.

C. Indicates that the DoD CA is retained in-house because the CA is essential for training or experience in required military skills, or the CA is needed to provide appropriate work assignments for a rotation base for overseas or sea-to-shore assignments, or the CA is necessary to provide career progression to a needed military skill level in accordance with paragraph A., Appendix A.

D. Indicates procurement of a product or service from a commercial source would cause an unacceptable delay or disruption of an essential DoD program.

E. Indicates that there is no satisfactory commercial source capable of providing the product or service needed.

F. Indicates that a cost comparison has been conducted and that the Government is providing the product or service at a lower total cost as a result of a cost comparison.

G. Indicates that the CA is being performed by DoD personnel now, but decision to continue in-house or convert to contract is

pending the results of a scheduled cost comparison.

H. Indicates that the CA is being performed by DoD employees now, but will be converted to contract because of cost comparison results.

J. Indicates that the CA is performed at a DoD hospital and, in the best interests of direct patient care, is being retained in-house.

K. Indicates that the CA is being performed by DoD employees now, but a decision has been made to convert to contract for reasons other than cost.

2. Use of Other Codes.

Enter an "N" in tape and card field A8 if the method of performance has never been reviewed and approved. Do not make an entry in tape or card field A9.

Enter a "Z" in tape and card field A8 if the cost comparison study has been held in abeyance because of direction from higher authority (such as, congressional moratorium).

E. Codes and Definitions of Functional Areas.

This list of functional codes and their definitions does not restrict the applicability or scope of the CA Program within DoD. Section 171.2 of this part defines the applicability and scope of the program. The CA Program still applies to CAs not defined in this listing. These codes and definitions are a guide to assist reporting. As new functions are identified, codes will be added or existing definitions will be expanded.

Social Services

G001 Care of Remains of Deceased Personnel and/or Funeral Services. Includes CAs that provide mortuary services, including transportation from aerial port of embarkation (APOE) to mortuary of human remains received from overseas mortuaries, inspection, restoration, provision of uniform and insignia, dressing, flag, placement in casket, and preparation for onward shipment.

G008 Commissary Store Operation. Includes CAs that provide all ordering, receipt, storage, stockage, and retailing for commissaries. Excludes procurement of goods for issue or resale.

- G008A: Shelf Stocking.
- G008B: Check Out.
- G008C: Meat Processing.
- G008D: Produce Processing.
- G008E: Storage and Issue.
- G008F: Other.
- G008G: Troop Subsistence Issue Point.

G009 Clothing Sales Store Operation. Includes CAs that provide ordering, receipt, storage, stockage, and retailing of clothing. Stores operated by the Army and Air Force Exchange Services, Navy Exchange Services, and Marine Corps Exchange Services are excluded.

G010 Recreational Library Services. Includes operation of libraries maintained primarily for off-duty use by military personnel and their dependents.

G011 Other Morale, Welfare, and Recreation Services. Operation of CAs maintained primarily for the off-duty use of military personnel and their dependents, including both appropriated and partially nonappropriated fund activities. The operation of clubs and messes, and morale

support activities are included in code G011. Examples of activities performing G011 functions are arts and crafts, entertainment, sports and athletics, swimming, bowling, marina and boating, stables, youth activities, centers, and golf. DoD Directive 1015.1² contains amplification of the categories reflected below. (Note: CA procedures are not mandatory for functions staffed solely by civilian personnel paid by nonappropriated funds.)

- G011A: All Category II Nonappropriated Fund Instrumentalities (NAFIs), except Package Beverage Branch.
- G011B: Package Beverage Branch.
- G011C: All Category IIIa NAFIs.
- G011D: All Category IIIb1, except Libraries.
- G011E: Category IIIb2 Arts and Crafts.
- G011F: Category IIIb2 Music & Theatre.
- G011G: Category IIIb2 Outdoor Recreation.
- G011H: Category IIIb2 Youth Activities.
- G011I: Category IIIb2 Child Development Service.
- G011J: Category IIIb2 Sports—Competitive.
- G011K: All Category IIIb3 except Armed Forces Recreation Center (AFRC) Golf Bowling, and membership associations converted from Category VI.
- G011L: Category IIIb3 AFRC.
- G011M: Category IIIb3 Golf.
- G011N: Category IIIb3 Bowling.
- G011O: Category IIIb3 membership associations converted from Category VI.
- G011P: Category III Information Tour and Travel (ITT).
- G011Q: All Category IV.
- G011R: All Category V.
- G011S: All Category VI, except those converted to Category IIIb3.
- G011T: All Category VII.
- G011U: All Category VIII, except billeting and hotels.
- G011V: Category VIII Billeting.
- G011W: Category VIII Hotels.
- G012 Community Services. DoD Directive 1015.1 contains further amplification of the categories.

- G012A: Information and Referral.
- G012B: Relocation Assistance.
- G012C: Exceptional Family Member.
- G012D: Family Advocacy (Domestic Violence).
- G012E: Foster Care.
- G012F: Family Member Employment.
- G012G: Installation Volunteer Coordination.
- G012H: Outreach.
- G012I: Volunteer Management.
- G012J: Office Management.
- G012K: Consumer Affairs/Financial Assistance.
- G012L: General and Emergency Family Assistance.

G900 Chaplain Activities and Support Services. Includes CAs that provide non-military unique support services that supplement the command religious program such as non-pastoral counseling, organists, choir directors, and directors of religious education. The command religious program, which includes chaplains and enlisted

² See § 171.1(a).

support personnel, is a Governmental function and is excluded from this category.

G901 Berthing BOQ/BEQ. Includes CAs that provide temporary or permanent accommodations for officer or enlisted personnel. Management of the facility, room service, and daily cleaning are included.

G904 Family Services. Includes CAs that perform various social services for families, such as family counseling, financial counseling and planning, the operation of an abuse center, child care center, or family aid center.

G999 Other Social Services. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Health Services

H101 Hospital Care. Includes CAs that provide outpatient and inpatient care and consultative evaluation in the medical specialties, including pediatrics and psychiatry; the coordination of health care delivery relative to the examination, diagnosis, treatment, and disposition of medical inpatients.

H102 Surgical Care. Includes CAs that provide outpatient and inpatient care and consultative evaluation in the surgical specialties, including obstetrics, gynecology, ophthalmology and otorhinolaryngology; the coordination of health care delivery relative to the examination, treatment, diagnosis, and disposition of surgical patients.

H105 Nutritional Care. Includes CAs that provide hospital food services for inpatients and outpatients, dietetic treatment, counseling of patients, and nutritional education.

H106 Pathology Services. Includes CAs involved in the operation of laboratories providing comprehensive clinical and anatomical pathology services; DoD military program and blood bank activities; and area reference laboratories.

H107 Radiology Services. Includes CAs that provide diagnostic and therapeutic radiologic service to inpatients and outpatients, including the processing, examining, interpreting, and storage and retrieval of radiographs, fluorographs, and radiotherapy.

H108 Pharmacy Services. Includes CAs that produce, preserve, store, compound, manufacture, package, control, assay, dispense, and distribute medications (including intravenous solutions) for inpatients and outpatients.

H109 Physical Therapy. Includes CAs that provide care and treatment to patients whose ability to function is impaired or threatened by disease or injury; primarily serve patients whose actual impairment is related to neuromusculoskeletal, pulmonary, and cardiovascular systems; evaluate the function and impairment of these systems, and select and apply therapeutic procedures to maintain, improve, or restore these functions.

H110 Materiel Services. Includes CAs that provide or arrange for the supplies, equipment, and certain services necessary to support the mission of the medical facility; responsibilities include procurement,

inventory control, receipt, storage, quality assurance, issue, turn-in, disposition, property accounting, and reporting actions for designated medical and nonmedical supplies and equipment.

H111 Orthopedic Services. Includes CAs that construct orthopedic appliances such as braces, casts, splints, supports, and shoes from impressions, forms, molds, and other specifications.

H112 Ambulance Service. Includes CAs that provide transportation for personnel who are injured, sick, or otherwise require medical treatment, including standby duty in support of military activities and ambulance bus services.

H113 Dental Care. Includes CAs that provide oral examinations, patient education, diagnosis, treatment, and care including all phases of restorative dentistry, oral surgery, prosthodontics, oral pathology, periodontics, orthodontics, endodontics, oral hygiene, preventive dentistry, and radiodontics.

H114 Dental Laboratories. Includes CAs that operate dental prosthetic laboratories required to support the provision of comprehensive dental care; services may include preparing casts and models, repairing dentures, fabricating transitional, temporary, or orthodontic appliances, and finishing dentures.

H115 Clinics and Dispensaries. Includes CAs that operate freestanding clinics and dispensaries that provide health care services. Operations are relatively independent of a medical treatment facility and are separable for in-house or contract performance. Health clinics, occupational health clinics, and occupational health nursing offices.

H116 Veterinary Services. Includes CAs that provide a complete wholesomeness and quality assurance food inspection program, including sanitation, inspection of food received, surveillance inspections, and laboratory examination and analysis; a complete zoonosis control program; complete medical care for Government-owned animals; veterinary medical support for biomedical research and development; support to other Federal agencies when requested and authorized; assistance in a comprehensive preventive medicine program; and determination of fitness of all foods that may have been contaminated by chemical, bacteriological, or radioactive materials.

H117 Medical Records Transcription. Includes CAs that transcribe, file, and maintain medical records.

H118 Nursing Services. Includes CAs that provide care and treatment for inpatients and outpatients not required to be performed by a doctor.

H119 Preventive Medicine. Includes CAs that operate wellness or holistic clinics (preventive medicine), information centers, and research laboratories.

H120 Occupational Health. Includes CAs that develop, monitor, and inspect installation safety conditions.

H121 Drug Rehabilitation. Includes CAs that operate alcohol treatment facilities, urine testing for drug content, and drug/alcohol counseling centers.

H999 Other Health Services. This code will only be used for unusual circumstances

and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Intermediate, Direct, or General Repair and Maintenance of Equipment

Definition. Maintenance authorized and performed by designated maintenance CAs in support of using activities. Normally, it is limited to replacement and overhaul of unserviceable parts, subassemblies, or assemblies. It includes (1) intermediate/direct/general maintenance performed by fixed activities that are not designed for deployment to combat areas and that provide direct support of organizations performing or designed to perform combat missions from bases in the United States, and (2) any testing conducted to check the repair procedure. CAs engaged in intermediate/direct/general maintenance and/or repair of equipment are to be grouped according to the equipment predominantly handled, as follows:

J501 Aircraft. Aircraft and associated equipment. Includes armament, electronic and communications equipment, engines, and any other equipment that is an integral part of an aircraft.

J502 Aircraft Engines. Aircraft engines that are not repaired while an integral part of the aircraft.

J503 Missiles. Missile systems and associated equipment. Includes mechanical, electronics, and communication equipment that is an integral part of missile systems.

J504 Vessels. All vessels, including armament, electronics, communications and any other equipment that is an integral part of the vessel.

J505 Combat Vehicles. Tanks, armored personnel carriers, self-propelled artillery, and other combat vehicles. Includes armament, fire control, electronic, and communications equipment that is an integral part of a combat vehicle.

J506 Noncombat Vehicles. Automotive equipment, such as tactical, support, and administrative vehicles. Includes electronic and communications equipment that is an integral part of the noncombat vehicle.

J507 Electronic and Communications Equipment. Stationary, mobile, portable, and other electronic and communications equipment. Excludes electronic and communications equipment that is an integral part of another weapon/support system. Maintenance of Automatic Data Processing Equipment (ADPE) not an integral part of a communications system shall be reported under functional code W825; maintenance of tactical ADPE shall be reported under function code J999.

J510 Railway Equipment. Locomotives of any type or gauge, including steam, compressed air, straight electric, storage battery, diesel electric, gasoline, electric, diesel mechanical locomotives, railway cars, and cabooses. Includes electrical equipment for locomotives and cars, motors, generators, wiring supplies for railway tracks for both propulsion and signal circuits, and on-board communications and control equipment.

J511 Special Equipment. Construction equipment, weight lifting, power, and materiel handling equipment (MHE).

512 Armament. Small arms, artillery and guns, nuclear munitions, chemical, biological, and radiological (CBR) items, conventional ammunition, and all other ordnance items. Excludes armament that is an integral part of another weapon or support system.

513 Dining Facility Equipment. Dining facility kitchen appliances and equipment.

514 Medical and Dental Equipment. Medical and dental equipment.

515 Containers, Textiles, Tents, and Tarpaulins. Containers, tents, tarpaulins, other textiles, and organizational clothing.

516 Metal Containers. Container Express (CONEX) containers, gasoline containers, and other metal containers.

517 Training Devices and Audiovisual Equipment. Training devices and audiovisual equipment. Excludes maintenance of locally fabricated devices and functions reported under codes T807 and T900.

519 Industrial Plant Equipment. That part of plant equipment with an acquisition cost of \$3,000 or more, used to cut, abrade, grind, shape, form, join, test, measure, heat, or otherwise alter the physical, electrical, or chemical properties of materials, components, or end items entailed in manufacturing, maintenance, supply processing, assembly, or research and development operations.

520 Test, Measurement, and Diagnostic Equipment. Test, measurement, and diagnostic equipment (TMDE) that has resident in it a programmable computer. Included is equipment referred to as automated test equipment (ATE).

521 Other Test, Measurement, and Diagnostic Equipment. Test, measurement, and diagnostic equipment not classified as ATE or that does not contain a resident programmable computer. Includes such items as electronic meters, armament circuit testers, and other specialized testers.

522 Aeronautical Support Equipment. Aeronautical support equipment excluding TMDE (and ATE). Includes such items as ground electrical power carts, aircraft tow tractors, ground air conditioners, engine stands, and trailers. Excludes aeronautical equipment reported under 501.

999 Other Intermediate, Direct, or General Repair and Maintenance of Equipment. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Depot Repair, Maintenance, Modification, Conversion, or Overhaul of Equipment

Definition. The maintenance performed on materiel that requires major overhaul or a complete rebuild of parts, assemblies, subassemblies, and end items, including the manufacture of parts, modifications, testing, and reclamation, as required. Depot maintenance serves to support lower categories of maintenance. Depot maintenance provides stocks of serviceable equipment by using more extensive facilities for repair than are available in lower level maintenance activities. (See DoD Instruction 4151.15³ for further amplification of the

category definitions reflected below.) Depot or indirect maintenance functions are identified by the type of equipment maintained or repaired.

K531 Aircraft. Aircraft and associated equipment. Includes armament, electronics and communications equipment, engines, and any other equipment that is an integral part of an aircraft. Aeronautical support equipment not reported separately under code K548.

K532 Aircraft Engines. Aircraft engines that are not repaired while an integral part of the aircraft.

K533 Missiles. Missile systems and associated equipment. Includes mechanical, electronic, and communications equipment that is an integral part of missile systems.

K534 Vessels. All vessels, including armament, electronics, and communications equipment, and any other equipment that is an integral part of a vessel.

K535 Combat Vehicles. Tanks, armored personnel carriers, self-propelled artillery, and other combat vehicles. Includes armament, fire control, electronics, and communications equipment that is an integral part of a combat vehicle.

K536 Noncombat Vehicles. Automotive equipment, such as tactical support and administrative vehicles. Includes electronic and communications equipment that is an integral part of the vehicle.

K537 Electronic and Communications Equipment. Stationary, mobile, portable, and other electronics and communications equipment. Excludes electronic and communications equipment that is an integral part of another weapon/support system. Maintenance of ADPE, not an integral part of a communications system, is reported under functional code W825.

K538 Railway Equipment. Locomotives of any type or gauge, including steam, compressed air, straight electric, storage battery, diesel electric, gasoline, electric, diesel mechanical locomotives, railway cars, and cabooses. Includes electrical equipments for locomotives and cars, motors, generators, wiring supplies for railway tracks for both propulsion and signal circuits, and on-board communication and control equipment.

K539 Special Equipment. Construction equipment, weight lifting, power, and materiel-handling equipment.

K540 Armament. Small arms; artillery and guns; nuclear munitions, CBR items; conventional ammunition; and all other ordnance items. Excludes armament that is an integral part of another weapon or support system.

K541 Industrial Plant Equipment. That part of plant equipment with an acquisition cost of \$3,000 or more, used to cut, abrade, grind, shape, form, join, test, measure, heat, or otherwise alter the physical, electrical, or chemical properties of materials, components, or end items entailed in manufacturing, maintenance, supply, processing, assembly, or research and development operations.

K542 Dining Facility Equipment. Dining facility kitchen appliances and equipment. This includes field feeding equipment.

K543 Medical and Dental Equipment. Medical and dental equipment.

K544 Containers, Textiles, Tents and Tarpaulins. Containers, tents, tarpaulins, and other textiles.

K545 Metal Containers. CONEX containers, gasoline containers, and other metal containers.

K546 Test Measurement and Diagnostic Equipment. Test measurement and diagnostic equipment (TMDE) that has resident in it a programmable computer. Included is equipment referred to as automated test equipment (ATE).

K547 Other Test Measurement and Diagnostic Equipment. Test measurement and diagnostic equipment not classified as ATE or that does not contain a resident programmable computer. Includes such items as electronic meters, armament circuit testers, and other specialized testers.

K548 Aeronautical Support Equipment. Aeronautical support equipment excluding TMDE (and ATE). Includes such items as ground electrical power carts, aircraft tow tractors, ground air conditioners, engine stands, and trailers. Excludes aeronautical support equipment reported under code K531.

K999 Other Depot Repair, Maintenance, Modification, Conversion, or Overhaul of Equipment. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Base Maintenance/Multifunction Contracts

P100 Base Maintenance/Multifunction Contracts. Includes all umbrella-type contracts where the contractor performs more than one function at one or more installations. (Identify specific functions as nonadd entries.)

Research, Development, Test, and Evaluation (RDT&E) Support

R660 RDT&E Support. Includes all effort not reported elsewhere directed toward support of installation or operations required for research, development, test, and evaluation use. Included are maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft and ships.

Installation Services

S700 Natural Resource Services. Includes those CAs that provide products or services that implement natural resource management plans in the areas of fish, game, wildlife, forestry, watershed areas or ground water table, erosion control, and mineral deposit management. Natural resources planning and management is a governmental function and will not be reported.

S701 Advertising and Public Relations Services. Includes CAs responsible for advertising and public relations in support of public affairs offices, installation newspapers and publications, and information offices.

S702 Financial and Payroll Services. Includes CAs that prepare payroll, print checks, escrow, or change payroll accounts for personnel. Includes other services normally associated with banking operations.

S703 Debt Collection. Includes CAs that monitor, record, and collect debts incurred by

³ See § 171 1(a).

overdrafts, bad checks, or delinquent accounts.

S706 Installation Bus Services. Includes CAs that operate local, intrapost, and interpost scheduled bus services. Includes scheduled movement of personnel over regular routes by administrative motor vehicles to include taxi and dependent school bus services.

S706A Scheduled Bus Services.

S706B Unscheduled Bus Services.

S706C Dependent School Bus Services.

S706D Other Bus Services.

S708 Laundry and Dry Cleaning Services. Includes CAs that operate and maintain laundry and dry cleaning facilities.

S709 Custodial Services. Includes CAs that provide janitorial and housekeeping services to maintain safe and sanitary conditions and preserve property.

S710 Pest Management. Includes CAs that provide control measures directed against fungi, insects, rodents, and other pests.

S712 Refuse Collection and Disposal Services. Includes CAs that operate incinerators, sanitary fills, and regulated dumps, and perform all other approved refuse collection and disposal services.

S713 Food Services. Includes CAs engaged in the operation and administration of food preparation and serving facilities. Excludes operation of central bakeries, pastry kitchens, and central meat processing facilities that produce a product and are reported under functional area X934. Excludes hospital food service operations (under code H105).

S713A Food Preparation and Administration.

S713B Mess Attendants and Housekeeping Services.

S714 Furniture. Includes CAs that repair and refurbish furniture.

S715 Office Equipment. Includes CAs that maintain and repair typewriters, calculators, and adding machines.

S716 Motor Vehicle Operation. Includes CAs that operate local administrative motor transportation services. Excludes installation bus services reported in functional area S706.

S716A: Taxi Service.

S716B: Bus Service (unless in S706).

S716C: Motor Pool Operation.

S716D Crane Operation (includes rigging, excludes those listed in T800G).

S716E: Heavy Truck Operation.

S716F: Construction Equipment Operation.

S716I: Driver/Operator Licensing & Test.

S716J: Other Vehicle Operations (Light Truck/Auto).

S716K: Fuel Truck Operations.

S716M: Tow Truck Operations.

S717 Motor Vehicle Maintenance. Includes CAs that perform maintenance on automotive equipment, such as support and administrative vehicles. Includes electronic and communications equipment that are an integral part of the vehicle.

S717A: Upholstery Maintenance and Repair.

S717B: Glass Replacement and Window Repair.

S717C: Body Repair and Painting.

S717D: Accessory Overhaul.

S717E: General Repairs/Minor Maintenance.

S717F: Battery Maintenance and Repair.

S717G: Tire Maintenance and Repair.

S717H: Major Component Overhaul.

S717I: Material Handling Equipment Maintenance.

S717J: Crane Maintenance.

S717K: Construction Equipment Maintenance.

S717L: Frame and Wheel Alignment.

S717M: Other Motor Vehicle Maintenance.

S718 Fire Prevention and Protection.

Includes CAs that operate and maintain fire protection and preventive services. Includes routine maintenance and repair of fire equipment and the installation of fire prevention equipment.

S718A: Fire Protection Engineering.

S718B: Fire Station Administration.

S718C: Fire Prevention.

S718D: Fire Station Operations.

S718E: Crash and Rescue.

S718F: Structural Fire Suppression.

S718G: Fire & Crash/Rescue Equipment Major Maintenance.

S718H: Other Fire Prevention and Protection.

S719 Military Clothing. Includes CAs that order, receive, store, issue, and alter military clothing and repair military shoes. Excludes repair of organizational clothing reported under code J515.

S724 Guard Service. Includes CAs engaged in physical security operations that provide for installation security and intransit protection of military property from loss or damage.

S724A: Ingress and egress control. Regulation of person, material, and vehicles entering or exiting a designated area to provide protection of the installation and Government property.

S724B: Physical security patrols and posts. Mobile and static physical security guard activities that provide protection of installation or Government property.

S724C: Conventional arms, ammunition, and explosives (CAAE) security. Dedicated security guards for CAAE.

S724D: Animal control. Patrolling for, capture of, and response to complaints about uncontrolled, dangerous, and disabled animals on military installations.

S724E: Visitor information services. Providing information to installation resident and visitors about street, agency, unit, and activity locations.

S724F: Vehicle impoundment. Removal, accountability, security, and processing of vehicles impounded on military installations.

S724G: Registration functions. Administration, filing, processing, and retrieval information about privately owned items that must be registered on military installations.

S724S: Other guard service.

S725 Electrical Plants and Systems. Includes CAs that operate, maintain, and repair Government-owned electrical plants and systems.

S726 Heating Plants and Systems. Includes CAs that operate, maintain, and repair Government-owned heating plants and systems over 750,000 British Thermal Unit (BTU) capacity. Codes Z991 or Z992 will be

used for systems under 750,000 BTU capacity, as applicable.

S727 Water Plants and Systems. Includes CAs that operate, maintain, and repair Government-owned water plants and systems.

S728 Sewage and Waste Plants and Systems. Includes CAs that operate, maintain, and repair Government-owned sewage and waste plants and systems.

S729 Air Conditioning and Refrigeration Plants. Includes CAs that operate, maintain, and repair Government-owned air conditioning and refrigeration plants over 5-ton capacity. Codes Z991 or Z992 shall be used for plants under 5-ton capacity as applicable.

S730 Other Services or Utilities. Includes CAs that operate, maintain, and repair other Government-owned services or utilities.

S731 Base Supply Operations. Includes CAs that operate centralized installation supply functions providing supplies and equipment to all assigned or attached units. Performs all basic supply functions to determine requirements for all requisition, receipt, storage, issuance, and accountability for materiel.

S732 Warehousing and Distribution of Publications. Includes CAs that receive, store, and distribute publications and blank forms.

S740 Installation Transportation Office. Includes technical, clerical, and administrative CAs that support traffic management services related to the procurement of freight and passenger service from commercial "for hire" transportation companies. Excludes restricted functions that must be performed by Government employees such as the review, approval, and signing of documents related to the obligation of funds; selection of mode or carrier; evaluation of carrier performance; and carrier suspension. Excludes installation transportation functions described under codes S706, S716, S717, T810, T811, T812, and T814.

S740A: Installation Transportation Management and Administration.

S740B: Materiel Movements.

S740C: Personnel Movements.

S740D: Personal Property Activities.

S740E: Quality Control and Inspection.

S740F: Unit Movements.

S750 Museum Operations

S760 Contractor-Operated Parts Stores and Contractor-Operated Civil Engineering Supply Stores

S999 Other Installation Services. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Other Nonmanufacturing Operations

T800 Ocean Terminal Operations. Includes CAs that operate terminals transferring cargo between overland and seafit transportation. Includes handling of Government cargo through commercial water terminals.

T800A: Pier Operations. Includes CAs that provide stevedore and shipwright carpentry

operations supporting the loading, stowage, and discharge of cargo and containers on and off ships, and supervision of operations at commercial piers and military ocean terminals.

T800B: Cargo Handling Equipment. Includes CAs that operate and maintain barge derricks, gantries, cranes, forklifts, and other materiel handling equipment used to handle cargo within the terminal area.

T800C: Port Cargo Operations: Includes CAs that load and unload railcars and trucks, pack, repack, crate, warehouse, and store cargo moving through the terminal, and stuff and unstuff containers.

T800D: Vehicle Preparation. Includes CAs that prepare Government and privately owned vehicles (POVs) for ocean shipment, inspection, stowage in containers, transportation to pier, processing, and issue of import vehicles to owners.

T800E: Lumber Operations. Includes CAs that segregate reclaimable lumber from dunnage removed from ships, railcars, and trucks; remove nails; even lengths; inspect; and return the lumber to inventory for reuse. Includes receipt, storage, and issue of new lumber.

T800F: Materiel Handling Equipment (MHE) Operations. Includes CAs that deliver MHE to user agencies, perform onsite fueling, and operate special purpose and heavy capacity equipment.

T800G: Crane Operations. Includes CAs that operate and perform first-echelon maintenance of barge derricks, gantries, and truck-mounted cranes in support of vessels and terminal cargo activities.

T800H: Breakbulk Cargo Operations. Includes CAs that provide stevedoring, shipwright carpentry, stevedore transportation, and the loading and unloading of noncontainerized cargo.

T800I: Other Ocean Terminal Operations.
T801 Storage and Warehousing. Includes CAs that receive materiel into depots and other storage and warehousing facilities, provide care for supplies, and issue and ship materiel. Excludes installation supply in support of unit and tenet activities described in S731.

T801A: Receipt. Includes CAs that receive supplies and related documents and information. This includes materiel handling and related actions, such as materials segregation and checking, and tallying incident to receipt.

T801B: Packing and Crating of Household Goods. Includes CAs performing packing and crating operations described in T801H, incident to the movement or storage of household goods.

T801C: Shipping. Includes CAs that deliver stocks withdrawn from storage to shipping. Includes onloading and offloading of stocks from transportation carriers, blocking, bracing, dunnage, checking, tallying, and materiel handling in central shipping area and related documentation and information operations.

T801D: Care, Rewarehousing, and Support of Materiel. Includes CAs that provide for actions that must be taken to protect stocks in storage, including physical handling, temperature control, assembly placement and preventive maintenance of storage aids, and

realigning stock configuration; provide for movement of stocks from one storage location to another and related checking, tallying, and handling; and provide for any work being performed within general storage support that cannot be identified clearly as one of the subfunctions described above.

T801E: Preservation and Packaging. Includes CAs that preserve, represerve, and pack materiel to be placed in storage or to be shipped. Excludes application of final (exterior) shipping containers.

T801F: Unit and Set Assembly and Disassembly. Includes CAs that gather or bring together items of various nomenclature (parts, components, and basic issue items) and group, assemble, or restore them to or with an item of another nomenclature (such as parent end item or assemblage) to permit shipment under a single document. This also includes blocking, bracing, and packing preparations within the inner shipping container; physical handling and loading; and reverse operation of assembling such units.

T801G: Special Processing of Nonstock Fund-Owned Materiel. Includes CAs performing special processing actions described below that must be performed on Inventory Control Point (ICP)-controlled, nonstock fund-owned materiel by technically qualified depot maintenance personnel, using regular or special maintenance tools or equipment. Includes disassembly or reassembly or reserviceable ICP-controlled materiel being readied for movement, in-house storage, or out-of-house location such as a port to a commercial or DoD-operated maintenance or storage facility, property disposal or demilitarization activity, including blocking, bracing, cushioning, and packing.

T801H: Packing and Crating. Includes CAs that place supplies in their final, exterior containers ready for shipment. Includes the nailing, strapping, sealing, stapling, masking, marking, and weighing of the exterior container. Also, includes all physical handling, unloading, and loading of materiel within the packing and shipping area; checking and tallying materiel in and out; all operations incident to packing, repacking, or recrating for shipment, including on-line fabrication of tailored boxes, crates, bit inserts, blocking, bracing and cushioning shrouding, overpacking, containerization, and the packing of materiel in transportation containers. Excludes packing of household goods and personnel effects reported under code T801B.

T801I: Other Storage and Warehousing.

T802 Cataloging. Includes CA that prepare supply catalogs and furnish cataloging data on all items of supply for distribution to all echelons worldwide. Include catalog files, preparation, and revision of all item identifications for all logistics functions; compilation of Federal catalog sections and allied publication; development of Federal item identification guides, and procurement identification descriptions. Includes printing and publication of Federal supply catalogs and related allied publications.

T803 Acceptance Testing. Includes CAs that inspect and test supplies and materiel to ensure that products meet minimum

requirements of applicable specifications, standards, and similar technical criteria; laboratories and other facilities with inspection and test capabilities; and activities engaged in production acceptance testing of ammunition, aircraft armament, mobility materiel, and other military equipment.

T803A: Inspection and Testing of Oil and Fuel.

T803B: Other Acceptance Testing.

T804 Architect-Engineering Services. Includes CAs that provide Architect/Engineer (A/E) services. Excludes Engineering Technical Services (ETS) reported in functional area T813, and those required under the Brooks Act.

T805 Operation of Bulk Liquid Storage. Includes CAs that operate bulk petroleum storage facilities. Includes operation of off-vessel discharging and loading facilities, fixed and portable bulk storage facilities, pipelines, pumps, and other related equipment within or between storage facilities or extended to using agencies (excludes aircraft fueling services); handling of drums within bulk fuel activities. Excludes aircraft fueling services reported under code T814.

T806 Printing and Reproduction. Includes CAs that print, duplicate, and copy. Excludes user-operated office copying equipment.

T807 Audiovisual and Visual Information Services. Includes CAs that provide base audiovisual (AV) and visual information (VI) support, production, depositories, technical documentation, and broadcasting.

T807A: Base VI Support. Includes CAs that provide production activities that provide general support to all installation, base, facility or site, organizations or activities. Typically, they supply motion picture, still photography, television, and audio recording for nonproduction documentary purposes, their laboratory support, graphic arts, VI libraries, and presentation services.

T807B: AV Production. Includes CAs that provide a self-contained, complete presentation, developed according to a plan or script, combining sound with motion media (film, tape or disc) for the purpose of conveying information to, or communicating with, an audience. (An AV production is distinguished from a VI production by the absence of combined sound and motion media in the latter.)

T807C: VI Depositories. Includes CAs that are especially designed and constructed for the low-cost and efficient storage and furnishing of reference service on semicurrent records pending their ultimate disposition. Includes records centers.

T807D: VI Technical Documentation. Includes CAs that provide a technical documentation (TECDOC) which is a continuous visual recording (with or without sound as an integral documentation component) of an actual event made for purposes of evaluation. Typically, TECDOC contributes to the study of human or mechanical factors, procedures and processes in the context of medicine, science, logistics, research, development, test and evaluation, intelligence, investigations and armament delivery.

T807E: Electronic Media Transmission. Includes CAs that transmit and receive audio and video signals for closed circuit local and long distance multi-station networking and broadcast operations.

T807F: VI Documentation. Includes CAs that provide motion media (film or tape) still photography and audio recording of technical and nontechnical events, as they occur, usually not controlled by the recording crew. VI documentation (VIDOC) encompasses Operational Documentation (OPDOC) and TEGDOC. OPDOC is VI (photographic or electronic) recording of activities, or multiple perspectives of the same activity, to convey information about people, places and things.

T807G: AV Central Library (Inventory Control Point). Includes CAs that receive, store, issue, and maintain AV products at the central library level. May or may not include records center operations for AV products.

T807K: AV or VI Design Service. Includes CAs that provide professional consultation services involving the selection, design, and development of AV or VI equipment or facilities.

T808 Mapping and Charting. Includes CAs that design, compile, print, and disseminate cartographic and geodetic products.

T809 Administrative Telephone Service. Includes CAs that operate and maintain the common-user, administrative telephone systems at DoD installations and activities. Includes telephone operator services; range communications; emergency action consoles; and the cable distribution portion of a fire alarm, intrusion detection, emergency monitoring and control data, and similar systems that require use of a telephone system.

T810 Air Transportation Services. Includes CAs that operate and maintain nontactical aircraft that are assigned to commands and installations and used for administrative movement of personnel and supplies.

T811 Water Transportation Services. Includes CAs that operate and maintain nontactical watercraft that are assigned to commands and installations and are used for administrative movement of personnel and supplies.

T811A: Water Transportation Services (except tug operations).

T811B: Tug Operations.

T812 Rail Transportation Services. Includes CAs that operate and maintain nontactical rail equipment assigned to commands and installation and used for administrative movement of personnel and supplies.

T813 Engineering and Technical Services. Includes CAs that advise, instruct, and train DoD personnel in the installation, operation, and maintenance of DoD weapons, equipment, and systems.

These services include transmitting the technical skill capability to DoD personnel in order for them to install, maintain, and operate such equipment and keep it in a high state of military readiness.

T813A: Contractor Plant Services. Includes commercial manufacturers of military equipment contracted to provide technical and engineering services to DoD personnel.

Qualified employees of the manufacturer furnish these services in the manufacturer plants and facilities. Through this program, the special skills, knowledge, experience, and technical data of the manufacturer are provided for use in training, training aid programs, and other essential services directly related to the development of the technical capability required to install, operate, maintain, supply, and store such equipment.

T813B: Contract Field Services (CFS). Includes CAs that provide services of qualified contractor personnel who provide onsite technical and engineering services to DoD personnel.

T813C: In-house Engineering and Technical Services. Includes CAs that provide technical and engineering services described in codes T813A and T813B above that are provided by Government employees.

T813D: Other Engineering and Technical Services.

T814 Fueling Service (Aircraft). Includes CAs that distribute aviation petroleum/oil/lubricant products. Includes operation of trucks and hydrants.

T815 Scrap Metal Operation. Includes CAs that bale or shear metal scrap and melt or sweat aluminum scrap.

T816 Telecommunication Centers. Includes CAs that operate and maintain telecommunication centers, nontactical radios, automatic message distribution systems, technical control facilities, and other systems integral to the communication center. Includes operations and maintenance of air traffic control equipment and facilities.

T817 Other Communications and Electronics Systems. Includes CAs that operate and maintain communications and electronics systems not included in T809 and T816.

T818 Systems Engineering and Installation of Communications Systems. Includes CAs that provide engineering and installation services, including design and drafting services associated with functions specified in T809, T816, and T817.

T819 Preparation and Disposal of Excess and Surplus Property. Includes CAs that accept, classify, and dispose of surplus Government property, including scrap metal.

T820 Administrative Support Services. Includes CAs that provide centralized administrative support services not included specifically in another functional category. These activities render services to multiple activities throughout an organization or to multiple organizations; such as, a steno or typing pool rather than a secretary assigned to an individual. Typical activities included are word processing centers, reference and technical libraries, microfilming, messenger service, translation services, publication distribution centers, etc.

T820A: Word Processing Centers.

T820B: Reference and Technical Libraries.

T820C: Microfilming.

T820D: Internal Mail and Messenger

Services.

T820E: Translation Services.

T820F: Publication Distribution Centers.

T820G: Field Printing and Publication.

Includes those activities that print or reproduce official publications, regulations,

and orders. Includes management and operation of the printing facility.

T820H: Compliance Auditing.

T820I: Court Reporting.

T821 Special Studies and Analyses.

Includes CAs that perform research, collect data, conduct time-motion studies, or pursue some other planned methodology in order to analyze a specific issue, system, device, boat, plane, or vehicle for management.

Such activities may be temporary or permanent in nature.

T821A: Cost Benefit Analyses.

T821B: Statistical Analyses.

T821C: Scientific Data Studies.

T821D: Regulatory Studies.

T821E: Defense, Education, Energy Studies.

T821F: Legal/Litigation Studies.

T821G: Management Studies.

T900 Training Devices and Simulators.

Includes CAs that provide training aids, devices, simulator design, fabrication, issue, operation, maintenance, support, and services.

T900A: Training Aids, Devices, and Simulator Support. Includes CAs that design, fabricate, stock, store, issue, receive, and account for and maintain training aids, devices, and simulators (does not include audiovisual production and associated services or audiovisual support).

T900B: Training Device and Simulator Operation. Includes CAs that operate and maintain training device and simulator systems.

T999 Other Nonmanufacturing Operations

Education and Training

Includes CAs that conduct courses of instruction attended by civilian or military personnel of the Department of Defense. Terminology of categories and subcategories primarily for military personnel (marked by an asterisk) follows the definitions of the statutory Military Manpower Training Report submitted annually to the Congress. This series includes only the conduct of courses of instruction; it does not include education and training support functions (that is, Base Operations Functions in the S series and Nonmanufacturing Operations in the T series). A course is any separately identified instructional entity or unit appearing in a formal school or course catalog.

U100 Recruit Training.* The instruction of recruits.

U200 Officer Acquisition Training.* Programs concerned with officer acquisition training.

U300 Specialized Skill Training.*

Includes Army One-Station Unit Training, Naval Apprenticeship Training, and health care training.

U400 Flight Training.* Includes flight familiarization training.

U500 Professional Development Education*

U510 Professional Military Education.* Generally, the conduct of instruction at basic, intermediate, and senior Military Service schools and colleges and enlisted leadership training does not satisfy the requirements of the definition of a DoD CA and is excluded from the provision of this Instruction.

*U520 Graduate Education, Fully Funded, Full-Time**

*U530 Other Full-Time Education Programs**

*U540 Off-Duty (Voluntary) and On-Duty Education Programs.** Includes the conduct of Basic Skills Education Program (BSEP), English as a Second Language (ESL), skill development courses, graduate, undergraduate, vocational/technical, and high school completion programs for personnel without a diploma.

U600 Civilian Education and Training. Includes the conduct of courses intended primarily for civilian personnel.

U700 Dependent Education. Includes the conduct of elementary and secondary school courses of instruction for the dependents of DoD overseas personnel.

U800 Training Development and Support (not reported elsewhere)

U999 Other Training. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Automatic Data Processing

W824 Data Processing Services. Includes CAs that provide ADP processing services by using Government-owned or -leased ADP equipment; or participating in Government-wide ADP sharing program; or procuring of time-sharing processing services (machine time) from commercial sources. Includes all types of data processing services performed by general purpose ADP and peripheral equipment.

W824A: Operation of ADP Equipment.

W824B: Production Control and Customer Service.

W824C: ADP Magnetic Media Library.

W824D: Data Transcription/Data Entry Services.

W824E: Transmission and Teleprocessing Equipment Services.

W824F: Acceptance Testing and Recovery Systems.

W824G: Punch Card Processing Services.

W824H: Other ADP Operations and Support.

W825 Maintenance of ADP Equipment. Includes CAs that maintain and repair all Government-owned ADP equipment and peripheral equipment.

W826 Systems Design, Development, and Programming Services. Includes CAs that provide software services associated with nontactical ADP operation.

W826A: Development and Maintenance of Applications Software.

W826B: Development and Maintenance of Systems Software.

W827 Software Services for Tactical Computers and Automated Test Equipment. Includes CAs that provide software services associated with tactical computers and TMDE and ATE hardware.

W999 Other Automatic Data Processing. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Products Manufactured and Fabricated In-House

Commercial activities that manufacture and/or fabricate products in-house are grouped according to the products predominantly handled as follows:

X931 Ordnance Equipment. Ammunition and related products.

X932 Products Made from Fabric or Similar Materials. Including the assembly and manufacture of clothing, accessories, and canvas products.

X933 Container Products and Related Items. Including the design, engineering, and manufacture of wooden boxes, crates, and other containers; includes the fabrication of fiberboard boxes, and assembly of paperboard boxes with metal straps. Excludes on-line fabrication of boxes and crates reported in functional area T801.

X934 Food and Bakery Products. Including the operation of central meat processing plants, pastry kitchens, and bakery facilities. Excludes food services reported in functional areas S713 and H105.

X935 Liquid, Gaseous, and Chemical Products. Including the providing of liquid oxygen and liquid nitrogen.

X936 Rope, Cordage, and Twine Products; Chains and Metal Cable Products

X937 Logging and Lumber Products. Logging and sawmill operations.

X938 Communications and Electronic Products

X939 Construction Products. The operation of quarries and pits, including crushing, mixing, and concrete and asphalt batching plants.

X940 Rubber and Plastic Products

X941 Optical and Related Products

X942 Sheet Metal Products

X943 Foundry Products

X944 Machined Parts

X999 Other Products Manufactured and Fabricated In-House. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Maintenance, Repair, Alteration, and Minor Construction of Real Property

Z991 Buildings and Structures—Family Housing. Includes CAs that are engaged in exterior and interior painting and glazing; roofing, interior plumbing; interior electric; interior heating equipment, including heat sources under 750,000 BTU capacity; installed food service and related equipment; air conditioning and refrigeration under a 5-ton capacity; elevators; and other equipment affixed as part of the building and not included in other activities. Includes fencing, flagpoles, and other miscellaneous structures associated with family housing.

Z991A: Rehabilitation—Tenant Change.

Z991B: Roofing.

Z991C: Glazing.

Z991D: Tiling.

Z991E: Exterior Painting.

Z991F: Interior Painting.

Z991G: Flooring.

Z991H: Screens, Blinds, etc.

Z991I: Appliance Repair.

Z991J: Electrical Repair. Includes elevators, escalators, and moving walks.

Z991K: Plumbing.

Z991L: Heating Maintenance.

Z991M: Air Conditioning Maintenance.

Z991N: Emergency/Service Work.

Z991T: Other Work.

Z992 Buildings and Structures (Other Than Family Housing). Includes CAs that are engaged in exterior and interior painting and glazing; roofing, interior plumbing; interior electric; interior heating equipment, including heat sources under 750,000 BTU capacity; installed food service and related equipment; air conditioning and refrigeration under a 5-ton capacity; elevators; and other equipment affixed as part of the building and not reported under other functional codes. Includes fencing, flagpoles, guard and watchtowers, grease racks, unattached loading ramps, training facilities other than buildings, monuments, grandstands and bleachers, elevated garbage racks, and other miscellaneous structures.

Z992A: Rehabilitation—Tenant Change.

Z992B: Roofing.

Z992C: Glazing.

Z992D: Tiling.

Z992E: Exterior Painting.

Z992F: Interior Painting.

Z992G: Flooring.

Z992H: Screens, Blinds, etc.

Z992I: Appliance Repair.

Z992J: Electrical Repair. Includes elevators, escalators, and moving walkways.

Z992K: Plumbing.

Z992L: Heating Maintenance.

Z992M: Air Conditioning Maintenance.

Z992N: Emergency/Service Work.

Z992T: Other Work.

Z993 Grounds and Surfaced Areas.

Commercial activities that maintain, repair, and alter grounds and surfaced areas defined in codes Z993A, B, and C, below.

Z993A: Grounds (Improved). Includes improved grounds, including lawns, drill fields, parade grounds, athletic and recreational facilities, cemeteries, other ground areas, landscape and windbreak plants, and accessory drainage systems.

Z993B: Grounds (Other than Improved). Small arms ranges, antenna fields, drop zones, and firebreaks. Also grounds such as wildlife conservation areas, maneuver areas, artillery ranges, safety and security zones, desert, swamps, and similar areas.

Z993C: Surfaced Areas. Includes airfield pavement, roads, walks, parking and open storage areas, traffic signs and markings, storm sewers, culverts, ditches, and bridges. Includes sweeping and snow removal from streets and airfields.

Z997 Railroad Facilities. Includes CAs that maintain, repair, and alter narrow and standard gauge two-rail tracks, including spurs, sidings, yard, turnouts, frogs, switches, ties, ballast, and roadbeds, with accessories and appurtenances, drainage facilities, and trestles.

Z998 Waterways and Waterfront Facilities. Includes CAs that maintain, repair, and alter approaches, turning basin, berth areas and maintenance dredging, wharves, piers, docks, ferry racks, transfer bridges, quays, bulkheads, marine railway dolphins, mooring, buoys, seawalls, breakwaters, causeways, jetties, revetments, etc. Excludes

waterways maintained by the Army Corps of Engineers (COE) rivers and harbors programs. Also excludes buildings, grounds, railroads, and surfaced areas located on waterfront facilities.

Z999 Other Maintenance, Repair, Alteration, and Minor Construction of Real Property. This code will only be used for unusual circumstances and will not be used to report organizations or work that can be accommodated under a specifically defined code.

Atch 4—Commercial Activities Management Information System (CAMIS)

The purpose of CAMIS is to maintain an accurate DoD data base of CAs that undergo an OMB Circular A-76 cost comparison and CAs that are converted directly to contract without a cost comparison. The CAMIS is used to provide information to the Congress, Office of Management Budget (OMB), General Accounting Office (GAO), OSD, and others. Each DoD Component shall submit an automated data report (tape or diskette) of all cost comparisons and direct conversions to DMDC no later than 30 days following the end of each fiscal quarter. DoD Components may opt to submit an annotated printout of records in lieu of the automated submission. DMDC then shall use this submission to update the CAMIS and shall return a feedback report within 2 weeks.

All records, can be included in a printout provided to each DoD Component at the end of the fiscal year, and upon request.

Paragraph A.—Cost Comparison. The record for each cost comparison is divided into six sections. Each of these sections contains information provided by the DoD Components. The first five sections are arranged in a sequence of milestone events occurring during a cost comparison. Each section is completed immediately following the completion of the milestone event. These events are as follows:

1. Cost comparison is approved by DoD Component.
2. Solicitation is issued.
3. In-house and contractor costs are compared.
4. Contract is awarded/solicitation is canceled.
5. Contract starts.

The events are used as milestones because upon their completion some elements of significant information concerning the cost comparison become known.

A sixth section is utilized for CCRs that result in award of a contract. This section contains data elements on contract cost and information on subsequent contract actions during the second and third year of contract operation.

The data elements that comprise these six sections are defined in this Appendix.

Paragraph B.—Direct Conversions. The record for each direct conversion is divided into five sections. Each of the first four sections is completed immediately following the completion of the following events:

1. Direct conversion is approved.
2. Solicitation is issued.
3. Contract is awarded.
4. Contract starts.

The fifth section is utilized to record contract cost and subsequent contract

actions during the second and third year of contract operation.

The data elements that comprise these five sections are defined in this Appendix.

CAMIS Entry and Update Instructions

Part I—Cost Comparisons

The bracketed number preceding each definition in sections one through five is the DOD data element number. All date fields should be in the format MMDDYY (such as, June 30, 1983=063083).

Section One

Event: DoD Component Approves Conducting a Cost Comparison

All entries in this section of the CCR shall be submitted by DoD Components upon approving the start of a cost comparison.

These entries shall be used to establish the CCR and to identify the geographical, organizational, political, and functional attributes of the activity (or activities) undergoing cost comparison as well as to provide an initial estimate of the manpower associated with the activity (or activities). The initial estimate of the manpower in this section of the CCR will be in all cases those manpower figures identified in the correspondence approving the start of the cost comparison.

DoD Components shall enter the following data elements to establish a CCR.

[1] *Cost Comparison Number.* The number assigned by the DoD Component to uniquely identify a specific cost comparison. The first character of the cost comparison number must be a letter designating DoD Component as noted in data element [3], below. The cost comparison number may vary in length from five to ten characters, of which the second and subsequent may be alpha or numeric and assigned under any system desired by the DoD Component.

[2] *Announcement/Approval Date.* The date of the congressional notification required by Section 502(a)(2)(A) or the date the DoD Component headquarters approves a cost comparison that does not require congressional notification.

[3] *DoD Component Code.* Use the following codes to identify the Military Service or Defense Agency conducting the cost comparison:

- A—Department of the Army
- B—Defense Mapping Agency
- C—Strategic Defense Initiatives Organization
- D—Office of the Secretary of Defense—OCHAMPUS
- E—Defense Advanced Research Projects Agency
- F—Department of the Air Force
- G—National Security Agency/Central Security Service
- H—Defense Nuclear Agency
- J—Joint Chiefs of Staff (including the Joint Staff, Unified and Specified Commands, and Joint Service Schools)
- K—Defense Communications Agency
- L—Defense Intelligence Agency
- M—United States Marine Corps
- N—United States Navy
- R—Defense Contract Audit Agency
- S—Defense Logistics Agency

T—Defense Security Assistance Agency
V—Defense Investigative Service
W—Uniformed Services University of the Health Sciences
X—Inspector General, Department of Defense

Y—Defense Audio Visual Agency
[4] *Command Code.* The code established by the DoD Component headquarters to identify the command responsible for operating the CA undergoing cost comparison. A separate look-up listing or file shall be provided to DMDC showing each unique command code and its corresponding command name. If the DoD Component chooses to submit this on diskette or tape, the format should be as follows:

Column	Entry
1-6 (left justify)	Command code.
7	Blank.
8-80 (left justify)	Command name.

[5] *Installation Code.* The code established by the DoD Component headquarters to identify the installation where the CA(s) under cost comparison is/are located physically. Two or more codes (for cost comparison packages encompassing more than one installation) should be separated by commas. A separate look-up listing or file shall be provided to DMDC showing each unique installation code and its corresponding installation name. If the DoD Component chooses to submit this on cards or tape, the format should be as follows:

Column	Entry
1-10 (left justify)	Installation code.
11	Blank.
12-80 (left justify)	Installation name.

DMDC shall generate the installation name corresponding to the installation code submitted by the DoD Component and display it with the code on the CAMIS.

[6] *State Code.* A two-position numeric code for the State or U.S. Territory as shown in paragraph C, Atch 3 of this Appendix where element [5] is located. Two or more codes shall be separated by commas.

[7] *Congressional District (CD).* Number of the congressional district(s) where [5] is located. If representatives are elected "at large," enter "01" in this data element; for a delegate or resident commissioner (such as, District of Columbia or Puerto Rico) enter "98." If the installation is located in two or more CDs, all CDs should be entered and separated by commas.

[8] *JIRSG Area Code.* The JIRSG Area that [5] is assigned to for coordination of the DRIS Program. This is a four-character alpha/numeric data element. For instance, "N015" is the National Capitol Region (as published in the DRIS Point of Contact Directory).

Note: A DoD Component may, at its option, report corresponding multiple values for the following geographical data elements: state code, congressional district, and JIRSG area code. These values shall be grouped and punctuated as shown in the example below so that the proper relationship can be

established between each installation code value and its corresponding set of geographical attribute values.

[6] Installation code	[8] State code	[7] CD	[8] JIRSG area code
AAAAA, BBBBB, CCCCC	13,06,34	05,06, 42,15	S003,WE10,*

When multiple values within a data element are reported for a single installation code semicolons shall be used to separate each series of values and to indicate correspondence of each series to its respective installation value; commas shall be used to separate the values within a series. When only a single value (within a data element) is reported for each installation, the value shall be separated by commas. To denote an unknown or missing number of a series of values, the asterisk (*) symbol should be used.

The cost comparison package above involves three installations: AAAAA, BBBBB, and CCCCC. The first is located in Georgia, the second in California, and the third in New Jersey. AAAAA is in the Georgia's 5th and 6th congressional districts BBBBB is in California's 42nd district, and CCCCC is in New Jersey's 15th. The first two installations are in JIRSG areas S003, and WE10, respectively; CCCCC is not in a JIRSG area.

[9] *Title of Cost Comparison.* The title that describes the CA(s) under cost comparison (for instance, "Facilities Engineering Package," "Installation Bus Service," or "Motor Pool"). Use a clear title, not acronyms or function codes in this data element.

[10] *DOD Functional Area Code(s).* The four or five alpha/numeric character designators listed in Appendix A that describe the type of activity undergoing cost comparison. This would be one code for a single activity or possible several codes for a large cost comparison package. A series of codes shall be separated by commas.

[11] *Prior Operation Code.* A single alpha character that identifies the mode of operation for the activity at the time the cost comparison is started. Despite the outcome of the cost comparison, this code does not change. The coding is as follows:

- I—In-house.
- C—Contract.
- N—New requirement.
- E—Expansion.

[12] *Cost Comparison Status Code.* A single alpha character that identifies the current status of the cost comparison. Enter one of the following codes:

- P—In progress.
- C—Complete.
- X—Canceled. The CCR shall be excluded from future update listings.

Z—Consolidated. The cost comparison has been consolidated with one or more other cost comparisons into a single cost comparison package. The CCR for the cost comparison that has been consolidated shall be excluded from future update listings. (See data element [16].)

B—Broken out. The cost comparison package has been broken into two or more separate cost comparisons. The previous CCR shall be excluded from future update listings. (See data element [16].)

[13] *CBD/FR Dates.* § 171.7 requires DoD Components to publish their schedules for conducting cost comparisons in the CBD and the FR. These dates will reflect when the activity undergoing cost comparison was identified in these publications as a cost comparison. The CBD date shall be listed first, followed by a comma and the FR date.

[14] *Approval Announcement—Manpower Estimate Civilian and [15] Approval Announcement—Manpower Estimate Military.* The number of civilian and military authorizations allocated to the CA(s) undergoing cost comparison at the time the start of the cost comparison is approved by the DoD Component headquarters or announced to Congress. This number in all cases shall be those manpower figures identified in the correspondence approving the start of a cost comparison. This number is used to give a preliminary estimate of the size of the activity.

[16] *Revised/Original Cost Comparison Number.* The number of the cost comparison (revised cost comparison number). This cost comparison has been consolidated into or the number of the cost comparison (original cost comparison number) from which this cost comparison has been broken out.

When a consolidation occurs, create a new CCR containing the attributes of the consolidated cost comparison. In the CCR of each cost comparison being consolidated, enter the cost comparison number of the new CCR in data element [16] and code "Z" in data element [12]. In the new CCR, data element [16] should be blank and data element [12] should denote the current status of the cost comparison. Once the consolidation has occurred, only the new CCR requires future updates.

When a single cost comparison is being broken into multiple cost comparisons, create a new CCR for each cost comparison broken out from the original cost comparison. Each new CCR shall contain its own unique set of attributes; in data element [16] enter the cost comparison number of the original cost comparison from which each was derived, and in data element [12], enter the current status of each cost comparison. For the original cost comparison, data element [16] should be blank and data element [12] should have a code "B" entry. Only the derivative record entries require future updates.

When a consolidation or a breakout, an explanatory remark shall be entered in data element [57] (such as, "part of SW region cost comparison," or, "separated into three cost comparisons").

Section Two

Event: The Solicitation is Issued

The entries in this section of the CCR provide information on the manpower authorized to perform the workload in the PWS, the number of workyears used to accomplish the workload in the PWS, and the type and kind of solicitation.

The DoD Component shall enter the following data elements at the first quarterly update subsequent to the issuance of the solicitation:

[17] *Date Solicitation Issued.* The date the solicitation is issued by the contracting officer.

[18] *Solicitation-Type Code.* A one-character alpha designator that identifies the type of solicitation used to obtain contract bids or offers. Use either the CBD as the source document or information received from the contracting officer for this entry. Solicitations under Section 8(a) of the Small Business Act are negotiated. Enter one of the following codes:

- S—Sealed Bid.
- N—Negotiated.

[19] *Solicitation Kind Code.* A one-character (or two-character, if "W" suffix is used) alpha designator indicating whether the competition for the contract has been limited to a specific class of bidders or offerors. Use either the CBD as the source document or information received from the contracting officer to enter one of the following codes:

- A—Restrict to small business.
- B—Small Business Administration 8(a).
- C—National Industries for the Severely Handicapped (NISH).

D—Other mandatory sources.

U—Unrestricted.

W—(optional suffix) Unrestricted after initial restriction.

[20] *Current Authorized Civilians and [21] Current Authorized Military.* The number of civilian and military authorizations allocated on the DoD Component's manpower documents to perform the work described in the PWS. This number refines the initial authorization estimate (section one, data elements [14] and [15]).

[22] *Baseline Workyears Civilian and [23] Baseline Workyears Military.* The number of annual workyears it has taken to perform the work described by the PWS before the DoD Component conducts the MEO study of the in-house organization; do not include contract monitor requirements. Military workyears include assigned, borrowed, diverted, and detailed personnel.

An annual workyear is the use of 2,087 hours (including authorized leave and paid time off for training). For example, when full-time employees whose work is completely within the PWS are concerned, "one workyear" normally is comparable to "one employee" or two part-time employees, each working 1,043 hours in a fiscal year. Also include in this total the workyears for full-time employees who do not work on a full-time basis on the work described by the PWS. For example, some portion of the workload is performed by persons from another work center who are used on an "as needed" basis. Their total hours performing this workload is 4,172 hours. This would be reflected as two workyears. Less than one-half year of effort should be rounded down, and one-half year or more should be rounded up.

These workyear figures shall be the baseline for determining the manpower savings identified by the management study.

Section Three

Event: The In-House and the Contractor Costs of Operation Are Compared

The entries in this section provide information on the date of the cost comparison (initial decision), the preliminary results, the number of bids or offers received.

and the costing method used in the cost comparison.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the date of the comparison of in-house and contractor costs (date of initial decision):

[24] *Cost Comparison/Initial Decision Date.* Date the initial decision is announced. The initial decision is based on the apparent low bid or offer and is subject to preaward surveys and resolution of all appeals and protests. In a formal advertised procurement, the initial decision is announced at bid opening. In a negotiated procurement, the initial decision is announced when the cost comparison is made between the in-house estimate and the proposal of the selected offeror.

[25] *Cost Comparison Preliminary Results/Code.* A one-character alpha designator indicating the results of the cost comparison as announced by the contracting officer at the time the bids or offers are compared. The entries are limited to two possibilities:

- 1—In-house.
- C—Contract.

[26] *Cost Method Code.* A one-character numeric designator indicating the procedures under which the cost comparison was/is being conducted. Enter one of the following codes:

- 1—Cost comparison conducted under the incremental costing procedures in effect before 1980.
- 2—Cost comparison conducted using the full costing procedures in DoD 4100.33-H of February 1980.
- 3—Cost comparison conducted under the alternative costing procedures implemented in Department of Defense in March 1982.
- 4—Cost comparison conducted under the new costing procedures in the OMB Circular A-76 published August 4, 1983 and implemented in Department of Defense DoD in March 1984.

[27] *Number of Bids or Offers Received.* The number of commercial bids or offers received by the contracting officer in response to the solicitation.

Section Four

Event: The Contracting Officer Either Awards the Contract or Cancels the Solicitation

The entries in this section identify the final result, information on the contract, the in-house bid, and costing information from the cost comparison form.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the date the contracting officer either awards a contract or cancels the solicitation:

[28] *Contract Award/Solicitation Cancellation Date.* For conversions to contract, this is the date a contract was awarded in a formal advertised solicitation or the date the contractor was authorized to proceed on a conditional award contract in a negotiated solicitation. For retentions in house, this is the date the solicitation was canceled (when the contracting officer publishes an amendment to the solicitation canceling it).

[29] *Cost Comparison Final Result Code.* A one-character alpha designator identifying

the final result of the comparison between in-house and contractor costs; the contracting officer either awards the contract or cancels the solicitation. Enter one of the following codes:

- I—In-house.
- C—Contract.

[30] *Decision Rationale Code.* A one-character alpha designator that identifies the rationale for awarding a contract or canceling the solicitation. The work shall either be performed in-house or by contractor, based on cost, or the work shall be performed in-house because no satisfactory commercial source was available (no bids or offers were received or the preaward survey resulted in the determination that no commercial sources were responsive or responsible). Enter one of the following codes:

- C—Cost.
- N—No satisfactory commercial source.

[31] *Contract-Type Code.* Enter one of the following alpha codes for the type of contract used in the cost comparison. This entry is required for all completed studies, regardless of their outcome.

- FFP—Firm Fixed Price.
- FP-EPA—Fixed Price with Economic Price Adjustment.
- FPI—Fixed Price Incentive.
- CPIF—Cost Plus Incentive Fee.
- CPAF—Cost Plus Award Fee.
- CPFF—Cost Plus Fixed Fee.
- [31a] *Prime Contractor Size.*
- S—Small or small/disadvantaged business.
- L—Large business.

[32] *MEO Workyears.* The number of annual workyears it takes to perform the work described in the PWS after the MEO study has been conducted. This entry will be equal to the number of annual workyears in the in-house bid.

For data elements [33] through [36], enter all data after all adjustments required by appeals board decisions. Do not include the minimum cost differential (line 31 old CCF or line 14 new CCF or line 16 new ENRC form) in the computation of any of these data elements. If a valid cost comparison was not conducted (that is, all bidders or offerors disqualified, no bids or offers received, etc.) do not complete data elements [33] through [36]. Explain lack of valid cost data in data element [57], DOD Component Comments.

[33] *First Performance Period.* Expressed in months, the length of time covered by the contract. Do not include any option periods.

[34] *Cost Comparison Period.* Expressed in months, the total period of operation covered by the cost comparison; this is the period used as the basis for data elements [35] and [36], below.

[35] *Total In-House Cost (\$000).* Enter the total cost of in-house performance in thousands of dollars, rounded to the nearest thousand. This is the total of line 9 plus line 22 of the old CCF (line 6 of the new CCF or line 8 of the new ENRC CCF).

[36] *Total Contract Cost (\$000).* Enter the total cost of contract performance in thousands of dollars, rounded to the nearest thousand. This is the total of line 17 plus line 30 of the old cost comparison form (line 13 of the new CCF or line 15 of the new ENRC CCF).

[37] *Notification Date.* The date Congress is notified, if required, that the DoD

Component intends to convert a CA to contract performance.

Section Five

Event: The Contract Starts

The entries in this section identify the contract start date and the personnel actions taken as a result of the cost comparison.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the start of the contract:

[38] *Contract Start Date.* The actual date the contractor began full operation of the CAs, as reflected in the contracting documents.

[39] *Permanent Employees Transferred to Equal Positions.* The number of permanent employees who were reassigned to positions of equivalent grade as of the start date of the contract.

[40] *Permanent Employees Transferred to Lower Positions.* The number of permanent employees who were changed to lower grade positions as of the start date of the contract.

[41] *Employees Taking Early Retirement.* The number of employees who took early retirement as of the start date of the contract.

[42] *Employees Taking Normal Retirement.* The number of employees who took normal retirement as of the start date of the contract.

[43] *Permanent Employees Separated.* The number of permanent employees who were separated from Federal employment as of the start date of the contract.

[44] *Temporary Employees Separated.* The number of temporary employees who were separated from Federal employment as of the start date of the contract.

[45] *Employees Entitled to Severance.* The estimated number of employees entitled to severance upon their separation from Federal employment as of the start date of the contract.

[46] *Total Amount of Severance Entitlements (\$000).* The total estimated amount of severance to be paid to all employees, in thousands of dollars as of the start date of the contract.

[47] *Number of Employees Hired by the Contractor.* The number of DoD civilian employees (full-time or otherwise) that will be hired by the contractors, or his or her subcontractors estimated at the start date of the contract.

Administrative Appeal

[48] *Filed—Were administrative appeals filed?* Answer: Y or N.

[49] *Source—Who filed the appeal?* Answer: In-house (enter I), Contractor (C), or Both (B).

[50] *Result—Were the appeals finally upheld?* Answer: Y or N (if both appealed, explain result in data element [57]).

GAO Protest

[51] *Filed—Was a protest filed with GAO?* Answer: Y or N.

[52] *Source—Who filed the protest?* Answer: inhouse (enter I), contractor (C), or both (B).

[53] *Result—Was the protest finally upheld?* Answer: Y or N (explain result in data element [57]). If GAO protest is still in

progress as of the start date of the contract, enter P.

Arbitration

[54] Requested—Was the Federal Labor Relations Authority (FLRA) asked to arbitrate? Answer: Y or N.

[55] Result—Was the case found arbitrable. Answer: Y or N (explain result in data element [57]). If arbitration is still in progress as of the start date of the contract, enter P.

General Information

[56] Staff-Hours Expended. Reflect the estimated number of staff hours expended by the installation on the cost comparison from the time it was announced until the final decision was made. Do not include any time that was spent on general policy or procedures applicable to all studies.

[57] DOD Component Comments. Enter comments, as required, to explain situations that affect the conduct of the cost comparison.

[58] Effective Date. "As of" date of the most current update for the cost comparison. Will be generated by DMDC.

[59] Leave blank, for DoD Computer Program use).

Section Six

Event: Quarter Following Contract/Option Renewal

The entries in this section identify actual contract costs and original contract bid and information or subsequent contract actions. This data shall be utilized to determine the accuracy of the cost comparison.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the receipt of actual annual contract cost data.

[60] Contract Bid/Offer (\$000). Enter the contractor bid price or offer reflected in column one (the first performance period) of the CCF in thousands of dollars, rounded to the nearest thousand. This is line 10, column 1, of the old CCF (line 7 of the new CCF or line 9 of the new ENRC CCF).

[61] Actual Contract Cost First Performance Period (\$000). Enter the actual contract cost for the first performance period, including all change orders, in thousands of dollars, rounded to the nearest thousand.

[62] Actual Contract Cost Second Performance Period (\$000). Enter the actual contract cost for the second performance period, including all change orders, in thousands of dollars, rounded to the nearest thousand.

[63] Actual Contract Cost Third Performance Period (\$000). Enter the actual contract cost for the third performance period, including all change orders, in thousands of dollars, rounded to the nearest thousand.

[64] Contractor Change. Enter one of the following alpha codes to indicate whether the contract for the second or third performance period has changed from the original contractor.

Y—Yes, the contractor has changed
N—No, the contractor has not changed
Data elements [65] through [66] are not required if the answer to [64] is no (N).

[65] Prime Contractor Size. (If data element [66] equal "I", no entry is required.)

S—New contractor is small/small disadvantaged business

L—New contractor is large business

[66] Reason for Change.

I—Performance Returned In-House

U—Contract workload consolidated into a larger (umbrella) cost comparison

C—Contract workload consolidated with other existing contract workload

Camis Entry and Update Instruction

Part II—Direct Conversions

The bracketed number preceding each definition in sections one through four is the DoD data element number. All date fields should be in the format MMDDYY (such as, June 30, 1983=063083).

Section One

Event: Approval of the Direct Conversion

All entries in this section of the DCR shall be submitted by DoD Components upon approval of a direct conversion. These entries shall be used to establish the DCR and to identify the geographical, organizational, political, and functional attributes of the CA(s) scheduled for conversion to contract without a cost comparison.

DoD Components shall enter the following data elements to establish a DCR:

[1] Direct Conversion Number. The number assigned by the DoD Component to uniquely identify a specific direct conversion. The first character of the direct conversion number must be a letter designating the DoD Component as noted in data element [3], below. The number may vary in length from five to ten characters, of which the second and subsequent may be alpha or numeric and assigned under any system desired by the DoD Component.

[2] Approval Date. The date the direct conversion was approved.

[3] DOD Component Code. Use the following codes to identify the Military Service or Defense Agency converting the CA(s) to contract:

A—Department of the Army
B—Defense Mapping Agency
C—Strategic Defense Initiatives

Organization

D—Office of the Secretary of Defense—OCHAMPUS

E—Defense Advanced Research Projects Agency

F—Department of the Air Force

G—National Security Agency/Central Security Service

H—Defense Nuclear Agency

J—Joint Chiefs of Staff (including the Joint Staff, Unified and Specified Commands, and Joint Service Schools)

K—Defense Communications Agency

L—Defense Intelligence Agency

M—United States Marine Corps

N—United States Navy

R—Defense Contract Audit Agency

S—Defense Logistics Agency

T—Defense Security Assistance Agency

V—Defense Investigative Service

W—Uniformed Services University of the Health Sciences

X—Inspector General, Department of Defense

Y—Defense Audio Visual Agency

[4] Command Code. The code established by the DoD Component's headquarters to identify the command responsible for operating the CA to be converted to contract. A separate look-up listing or file shall be provided to DMDC showing each unique command code and its corresponding command name. If the DoD Component chooses to submit this on cards or tape, the format shall be as follows:

Column	Entry
1-6 (left justify)	Command code.
7	Blank.
8-80 (left justify)	Command name.

[5] Installation Code. The code established by the DoD Component headquarters to identify the installation where the CA to be converted to contract is located physically. Two or more codes (for packages encompassing more than one installation) shall be separated by commas. A separate look-up listing or file shall be provided to DMDC showing each unique installation code and its corresponding installation name. If the DoD Component chooses to submit this on cards or tape, the format shall be as follows:

Column	Entry
1-10 (left justify)	Installation code.
11	Blank.
12-80 (left justify)	Installation name.

DMDC shall generate the installation name corresponding to the installation code submitted by the DoD Component, and display it with the code on the quarterly printout that is provided to the DoD Component for update.

[6] State Code. A two-position numeric code for the State of U.S. Territory as shown in paragraph C, Atch 3 of this Appendix, where element [5] is located. Two or more codes should be separated by commas.

[7] Congressional District (CD). Number of the CD(s) where [5] is located. If representatives are elected "at large," enter "01" in this data element; for a delegate or resident commissioner (such as, District of Columbia or Puerto Rico) enter "98". If the installation is located in two or more CDs, all CDs should be entered and separated by commas.

[8] JIRSG Area Code. The JIRSG area that [5] is assigned to for coordination of the DRIS Program. This is a four-character alpha/numeric data element. For instance, "N015" is the National Capitol Region (as published in the DRIS Point of Contact Directory).

Note.—The DoD Component may, at its option, report corresponding multiple values for the following geographical data elements: State code, congressional district, JIRSG area code. These values shall be grouped and punctuated as shown in the example below so that the proper relationship can be established between each installation code value and its corresponding set of geographical attribute values.

[5] Installation [6] State
[7] Congressional [8] JIRSG

Code	Code	District	Area code
AAAAA, BBBBB, CCCCC	13,06,34	05,06, 42,15	S003,WE10*

When multiple values within a data element are reported for a single installation code, semicolons shall be used to separate each series of values and to indicate correspondence of each series to its respective installation code; commas shall be used to separate the values within a series. When only a single value (within a data element) is reported for each installation, the values should be separated by commas. To denote an unknown or missing member of a series of values the asterisk (*) symbol shall be used.

The direct conversion above involves three installations: AAAAA, BBBBB, and CCCCC. The first is located in Georgia, the second in California, and the third in New Jersey. AAAAA is in Georgia's 5th and 6th congressional districts (of Georgia), BBBBB is in California's 42nd district, and CCCCC is in New Jersey's 15th. The first two installations are in JIRSG areas S003 and WE10, respectively; CCCCC is not in a JIRSG area.

[9] *DoD Functional Area Code(s)*. The four or five alpha/numeric character designator listed in Atch 1 that describes the type of CA to be converted to contract. This would be one code for a single CA or possibly several codes for a large package. A series of codes shall be separated by commas.

[10] *Status Code*. A single alpha character that identifies the current status of the conversion. Enter one of the following codes:

P—In progress

C—Complete

X—Canceled. The DCR shall be excluded from future update listings.

Z—Consolidated. The conversion has been consolidated with one or more other contracts into a single contract package. The DCR for the contract that has been consolidated shall be excluded from future update listings. (See data element [16].)

B—Broken out. The conversion has been broken into two or more separate contracts. The previous DCR shall be excluded from future update listings. (See data element [16].)

[11a] *Manpower Estimate Civilian and*
[11b] *Manpower Estimate Military*. The number of civilian and military authorizations allocated to the CA(s) to be converted. This number in all cases shall be those manpower figures identified in the correspondence requesting the direct conversion.

[11c] *Estimated In-House Cost*. The annualized in-house cost estimated in the simplified cost comparison prepared for request to directly convert a CA. This data element is not applicable to direct conversions of exclusively military personnel CAs.

[12] *Estimated Contract Cost*. The annualized contract cost estimated in the simplified cost comparison prepared for request to directly convert a CA. Do not include the 10% cost of conversion differential. This data element is not applicable to direct conversions of exclusively military personnel CAs.

Section Two

Event: The Solicitation is Issued

The entries in this section of the DCR provide information on the manpower authorized to perform the workload in the PWS, the number of workyears used to accomplish the workload in the PWS, the type and kind of solicitation, and the number of bids or offers received.

The DoD Component shall enter the following data elements at the first quarterly update subsequent to the issuance of the solicitation:

[13] *Date Solicitation Issued*. The date the solicitation was issued by the contracting officer.

[14] *Solicitation-Type Code*. A one-character alpha designator that identifies the type of solicitation used to obtain contract bids or offers. Use either the CBD as the source document or information received from the contracting officer for this entry. Solicitations under Section 8(a) of the Small Business Act are negotiated. Enter one of the following codes:

S—Sealed Bid

N—Negotiated

[15] *Solicitation-Kind Code*. A one-character (or two-character, if "W" suffix is used) alpha designator indicating whether the solicitation for the contract has been limited to a specific class of bidders or offerors. Use either the CBD as the source document or information received from the contracting officer to enter one of the following codes:

A—Restricted to small business

B—Small Business Administration 8(a)

C—National Industries for the Severely Handicapped (NISH)

D—Other mandatory sources

U—Unrestricted

W—(optional suffix) Unrestricted after initial restriction

[16] *Current Authorized Civilians and* [17] *Current Authorized Military*. The number of civilian and military authorizations allocated on the DoD Component's Manpower documents to perform the work described in the PWS. This number refines the initial authorization estimate (section one, data elements [11] and [12]).

[18] *Baseline Annual Work-Years Civilian and* [19] *Baseline Annual Work-Years Military*. The number of annual work-years it has taken to perform the work described by the PWS.

[20] *Number of Bids or Offers Received*. The number of commercial bids or offers received by the contracting officer in response to the solicitation.

Section Three

Event: The Contracting Officer Either Awards the Contract or Cancels the Solicitation

The entries in this section provide information on the contract.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the date the contracting officer either awards a contract or cancels the solicitation:

[21] *Contract Award/Solicitation Cancellation Date*. This is the date a contract

shall be awarded in a formal advertised solicitation or the date the contractor shall be authorized to proceed on a conditioned award contract in a negotiated solicitation.

[22] *Contract-Type Code*. Enter one of the following alpha codes for the type of contract used in the direct conversion.

FFP—Firm Fixed Price

FP-EPA—Fixed Price with Economic Price Adjustment

FPI—Fixed Price Incentive

CPIF—Cost Plus Incentive Fee

CPAF—Cost Plus Award Fee

CPFF—Cost Plus Fixed Fee

[23] *Prime Contractor Size*.

S—Small/small disadvantaged business

L—Large business

[24] *Performance Period*. Expressed in months, the length of time covered by the contract. Do not include any option periods.

Section Four

Event: The Contract Starts

The entries in this section identify the contract start date and the personnel actions taken as a result of the direct conversion.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the start of the contract:

[25] *Contract Start Date*. The actual date the contractor began full operation of the CA(s) as reflected in the contracting documents.

[26] *Permanent Employees Reassigned to Equivalent Positions*. The number of permanent employees who were reassigned to positions of equal grade as of the start date of the contract.

[27] *Permanent Employees Changed to Lower Positions*. The number of permanent employees who were reassigned to lower grade positions as of the start date of the contract.

[28] *Employees Taking Early Retirement*. The number of employees who took early retirement as of the start date of the contract.

[29] *Employees Taking Normal Retirement*. The number of employees who took normal retirement as of the start date of the contract.

[30] *Permanent Employees Separated*. The number of permanent employees who were separated from Federal employment as of the start date of the contract.

[31] *Temporary Employees Separated*. The number of temporary employees who were separated from Federal employment as of the start date of the contract.

[32] *Employees Entitled to Severance*. The estimated number of employees entitled to severance upon their separation from Federal employment.

[33] *Total Amount of Severance Entitlement (\$000)*. The total estimated amount of severance to be paid to all employees, in thousands of dollars, as of the start date of the contract.

[34] *Number of Employees Hired by the Contractor*. The number of DoD civilian employees (full-time or otherwise) that will be hired by the contractor, or his or her subcontractors estimated at the start of the contract.

Administrative Appeal

[35] *Filed*—Were administrative appeals filed? Answer: Y or N

[36] *Source*—Who filed the appeal? Answer: in-house (enter I), contractor (C), or both (B).

[37] *Result*—Were the appeals finally upheld? Answer: Y or N (if both appealed, explain the result in data element [43]).

GAO Protest

[38] *Filed*—Was a protest filed with GAO. Answer: Y or N

[39] *Source*—Who filed the protest? Answer: in-house (enter I), contractor (C), or both (B).

[40] *Result*—Was the protest finally upheld? Answer: Y or N (explain result in data element [43]). If GAO protest is still in progress as of the start date of the contract, enter P.

Arbitration

[41] *Requested*—Was the FLRA asked to arbitrate? Answer: Y or N

[42] *Result*—Was the case found arbitrable? Answer: Y or N (explain result in data element [43]). If arbitration is still in progress as of the start date of the contract, enter P.

General Information

[43] *DoD Component Comments*. Enter comments, as required, to explain situations that affect the direct conversion.

[44] *Effective Date*. "As of" date of the most current update for the direct conversion. Shall be generated by DMDC.

Section Five**Event: Quarter Following Contract/Option Renewal**

The entries in this section five identify actual contract costs and original contract bid and information on subsequent contract actions. This data shall be utilized to determine the accuracy of the cost comparison.

The DoD Component shall enter the following data elements in the first quarterly update subsequent to the receipt of actual annual contract cost data.

[45] *Contract Bid/Offer (\$000)*. Enter the contractor bid price or offer.

[46] *Actual Contract Cost First Performance Period (\$000)*. Enter the actual contract cost for the first performance period, including all change orders, in thousands of dollars, rounded to the nearest thousand.

[47] *Actual Contract Cost Second Performance Period (\$000)*. Enter the actual contract cost for the second performance period, including all change orders, in thousands of dollars, rounded to the nearest thousand.

[48] *Actual Contract Cost Third Performance Period (\$000)*. Enter the actual contract cost for the third performance period, including all change orders, in thousands of dollars, rounded to the nearest thousand.

[49] *Contractor Change*. Enter one of the following alpha codes to indicate whether the contractor for the second or third

performance period has changed from the original contractor.

Y—Yes, the contractor has changed.
N—No, the contractor has not changed.

Data elements [50] through [51] are not required if the answer to [49] is no [N].

[50] *Prime Contractor Size* (If data element equal "I", no entry is required).

S—New contractor is small/small disadvantaged business.

L—New contractor is large business.

[51] *Reason for Change* (If data element equals "I", no entry is required).

I—Performance returned in-house.

U—Contract workload consolidated into a larger (umbrella) cost comparison.

C—Contract workload consolidated with other existing contract workload.

Cost Comparison Record (CCR)**Section One**

- (1) Cost Comparison Number: _____
- (2) Announcement/Approval Date: _____
- (3) DoD Component Code: _____
- (4) Command Code: _____
- (5) Installation Code: _____
- (6) State Code: _____
- (7) Congressional District: _____
- (8) JIRSG Area Code: _____
- (9) Title of Cost Comparison: _____
- (10) DoD Function Area Code(s): _____
- (11) Prior Operation Code: _____
- (12) Cost Comparison Status Code: _____
- (13) CBD/FR Dates: _____
- (14) Approval Announcement—Manpower Estimate Civilian: _____
- (15) Approval Announcement—Manpower Estimate Military: _____
- (16) Revised/Original Cost Comparison Number: _____

Section Two

- (17) Date Solicitation Issued: _____
- (18) Solicitation-Type Code: _____
- (19) Solicitation-Kind Code: _____
- (20) Current Authorized Civilians: _____
- (21) Current Authorized Military: _____
- (22) Baseline Workyears Civilian: _____
- (23) Baseline Workyears Military: _____

Section Three

- (24) Cost Comparison/Initial Decision Date: _____
- (25) Cost Comparison Preliminary Results Code: _____
- (26) Cost Method Code: _____
- (27) Number of Bids or Offers Received: _____

Section Four

- (28) Contract Award/Solicitation Cancellation Date: _____
- (29) Cost Comparison Final Result Code: _____
- (30) Decision Rationale Code: _____
- (31) Contract-Type Code: _____
- (31a) Prime Contractor Size: _____
- (32) MEO Workyears: _____
- (33) First Performance Period: _____
- (34) Cost Comparison Period: _____
- (35) Total In-House (\$000): _____
- (36) Total Contract Cost (\$000): _____
- (37) Notification Date: _____

Section Five

- (38) Contract Start Date: _____
- (39) Permanent Employees Transferred to Equal Positions: _____
- (40) Permanent Employees Transferred to Lower Positions: _____
- (41) Employees Taking Early Retirement: _____
- (42) Employees Taking Normal Retirement: _____
- (43) Permanent Employees Separated: _____
- (44) Temporary Employees Separated: _____
- (45) Employees Entitled to Severance: _____
- (46) Total Amount of Severance Entitlements (\$000): _____
- (47) Number of Employees Hired by the Contractor: _____

Administrative Appeal

- (48) Filed: _____
- (49) Source: _____
- (50) Result: _____

GAO Protest

- (51) Filed: _____
- (52) Source: _____
- (53) Result: _____

Arbitration

- (54) Requested: _____
- (55) Result: _____

General Information

- (56) Staff Hours Expended: _____
- (57) DoD Component Comments: _____
- (58) Effective Date: _____
- (59) (Leave blank): _____

Section Six

- (60) Contract Bid/Offer (\$000): _____
- (61) Actual Contract Cost First Performance Period (\$000): _____
- (62) Actual Contract Cost Second Performance Period (\$000): _____
- (63) Actual Contract Cost Third Performance Period (\$000): _____
- (64) Contractor Change: _____
- (65) Prime Contractor Size: _____
- (66) Reason for Change: _____

Direct Conversion Record (DCR)**Section One**

- (1) Direct Conversion Number: _____
- (2) Approval Date: _____
- (3) DoD Component Code: _____
- (4) Command Code: _____
- (5) Installation Code: _____
- (6) State Code: _____
- (7) Congressional District: _____
- (8) JIRSG Area Code: _____
- (9) DoD Function Area Code(s): _____
- (10) Status Code: _____
- (11a) Manpower Estimate Civilian: _____
- (11b) Manpower Estimate Military: _____
- (11c) Estimated In-House Cost: _____
- (12) Estimated Contract Cost: _____

Section Two

- (13) Date Solicitation Issued: _____
- (14) Solicitation-Type Code: _____
- (15) Solicitation-Kind Code: _____
- (16) Current Authorized Civilians: _____
- (17) Current Authorized Military: _____

- (18) Baseline Annual Work-Years Civilian: _____
 (19) Baseline Annual Work-Years Military: _____
 (20) Number of Bids or Offers Received: _____

Section Three

- (21) Contract Award/Solicitation Cancellation Date: _____
 (22) Contract-Type Code: _____
 (23) Prime Contractor Size: _____
 (24) Performance Period: _____

Section Four

- (25) Contract Start Date: _____
 (26) Permanent Employees Reassigned to Equivalent Positions: _____
 (27) Permanent Employees Changed to Lower Positions: _____
 (28) Employees Taking Early Retirement: _____
 (29) Employees Taking Normal Retirement: _____
 (30) Permanent Employees Separated: _____
 (31) Temporary Employees Separated: _____
 (32) Employees Entitled to Severance: _____

- (33) Total Amount of Severance Entitlements (\$000): _____
 (34) Number of Employees Hired by the Contractor: _____

Administrative Appeal

- (35) Filed: _____
 (36) Source: _____
 (37) Result: _____

GAO Protest

- (38) Filed: _____
 (39) Source: _____
 (40) Result: _____

Arbitration

- (41) Requested: _____
 (42) Result: _____

General Information

- (43) Dod Component Comments: _____
 (44) Effective Date: _____

Section Five

- (45) Contract Bid/Offer (\$000): _____
 (46) Actual Contract Cost First Performance Period (\$000): _____
 (47) Actual Contract Cost Second Performance Period (\$000): _____
 (48) Actual Contract Cost Third Performance Period (\$000): _____
 (49) Contractor Change: _____
 (50) Prime Contractor Size: _____
 (51) Reason for Change: _____

ATCH 5—Public Laws

Note: See Public Law 96-342, as amended by Public Laws 97-252 and 99-190.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 25, 1986.

[FR Doc. 86-27005 Filed 12-2-86; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[PP 5E3242, 5E3282/P400; FRL-3122-1]

Pesticide Tolerances for Cyano(3-Phenoxyphenyl)-Methyl-4-Chloro-Alpha-(Methylethyl)Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(methylethyl)benzeneacetate in or on certain raw agricultural commodities. The proposed regulation to establish maximum permissible levels for residues of the insecticide in or on the commodities was requested in two separate petitions submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 5E3242, 5E3282/P400], should be received on or before January 2, 1987.

ADDRESSES:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Room 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions (PP) to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the named Agricultural Experiment Stations. The petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(methylethyl)benzeneacetate in or on certain raw agricultural commodities as follows:

1. PP 5E3242 on behalf of the Agricultural Stations of Maine, Michigan, New Jersey, North Carolina, Oregon and Washington in or on blueberries, caneberries, currants, elderberries, gooseberries, and huckleberries at 2.0 parts per million (ppm). The petition was later amended to propose 3.0 ppm on these commodities.

2. PP 5E3282 on behalf of the Agricultural Stations of Arkansas, Florida and North Carolina in or on okra at 0.1 ppm. The petitioner later proposed that residues of the pesticide on okra be limited to Florida based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include:

1. A 13-week rat feeding study with a no-observed-effect level (NOEL) of 50 ppm (2.5 milligram (mg)/kilogram (kg) of body weight (bw) per day).

2. An acute oral rat toxicity study with a median lethal dose (LD₅₀) of 1 to 3 grams (g)/kg (water vehicle) and 450 mg/kg bw/day (dimethylsulfoxide vehicle).

3. A 90-day dog feeding study with a NOEL of 500 ppm (12.5 mg/kg/day, highest dose tested).

4. A 90-day rat feeding study with a NOEL of 125 ppm (6.25 mg/kg/day).

5. An 18-month mouse feeding study with a NOEL of less than 100 ppm (15 mg/kg/day) with no oncogenic effects observed under the conditions of the study at dosage levels of 100, 300, 1,000 and 3,000 ppm (3,000 ppm being the highest dosage level tested in the study).

6. A 24-month mouse feeding study with a NOEL of 10-50 ppm (1.5-7.5 mg/kg) for males and 50-250 ppm for females (7.5-37.5 mg/kg/day), no oncogenic effects were noted at dosage levels of 10, 50, 250, and 1,250 ppm (1,250 ppm being the highest dosage level tested).

7. A 24-month rat feeding study that demonstrated no oncogenic effects at 1,000 ppm (50 mg/kg/day, only level tested, significantly decreased body weight was observed at this dose level).

8. A 2-year rat feeding study with a NOEL of 250 ppm (12.5 mg/kg/day, highest level fed), no oncogenic effects were observed.

9. A three-generation rat reproduction study with a NOEL of 250 ppm (12.5 mg/kg/day, highest level fed).

10. Teratology studies (in mice and rabbits), each negative at 50 mg/kg/day (highest dose tested).

11. The following mutagenicity studies: Mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed); mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); Ames test *in vitro* (negative); and a bone marrow cytogenetic study in Chinese hamster (negative at 25 mg/kg of bw).

The following studies assessing neurological effects were performed: A hen study negative at 1.0 g/kg of bw for 5 days repeated at 21 days; a rat (8-day) acute study with a NOEL of 200 mg/kg of bw; a 15-month rat feeding study which resulted in a systemic NOEL of 500 ppm (25 mg/kg/day) and a NOEL of 1,500 ppm (75 mg/kg/day) with respect to nerve damage.

The acceptable daily intake (ADI), based on the 13-week rat feeding study (NOEL of 2.5 mg/kg/day or 50 ppm) and using a 100-fold safety factor, is calculated to be 0.0250 mg/kg of bw/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing and pending tolerances for a 1.5-kg daily diet is calculated to be 1.27919 mg/day; the current action will increase the TMRC by 0.00821 mg/day (0.64 percent). Published and pending tolerances utilize 85.28 percent of the ADI; the current action will utilize an additional 0.55 percent.

The nature of the residues is adequately understood and an adequate

analytical method, electron-capture gas chromatography, is available in Pesticide Analytical Manual, Volume II (PAM-II), for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the information and data considered, and the fact that there are no animal feed items involved and therefore no secondary residues in meat, milk, poultry or eggs is anticipated, the Agency concludes that the proposed tolerances will protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments should bear a notation indicating the document control number, [PP 5E3242/5E3282/P400]. All written comments filed in response to these petitions will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: November 24, 1986.

Edwin F. Tinsworth,
Director, Registration Division, Office of
Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a.

2. Section 180.379 is amended by (1) designating the current paragraph and list of tolerances as paragraph (a); (2) adding and alphabetically inserting the following raw agricultural commodities to paragraph (a); and (3) adding a new paragraph (b) to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(methylethyl)benzeneacetate; tolerances for residues.

(a) * * *

Commodities	Parts per million
Blueberries	3.0
Caneberries	3.0
Currants	3.0
Elderberries	3.0
Gooseberries	3.0
Huckleberries	3.0

(b) Tolerances with regional registration are established for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(methylethyl)benzeneacetate in or on the following raw agricultural commodities:

Commodities	Parts per million
Okra	0.1

[FR Doc. 86-27033 Filed 12-2-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 6; Notice 86-15]

Standard Time Zone Boundary in the State of Indiana Proposed Relocation

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the Boards of Commissioners of Starke County, Indiana and Jasper County, Indiana, DOT proposes to relocate the boundary between eastern and central time in the State of Indiana in order to move those

counties from the central zone to the eastern zone. Public comment on whether this proposal would "serve the convenience of commerce" is invited.

DATES: Comments must be received by March 3, 1987, to be assured of consideration. Comments received after that date will be considered to the extent practical. If the time zone boundary is changed as a result of this rulemaking, the expected effective date is 2:00 a.m. CDT Sunday, April 5, 1987. Public hearings will be held January 6 and 7, 1987.

ADDRESS: Comments should be sent to Documentary Services Division, Attention: OST Docket No. 6, Department of Transportation, C-55, Room 4107, Washington, DC 20590. Persons who wish acknowledgement that their comments have been received should include a self-addressed stamped postcard, on which the Docket Clerk will note the date and time of receipt.

Public hearings: Public hearings will be chaired by a representative of DOT at the time and places listed below. The hearings will be informal and will be tape recorded for inclusion in the docket. Persons who desire to express opinions or ask questions at the hearings do not have to sign up in advance or give any prior notification. To the greatest extent practicable, the DOT representative will provide an opportunity to speak for all those wishing to do so. Priority will be accorded those who have not previously spoken.

The public hearings will be held as follows:

Tuesday, January 6, 1987: 7:00 p.m.,
Starke County Courthouse, Knox,
Indiana 46534

Wednesday, January 7, 1987: 7:00 p.m.,
Jasper County Courthouse,
Rensselaer, Indiana 47978

FOR FURTHER INFORMATION CONTACT:

Robert C. Ashby, Deputy Assistant
General Counsel for Regulation and
Enforcement, U.S. Department of
Transportation, Room 10424, 400
Seventh Street, SW., Washington, DC
20590. (202) 366-9306.

SUPPLEMENTARY INFORMATION:

Background. Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is "regard for the convenience of commerce and the existing junction points and division points of common

carriers engaged in interstate or foreign commerce."

Time observance in Indiana: current situation. The State of Indiana is unique in the pattern of its observance of standard time and daylight saving time. Although twelve other States are in two time zones, only Indiana has three distinct areas of time observance. In the northwest near Chicago, Illinois, and including the cities of Gary and Hammond, Indiana, are six Indiana counties in the central zone. In the southwest, including Evansville, Indiana, but not touching the six northwestern counties, are five counties in the central zone. The rest of the State (81 counties) is in the eastern zone, including the area between the two central zone areas. To compound the uniqueness of time observance in Indiana, the State has an exemption from daylight saving time for the eastern time zone portion. As a consequence, during the period of the year when DST is in effect, despite the difference in time zones, the entire State observes a uniform clock time.

Time observance in Indiana: History. The appropriate time zone for Indiana has been the subject of much debate since time zones were first established. When time zones were first adopted by the Federal Government in 1918, all of Indiana was in the central zone. In 1961, the Interstate Commerce Commission (DOT's predecessor in this regard) moved the eastern half of the State (including Indianapolis, the capital) to eastern zone, but denied requests to include more of the State in eastern time.

In 1967, DOT proposed to rescind the ICC action and restore the entire State to central time. That proposal—issued at the request of the Governor of Indiana—was overwhelmingly unpopular with the people of Indiana. Consequently, in 1968, DOT amended its 1967 proposal by proposing to include in the eastern zone all of the State except six counties in the northwest near Chicago, Illinois, and seven counties in the southwest. That amended proposal met with great support, with one modification: there was support for leaving only six of the southwestern counties in the central zone. Effective April 27, 1969, therefore, all of the State was put in the eastern zone except six in the northwest and six in the southwest.

In 1977, at the request of the Board of County Commissioners of Pike County, one of the six southwestern counties in the central zone, DOT conducted a proceeding similar to this one that resulted in Pike County being moved from central to eastern time. In 1981, at the request of the Board of County

Commissioners of Starke County, DOT conducted a proceeding similar to this one, but decided at the end of the proceeding not to move Starke County from central to eastern time.

Impact on observance of daylight saving time. This time zone proposal does not directly affect the observance of daylight saving time (DST). Under the Uniform Time Act of 1966, as amended, the standard time of each time zone in the United States is advanced one hour from 2:00 a.m. on the first Sunday in April until 2:00 a.m. on the last Sunday in October, except in any State that has, by law, exempted itself from this observance. A State in more than one time zone may have its exemption apply only to that part of the State that is in the more easterly time zone. Indiana is the only State that has exercised this "split State" exemption.

As explained above, the 81 counties of the State that are in the eastern time zone do not observe DST, while the eleven in the central zone—including the two that are involved in this rulemaking—do. Although the only question addressed by DOT in this proceeding is whether the time zones of Starke and Jasper counties should be changed, discussions of this nature in Indiana invariably involve questions of DST, a matter over which the State has control. Given the current relationship between Federal and Indiana law, a decision by DOT to move an area of Indiana from central time to eastern time means that the area will be exempt from DST.

The Proposals. The Board of County Commissioners of Starke County and the Board of County Commissioners of Jasper County made separate, formal requests to the Department of Transportation to move each county from central to eastern time. Both counties are located in northwestern Indiana and are on the boundary between eastern and central time.

In their submissions, the county representatives provided a number of examples of how the requested change, if made, would serve the convenience of commerce. In addition, they submitted letters from local banks, businesses, school corporations, hospitals and other groups supporting the change. A representative of the Starke County Commissioners submitted a detailed memorandum providing background information on many factors affecting life within the county. The memorandum discussed the local economy, work patterns of county residents, business relationships outside the county, which radio and television stations can be received in the county, where popular

newspapers are published, what kind of transportation services are available, school district boundaries, athletic schedules, recreation opportunities, and how health services are provided. The memorandum also summarized the views of many people and business on the proposed change.

The petitioners argue it would "serve the convenience of commerce" to move the time zone boundary because the counties have more ties to South Bend and the rest of Indiana than they do to Chicago and the other counties in northwest Indiana that are on central time. They state that since the boundary was established, there have been many changes in the area and that the counties are now more tied to the rest of the state than to Chicago. For example, a number of the area's largest employers, which are (or were) in the central zone, have either substantially reduced their operations or have closed down. These include(d) a number of steel mills, Allis Chalmers and the American Home Products plant. As a result, fewer people are traveling to the central zone for work and more people are working in the eastern time zone.

In addition, the petitioners state that many of the businesses in the area would prefer to be on eastern time. For example, some of the companies have most of their dealings with the eastern time zone because that is where they have their headquarters. Other companies receive their supplies from businesses located in the eastern zones. A number of companies have a large number of employees who travel from eastern time, which is inconvenient under the present system.

State Senator Dennis P. Neary submitted helpful background information. Although he took no position on the proposal, he did note that "most commercial activity among Starke County firms is conducted with suppliers, wholesalers and service units located to the east. The focus of commerce has changed from LaPorte and Michigan City to South Bend. . . . Now a majority of workers are employed by firms in St. Joseph County."

At this time, it appears that other groups also support a change. There is a sizable number of students who live on central time but attend schools on eastern time. Participants in interscholastic athletics and their parents might welcome a change since so many games are played with schools in the eastern zone. People seeking medical care outside the county might find the change helpful.

Under the DOT procedures to change a time zone boundary, the Department will generally begin a rulemaking proceeding if the highest elected officials in the area make a *prima facie* case for the proposed change. The petitioners have made this showing. In this notice of proposed rulemaking, DOT is proposing to make the change and is requesting public comment. However, we stress that the decision of whether to actually make the change will be based upon the information received at the hearings and submitted in writing to the docket. Persons supporting or opposing the change should not assume that the change will be made merely because DOT is making the proposal.

As is usual in time zone proceedings, DOT reserves the right to grant more or less than what the two Boards of County Commissioners have requested. It is possible that the information gathered as part of this proceeding will support a time zone boundary change different from what is currently proposed. For example, the information gathered in this proceeding may support moving only one county, moving parts of one or both counties, or making no time change at all. In addition, it is possible that the information may support moving other areas in northwest Indiana than those mentioned in the Resolutions to the eastern zones. DOT is free to act accordingly, and interested persons should direct their comments to these alternatives.

Regulatory impact. I certify under the criteria of the Regulatory Flexibility Act that this proposal, if implemented, would not have a significant economic impact on a substantial number of small entities, because of its highly localized impact. Furthermore, it is not a major rule under Executive Order 12291, nor a

significant rule under DOT Regulatory Policies and Procedures, 44 FR 11034, for the same reason. The economic impact is so minimal that it does not warrant preparation of a regulatory evaluation. Finally, DOT has determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and therefore that an environmental impact statement is not required.

List of Subjects in 49 CFR Part 71 Time.

Authority: Act of March 19, 1918, as amended by the Uniform Time Act of 1966, Public Law 97-449 and Public Law 99-359, 15 USC 260-64; 49 CFR 1.57(a).

1. The authority citation for 49 CFR Part 71 continues to read as follows:

2. In consideration of the foregoing, DOT proposes to amend Title 49, Code of Federal Regulations, by revising paragraph (b) of § 71.5 to read as appears below.

§ 71.5 Boundary between eastern and central zones.

(b) *Indiana-Illinois.* From the juncture of the western boundary of the State of Michigan with the northern boundary of the State of Indiana easterly along the northern boundary of the State of Indiana to the east line of LaPorte County; thence southerly along the east line of LaPorte County to the north line of Starke County; thence west along the north line of Starke County and Jasper County to the west boundary of Jasper County; thence south along the west line of Jasper County to the south line of Newton County to the Indiana-Illinois boundary; thence south along the Indiana-Illinois boundary to the Indiana-Kentucky boundary; thence westerly along the Indiana-Kentucky boundary to the west line of Meade County, Kentucky.

Issued in Washington, DC, on November 26, 1986.

Jim J. Marquez,
General Counsel.

[FR Doc. 86-27138 Filed 12-2-86; 8:45 am]

BILLING CODE 4910-62-M

Notices

Federal Register

Vol. 51, No. 232

Wednesday, December 3, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

November 28, 1986

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revision

- Farmers Home Administration
7 CFR 1930-C, Management and Supervision of Multiple Family Housing

Borrowers and Grant Recipients
FmHA 444-27A, 1944-8, -25, -27, -29,
1030-5, -6, -7, -8

Recordkeeping; On occasion; Monthly
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 1,694,385 responses; 1,972,734 hours; not applicable under 3504(h)

Jack Holston (202) 382-9736

Jane A. Benoit,

Departmental Clearance Officer.

[FR Doc. 86-27118 Filed 12-2-86; 8:45 am]

BILLING CODE 3410-01-M

Office of the Secretary

National Commission on Dairy Policy; Open Meeting

Pursuant to provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), a notice is hereby given of the following committee meeting.

Name: National Commission on Dairy Policy

Time and Date: 9:00 a.m., December 19, 1986

Place: Room 4960—South Building,
United States Department of
Agriculture, Independence Avenue,
SW., Washington, DC 20250

Status: Open

Matters to be Considered: The meeting is scheduled to consider administrative matters including staffing, office location, by-laws, and budget and finance. The Commission will also review the current dairy price support program in detail.

Written Statements May be Filed Before or After the Meeting With:
Contact person named below.

Contact Person for More Information:
Mr. Floyd Gaibler, Assistant to the Secretary, Office of the Secretary,
United States Department of

Agriculture, Washington, DC 20250.
(202) 447-3631.

William T. Manley,

*Deputy Administrator, Marketing Programs,
Agricultural Marketing Service, U.S.
Department of Agriculture.*

November 26, 1986.

[FR Doc. 86-27120 Filed 12-2-86; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

Interest Rate Reduction

AGENCY: Farmers Home Administration,
USDA.

ACTION: Notice.

SUMMARY: In response to the Continuing Resolution for 1987 Appropriations (Pub. L. 99-500), the interest rate for Farmers Home Administration loans under the disaster emergency program has been reduced to 4.5 percent effective November 19, 1986. Previously the rate had been 5 percent for the first \$100,000 and 8 percent for amounts between \$100,000 and the \$500,000 ceiling.

EFFECTIVE DATE: November 19, 1986.

FOR FURTHER INFORMATION CONTACT:

William Krause, Director, Emergency Loan Division, Farmers Home Administration, USDA, Room 5420, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 382-1632.

SUPPLEMENTARY INFORMATION: The Catalog of Federal Domestic Assistance program affected by this notice is 10.404 Emergency Loans.

Dated: November 28, 1986

Ronnie O. Tharrington,

Acting Administrator, Farmers Home Administration.

[FR Doc. 86-27193 Filed 12-2-86; 8:45 am]

BILLING CODE 3410-07-M

Packers and Stockyards Administration

Certification of Central Filing System

The Statewide central filing system of Oregon is hereby certified, pursuant to section 1324 of the Food Security Act of 1985, on the basis of information submitted by Barbara Roberts, Secretary of State, for farm products produced in that State as follows:

Artichokes
Asparagus
Beans—All
Beets
Broccoli
Brussel Sprouts
Cabbage
Carrots
Cauliflower
Celery
Corn—All
Cucumbers
Eggplant
Garlic
Legumes
Lettuce
Mushrooms
Onions
Peas—All
Peppers
Spinach
Turnips
Alfalfa Seed
Barley
Bluegrass
Fescue Seed
Hay
Hops
Oats
Orchard Seed
Peppermint
Potatoes—All
Red Clover
Ryegrass Seed
Sage
Sugar Beets
Trees (Except standing timber)
Standing Timber
Logs
Wheat
Vegetable Seed
Flower Seed
Oil Seed
Nursery Stock
Apples—All
Apricots
Cherries—Sweet
Cherries—Tart
Filberts
Grapes
Watermelons
Cantaloupe
Peaches
Pears—All
Plums
Prunes
Tomatoes
Walnuts
Blackberries
Blueberries
Boysen & Youngberries
Cranberries
Loganberries
Raspberries, Black
Raspberries, Red
Strawberries
Broilers
Beef Cattle & Calves

Ducks
Eggs
Chickens (Laying Hens)
Fish & Shellfish
Geese
Goats
Hogs & Pigs
Horses
Dairy Cattle
Milk
Mink
Mules
Sheep & Lambs
Turkeys
Wool

This is issued pursuant to authority delegated by the Secretary of Agriculture.

Authority: Sec. 1324(c)(2), Pub. L. 99-196, 99 Stat. 1535, 7 U.S.C. 1631(c)(2); 7 CFR 2.17(e)(3), 2.56(a)(3), 51 FR 22795.

Dated: November 28, 1986.

B. H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

[FR Doc. 86-27119 Filed 12-2-86; 8:45 am]

BILLING CODE 3410-KD-M

Soil Conservation Service

Upper Vermilion Bayou Watershed, Louisiana; Record of Decision Availability

AGENCY: Soil Conservation Service.

ACTION: Notice of availability of a record of decision.

SUMMARY: Horace J. Austin, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Louisiana, is hereby providing notification that a record of decision to proceed with the installation of the Upper Vermilion Bayou Watershed project is available. Single copies of this record of decision may be obtained from Horace J. Austin at the address shown below.

FOR FURTHER INFORMATION CONTACT: Horace J. Austin, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302, telephone (318) 473-7751.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: November 19, 1986.

Horace J. Austin,
State Conservationist.

[FR Doc. 86-27103 Filed 12-02-86; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A 423-602]

Initiation of Antidumping Duty Investigation; Industrial Phosphoric Acid From Belgium

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of industrial phosphoric acid from Belgium are being, or likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Administration (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 22, 1986, and we will make ours on or before April 14, 1987.

EFFECTIVE DATE: December 3, 1986.

FOR FURTHER INFORMATION CONTACT: Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-5288.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1986, we received a petition filed in proper form by FMC Corporation and Monsanto Company on behalf of the U.S. industry producing industrial phosphoric acid. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of industrial phosphoric acid from Belgium are being, or likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry. Critical circumstances have also been alleged under section 733(e) of the Act.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation

of an antidumping duty investigation, and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on industrial phosphoric acid from Belgium and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether industrial phosphoric acid from Belgium is being, or is likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 14, 1987.

Scope of Investigation

The product covered by this investigation is industrial phosphoric acid provided in item 416.30 of the *Tariff Schedules of the United States*, (TSUS).

United States Price and Foreign Market Value

Petitions based United States price on a U.S. importer's price quotes for Belgium industrial phosphoric acid in the United States on a C.I.F., duty paid, delivered basis. Petitioners based foreign market value on the Belgium producer's ex-factory price quotes.

Based on a comparison of United States price and foreign market value, petitioners alleged dumping margins of 100 percent to 117 percent.

After analysis of petitioners' allegations and supporting data, we conclude that a formal investigation is warranted.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing 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.

Preliminary Determination by ITC

The ITC will determine by December 22, 1986, whether there is a reasonable indication that imports of industrial phosphoric acid from Belgium materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will terminate; otherwise it will proceed

according to the statutory and regulatory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

November 25, 1986

[FR Doc. 86-27158 Filed 12-2-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-301-602]

Certain Fresh Cut Flowers From Colombia; Postponement of Final Antidumping Duty Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The final antidumping duty determination involving certain fresh cut flowers from Colombia is being postponed until not later than February 16, 1987.

EFFECTIVE DATE: December 3, 1986.

FOR FURTHER INFORMATION CONTACT:

Terri Feldman or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202)377-0160 or (202)377-3965.

SUPPLEMENTARY INFORMATION: On October 28, 1986, we made an affirmative preliminary antidumping duty determination that certain fresh cut flowers are being, or are likely to be, sold in the United States at less than fair value (51 FR 39887, November 3, 1986). The notice stated that we would issue our final determination by January 12, 1987.

On November 3, 1986, counsel for the respondents requested that the Department extend the period for the final determination for 30 days, *i.e.*, until not later than 105 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act). The respondents are exporters who account for a significant proportion of the exports of the merchandise under investigation. If exporters who account for a significant proportion of exports of the merchandise under investigation properly request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, the period for the final determination in this case is hereby extended. We intend to issue the

final determination not later than February 16, 1987.

Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations, standard and pompon chrysanthemums, alstroemeria, gerbera, and gyposophila, currently provided for in item 192.21 of the TSUS.

This notice is published pursuant to section 735(d) of the Act.

The United States International Trade Commission is being advised of this postponement in accordance with section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

November 24, 1986.

[FR Doc. 86-27158 Filed 12-2-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-603, C-223-601, C-331-601, C-508-603, C-779-601, C-421-601, C-333-601, C-337-601, and C-301-601]

Extension of Deadline for Final Countervailing Duty Determinations; Certain Fresh Cut Flowers From Canada, Israel, Kenya, the Netherlands, and Peru, and Standard Carnations From Chile and Rescheduling of Public Hearings on Certain Fresh Cut Flowers From Canada, Costa Rica, Ecuador, Israel, Kenya, and the Netherlands, Standard Carnations From Chile, and Miniature Carnations From Colombia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: based upon the request of petitioner, the Floral Trade Council, the Department of Commerce is extending the deadline for its final determinations in the countervailing duty investigations of certain fresh cut flowers from Canada, Israel, Kenya, the Netherlands and Peru, and standard carnations from Chile to correspond to the date of the final determinations in the corresponding antidumping investigations pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98-573). The final determinations will now be made on or before January 12, 1987. In keeping with Article 5, paragraph 3 of the Agreement on Interpretation and Application of Articles VI, XVI, and

XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code), the Department will terminate the suspension of liquidation in the countervailing duty investigations of certain fresh cut flowers from Canada, Israel, Kenya, the Netherlands, and Peru, and standard carnations from Chile, 120 days after the date of publication of the corresponding preliminary determinations. In addition, the Department is rescheduling the public hearings in the countervailing duty investigation on certain fresh cut flowers from Canada, Costa Rica, Ecuador, Israel, Kenya, and the Netherlands, standard carnations from Chile, and miniature carnations from Colombia. Neither petitioner nor respondent requested a hearing on certain fresh cut flowers from Peru. The new schedule follows in the text of this notice.

EFFECTIVE DATE: December 3, 1986.

FOR FURTHER INFORMATION CONTACT: Carole Showers, Gary Taverman, or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3217, 377-0161, or 377-2438.

SUPPLEMENTARY INFORMATION: On June 10, 1986, the Department initiated countervailing duty investigations on certain fresh cut flowers from Canada, Costa Rica, Ecuador, Israel, Kenya, the Netherlands, and Peru, standard carnations from Chile, and miniature carnations from Colombia. At the request of petitioner, and pursuant to section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), the Department postponed the preliminary determinations in the above-referenced cases. These preliminary determinations were issued by the Department on October 20, 1986 (51 FR 37925-51, October 27, 1986).

On November 4, 1986, petitioner filed a request for an extension of the deadline date for the final determinations in six of the countervailing duty investigations to correspond with the date of the final determinations in the corresponding antidumping investigations.

Section 705(a)(1) of the Act, as amended by section 806 of the Trade and Tariff Act of 1984, provides that when a countervailing duty investigation is "initiated simultaneously with an [antidumping] investigation . . . which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if

requested by the petitioner, shall extend the date of the final determination [in the countervailing duty investigation] . . . to the date of the final determination" in the antidumping investigation [19 U.S.C. 1671d(a)(1)]. Pursuant to this provision, the Department is granting an extension of the deadline for the final determination in the countervailing duty investigations on certain fresh cut flowers from Canada, Israel, Kenya, the Netherlands, and Peru, and standard carnations from Chile to January 12, 1987, the current deadline for the final determinations in the corresponding antidumping investigations.

To comply with the requirements of Article 5, paragraph 3 of the Subsidies Code, the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in the countervailing duty investigations of certain fresh cut flowers from Canada, Israel, Kenya, the Netherlands, and Peru, and standard carnations from Chile, on February 24, 1987, which is 120 days from the date of publication of the preliminary determinations in these cases. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters after February 24, 1987. The suspension of liquidation will not be resumed unless and until the Department publishes countervailing duty orders in these cases. We will also direct the U.S. Customs Service to hold any entries suspended prior to February 24, 1987, until the conclusion of these investigations.

Due to the extension of the final determinations in the countervailing duty investigations, the Department is rescheduling the dates of the public hearings for the above-cited investigations. In addition, the Department is rescheduling the public hearings for the countervailing duty investigations on certain fresh cut flowers from Costa Rica, Ecuador, and miniature carnations from Colombia. The new schedule is as follows:

Date	Time	Room	Country
Dec. 3, 1986	10:00 a.m.	3708	Colombia.
Dec. 3, 1986	2:00 p.m.	3708	Costa Rica.
Dec. 5, 1986	2:00 p.m.	3708	Chile.
Dec. 9, 1986	2:00 p.m.	1413	Ecuador.
Dec. 15, 1986	10:00 a.m.	1412	Israel.
Dec. 17, 1986	10:00 a.m.	1412	Canada.
Dec. 17, 1986	2:00 p.m.	1412	Netherlands.
Jan. 30, 1987	10:00 a.m.	3708	Kenya.

All of the hearings will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 in the rooms designated. Ten copies of the proprietary version and seven copies of

the nonproprietary version of the pre-hearing briefs must be submitted to the Deputy Assistant Secretary no later than seven days before the scheduled hearing date. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination is due or, if a hearing is held, within ten days after the hearing transcript is available.

This notice is published pursuant to section 774(b) of the Act [19 U.S.C. 1677c(b)].

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

November 26, 1986.

[FR Doc. 86-27160 Filed 12-2-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-223-602]

Certain Fresh Cut Flowers From Costa Rica; Postponement of Final Antidumping Duty Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The final antidumping duty determination on certain fresh cut flowers from Costa Rica is being postponed until not later than February 16, 1987.

EFFECTIVE DATE: December 3, 1986.

FOR FURTHER INFORMATION CONTACT: Terri Feldman or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0160 or (202) 377-3965.

SUPPLEMENTARY INFORMATION: On October 28, 1986, we made an affirmative preliminary antidumping duty determination that certain fresh cut flowers from Costa Rica are being, or are likely to be, sold in the United States at less than fair value (51 FR 39890, November 3, 1986). The notice stated that we would issue our final determination by January 12, 1987.

On November 3, 1986, respondent requested that the Department extend the period for the final determination for 30 days, *i.e.*, until not later than 105 days after the date of publication of the preliminary determination in accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the

Act). The respondent is an exporter who accounts for a significant proportion of the exports of the merchandise under investigation. If exporters who account for a significant proportion of exports of the merchandise under investigation properly request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, the period for the final determination in this case is hereby extended. We intend to issue the final determination not later than February 16, 1987.

Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations and pompon chrysanthemums, currently provided for in items 192.21 of the TSUS.

This notice is published pursuant to section 735(d) of the Act.

The United States International Trade Commission is being advised of this postponement in accordance with section 735(d) of the Act.

The United States International Trade Commission is being advised of this postponement in accordance with section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

FR Doc. 86-27157 Filed 12-2-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-508-604]

Initiation of Antidumping Duty Investigation; Industrial Phosphoric Acid From Israel

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of industrial phosphoric acid from Israel are being, or likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 22, 1986, and we

will make ours on or before April 14, 1987.

EFFECTIVE DATE: December 3, 1986.

FOR FURTHER INFORMATION CONTACT: Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-5288.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1986, we received a petition filed in proper form by FMC Corporation and Monsanto Company on behalf of the U.S. industry producing industrial phosphoric acid. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of industrial phosphoric acid from Israel are being, or likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry. Critical circumstances have also been alleged under section 733(e) of the Act.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on industrial phosphoric acid from Israel and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether industrial phosphoric acid from Israel is being, or is likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 14, 1987.

Scope of Investigation

The product covered by this investigation is industrial phosphoric acid provided in item 418.30 of the *Tariff Schedules of the United States* (TSUS).

United States Price and Foreign Market Value

Petitioners based United States price on a U.S. importer's price quotes for Israeli industrial phosphoric acid in the United States on a C.I.F. delivered basis. Petitioners based foreign market value

on the Israeli producer's ex-factory price quotes.

Based on a comparison of United States price and foreign market value, petitioners alleged dumping margins of 13.5 percent to 42 percent.

After analysis of petitioners' allegations and supporting data, we conclude that a formal investigation is warranted.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing 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.

Preliminary Determination by ITC

The ITC will determine by December 22, 1986, whether there is a reasonable indication that imports of industrial phosphoric acid from Israel materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will terminate; otherwise it will proceed according to the statutory and regulatory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration

November 25, 1986.

[FR Doc. 86-27159 Filed 12-2-86; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Limits for Certain Cotton Textile Products Produced or Manufactured in the Republic of the Philippines

November 28, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on December 4, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce,

(202)377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

On December 26, 1985 a directive dated December 20, 1985 was published in the *Federal Register* (50 FR 52830), which announced the import restraint limits for certain cotton, wool and man-made fiber textile products, including women's, girls' and infants' cotton coats in Category 335-NT, cotton dresses in Category 336-NT, and cotton sweaters in Category 345, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

As a result of consultations on November 5-7, 1985, overshipment charges to 1986 are being reduced by 1,105 dozen for Category 335-NT, 1,171 dozen for Category 336-NT and 9,260 dozen for Category 345.

Accordingly, in the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs, to deduct designated amounts from the import charges made to the current year limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,
Chairman, Committee for the Implementation of Textile Agreements.
November 28, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 24, 1982, as amended, between the Governments of the United States and the Republic of the Philippines, I request that, effective on December 4, 1986 you adjust the limit established in the directive of December 21, 1984 for man-made fiber textile products in Category 642-NT, produced or manufactured in the Philippines and exported

during the twelve-month period which began on January 1, 1985 and extended through December 31, 1985, to 56,296 dozen.

Also effective on December 4, 1986, I further request that you deduct the following amounts from charges made to the restraint limits established in the directive of December 20, 1985 for the following categories, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986:

Category	Amount to be deducted
335-NT.....	1,105 doz.
336-NT.....	1,171 doz.
345.....	9,260 doz.

This letter will be published in the *Federal Register*.

Sincerely,

William H. Houston III,
Chairman, Committee for the Implementation of Textile Agreements.
[FR Doc. 86-27141 Filed 12-2-86; 8:45 am]
BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines Effective on January 1, 1986; Correction

On December 26, 1985 a letter dated December 20, 1985 was published in the *Federal Register* (50 FR 52830), which established import control limits for certain cotton, wool and man-made fiber textiles and textile products, including man-made fiber gloves in Category 631, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. TSUSA number 704.8550 should be deleted from footnotes one and two of the letter.

William H. Houston III,
Chairman, Committee for the Implementation of Textile Agreements.
[FR Doc. 86-27142 Filed 12-2-86; 8:45 am]
BILLING CODE 3510-DR-M

Deferral of Export Visa Requirement for Certain Man-Made Fiber Textile Products Produced or Manufactured in Mexico

November 26, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive

published below to the Commissioner of Customs to be effective on December 3, 1986. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)377-4212. For information on quota status for these products, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

On October 31, 1986 a letter dated October 28, 1986 was published in the *Federal Register* (51 FR 39781), which amended the export visa requirement previously established for certain cotton, wool and man-made fiber textile products, to include man-made fiber luggage, handbags and flatgoods in Category 670, also produced or manufactured in Mexico and exported on and after November 7, 1986.

At the request of the Government of Mexico, the date of effect of this export visa requirement is being changed to December 3, 1986 for merchandise in Category 670, exported on and after that date. In the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to amend the October 28, directive to change the date of effect to December 3, 1986.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,
Chairman, Committee for the Implementation of Textile Agreements.
November 26, 1986

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of October 28, 1986, which directed you, effective on November 7, 1986, to require an export visa for man-made fiber textile products in Category 670, produced or manufactured in Mexico. The directive of October 28, 1986 is hereby amended to change the date of effect of this requirement

to December 3, 1986 for merchandise in Category 670, exported on and after that date.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-27140 Filed 12-2-86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Consultations With the Government of Bangladesh on Category 645/646

November 26, 1986.

On October 31, 1986, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended by Protocols dated December 15, 1977, December 22, 1981 and July 31, 1986, requested the Government of Bangladesh to enter into consultations concerning exports to the United States of certain man-made fiber textiles in Category 645/646, produced or manufactured in Bangladesh.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Bangladesh, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of man-made fiber sweaters in Category 645/646, produced or manufactured in Bangladesh and exported to the United States during the twelve-month period which began on October 31, 1986 and extends through October 30, 1987, at a level of 98,379 dozen.

A summary market statement for this category follows this notice.

A description of the cotton, wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Anyone wishing to comment or provide data or information regarding the treatment of Category 645/646 under the terms of the Multifiber Arrangement, or on any other aspect thereof, or to

comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comments 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.

Bangladesh—Market Statement

Category 645/646—Man-Made Fiber—Sweaters

October 1987.

Summary and Conclusions

U.S. imports of Category 645/646 from Bangladesh were 110,877 dozen during the year ending August 1986, more than twice the 54,121 dozen imported a year earlier. During the first eight months of 1986, man-made fiber sweater imports from Bangladesh were 82,312 dozen, 81 percent above the 45,531 dozen imported during the same period of 1985 and 11 percent above the amount imported during calendar year 1985.

The U.S. market for Category 645/646 has been disrupted by imports and imports from Bangladesh are contributing to this disruption.

U.S. Production and Market Share

U.S. production of man-made fiber sweaters declined 18 percent between 1983 and 1985 to 5,947 thousand dozen. The U.S. producers' share of this market declined from 40 percent in 1983 to 33 percent in 1985.

U.S. Imports and Import Penetration

U.S. imports of Category 645/646 grew from 10,776 thousand dozen in 1983 to 12,167 thousand dozen in 1985, a 13 percent increase. During the first eight months of 1986 imports of Category 645/646 reached 9,303 thousand dozen, seven percent higher than

the level imported during the same period in 1985. The ratio of imports to domestic production increased from 149 percent in 1983 to 205 percent in 1985.

Duty-Paid Value and U.S. Producers' Price

Approximately 86 percent of Category 645/646 imports from Bangladesh during the first eight months of 1986 entered under TSUSA No. 381.9035—men's man-made fiber knit sweaters, not ornamented; and TSUSA No. 384.8073—women's and girls' man-made fiber knit sweaters, not ornamented. These sweaters entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable sweaters.

[FR Doc. 86-27144 Filed 12-2-86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of Pakistan Concerning Category 648

November 26, 1986.

On October 30, 1986, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of Pakistan to enter into consultations concerning exports to the United States of man-made fiber trousers, slacks and shorts in Category 648, produced or manufactured in Pakistan.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Pakistan, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 648, produced or manufactured in Pakistan and exported to the United States during the twelve-month period which began on October 30, 1986 and extends through October 29, 1987 at a level of 176,116 dozen.

A summary market statement follows this notice.

A description of the cotton, wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Anyone wishing to comment or provide data or information regarding the treatment of Category 648 under the

terms of the Multifiber Arrangement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Pakistan—Market Statement Category 648—Women's Girls' and Infants' Man-Made Fiber—Trousers, Slacks and Shorts

October 1986.

Summary and Conclusions

U.S. imports of Category 648 from Pakistan were 185,319 dozen during the year ending August 1986, 87 percent above the 98,928 dozen imported a year earlier. During the first eight months of 1986, imports of Category 648 from Pakistan were 162,888, 90 percent above the 85,925 dozen imported during the same period in 1985 and 50 percent above the amount imported during calendar year 1985.

The U.S. market for Category 648 has been disrupted by imports. The sharp and substantial increase in imports from Pakistan has contributed to this disruption.

U.S. Production and Market Share

U.S. Production of women's, girls', and infants' man-made fiber trousers, slacks and shorts declined by 12 percent from 21,452 dozen in 1983 to 18,890 dozen in 1985. The U.S. producers' share of this market declined from 73 percent in 1983 to 63 percent in 1985.

U.S. Imports and Import Penetration

U.S. imports of Category 648 grew from 8,037 thousand dozen in 1983 to 10,995 thousand dozen in 1985, a 37 percent increase. During the first eight months of 1986, Category 648 imports were 9,440

thousand dozen, 30 percent above the 7,242 thousand dozen imported during the same period a year earlier. The ratio of imports to domestic production increased from 38 percent in 1983 to 58 percent in 1985.

Duty Paid Value and U.S. Producer Price

Approximately 73 percent of Category 648 imports from Pakistan entered under TSUSA number 384.8262—infant boys', over 24 months, man-made fiber knit shorts, not ornamented; TSUSA number 384.9168—infant boys', over 24 months, man-made fiber shorts, not knit, not ornamented; and TSUSA number 384.9169—women's girls' and infants', other than infant boys over 24 months, man-made fiber shorts, not knit, not ornamented. These garments entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable garments.

[FR Doc. 86-27143 Filed 12-2-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Addition to Procurement List of 1987

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1987 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: December 3, 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 August 25, 1986 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (51 FR 30263) of addition to Procurement List 1987, November 3, 1986 (51 FR 39946). Comments were received from two commercial firms, HLI Lordship Industries, Inc. (hereafter "Lordship") and Milspec Industries, Inc. (hereafter "Milspec"), which in the past had received contracts from the Government to produce one or more of the seven medals and medal sets. The major issue they raised were regarding the amount of production the workshop would actually perform, the workshop's qualification with respect to employing at least 75% severely handicapped direct labor in producing the items, the workshop's capability to produce the items including the reliability of its subcontractors, the relative benefit to

severely handicapped workers in the workshop, the impact on the two firms, and the provision of inadequate notice by the Committee of the issues raised in this proceeding. Comments recommending approval of the action were also received from the workshop proposing to produce the medals and medal sets, Elwyn Institutes (hereafter "Elwyn"), and from the central nonprofit agency, the National Industries for the Severely Handicapped, representing that workshop.

Background

On January 27, 1984, the Committee approved the addition to the Procurement List of the medal and six medal sets listed below. On June 4, 1986, the United States Court of Appeals for the Fourth Circuit directed that the Committee's decision be set aside due to the inadequacy of the explanatory statement in the Committee's notice of January 27, 1984. The United States District Court for the Eastern District of Virginia, by order dated August 20, 1986, vacated the decision of the Committee which added the medal and six medal sets to the Procurement List. This action reflects the Committee's decision on the suitability of the addition of the seven medals and medal sets listed below to the Procurement List.

Production in Workshop

Lordship commented that the production of the medal pendant constitutes about 70% of the labor required to produce a complete medal or medal set and that the labor required to produce the medal pendant, which the workshop plans to subcontract, should be included in determining the workshop's ratio of severely handicapped direct labor in producing the medal and medal sets. The comment raises two issues. The first relates to how much of the manufacturing process a workshop must perform on a commodity in order for the work to qualify as production under Public Law 92-28 as amended (41 U.S.C. 46-48c). The second concerns whether any direct labor hours performed by subcontractors should be included in determining if the workshop will produce the commodity employing at least 75% blind or other severely handicapped direct labor.

The Committee has defined production in its regulations (41 CFR 51-4.5).

Those regulations clearly do not require that a workshop perform all of the manufacturing operations involved in order to qualify as a producer of a commodity. The definition of production

in the Committee's regulations parallels that of a "manufacturer" contained in the regulations implementing the Walsh-Healey Public Contracts Act (41 U.S.C. 35-45). These regulations (41 CFR 50-206.52) state in part:

A firm which produces final items on its premises by assembling component parts, all or some of which have been purchased from others, will generally be considered to be a "manufacturer" where it performs a series of assembly operations utilizing machines, tools and workers which constitute substantial and significant fabrication or production of the desired product.

Lordship has submitted data which shows that, using that firm's manufacturing processes, 70% of the total production time is involved in manufacturing the pendant, which operation the workshop plans to subcontract.

Elwyn reports that, based on the manufacturing times required under its method of operations to produce the drape and service bar and to package the completed medal set, and the times reported by its subcontractors to produce the pendant, between 64% and 80% of the total time required to produce the medal set, including the production of the pendant, would be performed in the workshop. If the total time is determined by using Elwyn's time to produce the drape and service ribbon and for packaging and Lordship's time to produce the pendant, at least 60% of the total production time would be performed in the workshop.

Based on Elwyn's manufacturing methods and the operations it would perform in producing the medals and medal sets, Elwyn clearly meets the definition of production both under the Committee's regulations and as a manufacturer under the Walsh-Healey regulations.

Qualification of Workshop

Lordship commented that the portion of the production performed by Elwyn's subcontractors should be considered in determining if Elwyn will produce the medals and medal sets employing 75% severely handicapped direct labor.

The definition of a qualified nonprofit agency for the blind or such agency for other severely handicapped under Public Law 92-28 (41 U.S.C. 48b (3) and (4)) limits the direct labor hours used in determining the 75% criterion to the direct labor hours performed by individuals who are employed in the agency. Similarly, the Committee has required workshops proposing the addition of a commodity or service to the Procurement List, to report on the ratio of blind or other severely handicapped labor it expects to employ in the

workshop in producing the commodity or providing the service if it is added to the Procurement List. In the case of a commodity, as long as the workshop meets the definition of production under Committee regulations, the number of hours performed by any subcontractors has no bearing whatsoever on the ratio of direct labor performed in the workshop, whether in the production of a particular commodity or in the overall direct labor hours used in the production or provision of commodities or services in the agency.

In the fiscal year ending September 30, 1985 (the most recent year for which the Committee has a report), Elwyn employed severely handicapped individuals for 97.8% of the total direct labor hours performed in the agency. Elwyn plans to employ severely handicapped persons to perform 100% of the direct labor required in the workshop to produce the seven medals and medal sets. Thus, Elwyn meets the requirements as a qualified agency for other severely handicapped.

Lordship has questioned Elwyn's estimates of handicapped labor to produce the seven medals and medal sets. The workshop determines productivity rates by comparing performance by the severely handicapped client with the timed actual performance of a non-handicapped employee. At this point, Elwyn has considerable experience in producing over 600,000 medals and medal sets and has adjusted its reported production times to reflect that experience.

Lordship has also questioned the basis for Elwyn's productivity factor in estimating the amount of severely handicapped labor used to produce the medals and medal sets.

Elwyn has submitted a letter which included a copy of a client payroll report selected at random, for a day in April 1986. The report shows that, on that date, Elwyn had 29 clients working in the production of medals and medal sets and their productivity ranged from a low of 8.6% to high of 48.3% with an average of slightly less than 25%. Using that productivity factor, the total handicapped direct labor hours in the workshop would equate to about 25 handicapped man-years of labor. Thus, it appears that the 13.7 man-years estimated by the workshop is a very conservative number and, in reality, the addition of the seven medals and medal sets to the Procurement List would provide more than 20 man-years of severely handicapped employment.

Capability of Workshop to Produce

Lordship questioned the capability of the workshop to produce the medals and medal sets in compliance with Government specifications and delivery requirements and submitted documents concerning deficiencies reported by the procuring activity. The documents indicated that in one instance in December 1984, 2,240 medal sets were produced with the color sequence reversed on the ribbon drape which contained a number of colored stripes. The quantity of defective items still in the depot was returned to Elwyn for replacement. Elwyn was required to reimburse the Government for the full cost of the defective medals which had been issued.

Other documents submitted indicate that Elwyn was unable to meet the delivery date for first article samples for one medal and one medal set. In May and July of 1985, the workshop received conflicting instructions on the delivery of three medals and medal sets. When the discrepancies were pointed out to the procuring activity, the orders were amended to reflect the original delivery dates for the two items in question. The workshop met the required first delivery dates for both items.

A third point concerned the box marking and the pads used in packaging of first article samples submitted for approval. Elwyn had acknowledged in its transmittal letter that the markings were incorrect and that the pads were not the correct pads. The procuring activity found that the medal set sample met the requirements of the contract, except for the deficiencies which Elwyn had already pointed out, and accepted the samples subject to the corrections of the packaging by the workshop.

Between January 27, 1984 and October 15, 1986, Elwyn produced about 620,000 medals and medal sets for the Government. Except for the one instance in Elwyn's initial stages of production where the ribbon was reversed, the procuring activity has reported no other problems with respect to the quality of the medals and medal sets which Elwyn has produced.

Based on the data on recent shipments, Elwyn has generally been shipping ahead of schedule.

The Committee requested the procuring activity to inspect Elwyn to determine its capability to produce the items being proposed for addition to the Procurement List. The procuring activity has waived the inspection of the workshop, thus indicating its satisfaction with the quality and delivery of the items produced by the

workshop. Based on the preceding, the workshop is determined capable of producing the medals and medal sets in compliance with the Government's specifications and delivery requirements.

Lordship has also questioned the reliability of the Elwyn's subcontractors who provide the pendant and has stated that the Committee regulations, specifically 41 CFR 51-2.6(b), require the workshop to prove the reliability of its subcontractors and that no such proof has been provided.

There is nothing in the referenced portion of the Committee's regulations which requires the workshop to certify or prove the capability of its subcontractors.

Based on Elwyn's performance in producing and shipping medals and medal sets to the Government during the period that the items were on the Procurement List, it is obvious that its subcontractors for the pendant are providing that component in a timely manner which is the best proof of their reliability.

Lordship also questioned the workshop's capability to produce two of the medal sets at the Committee's new fair market prices. The workshop has provided assurances of its ability to manufacture the seven medals and medal sets at the new fair market prices. The fact that a workshop may produce one or more items of a group of items at a loss is not unusual. The Committee has interpreted the definition of suitability in its regulation to mean that the workshop has the capability to produce the commodity or provide the service and is willing to do so at the fair market price established by the Committee. In this regard, the Committee has, from time-to-time, approved the addition of commodities to the Procurement List which a workshop had planned to produce at a loss. However, in each case, the workshop has provided assurances that it agrees to produce the commodity at the Committee's fair market price similar to the assurances provided by Elwyn in this case.

Analysis of Procurements

Before considering the possible impact on commercial firms who have produced the seven medals and medal sets in the past, it is appropriate to review the awards of contracts for medals, medal sets and decorations which have been procured by the Defense Personnel Support Center (DPSC) from January 1, 1974 to September 30, 1986.

During the ten years from January 1, 1974 through December 31, 1983 (ending just prior to the addition of the seven

medals and medal sets to the Procurement List of January 27, 1984), DPSC awarded contracts for those seven medals and medal sets totaling \$1,687,937, or a yearly average of \$168,794. During the five-year period from January 1, 1979 through December 31, 1983, awards for those medals and medal sets totaled \$1,337,635 for an average of \$267,528. The records show that the procurements of these items were made on a very irregular basis. In fact, during both the ten-year and five-year periods, on the average, fewer than half of the seven medals were procured in any calendar year.

In December 1982, an article entitled "Did You Get Your Medals" appeared in "Parade Magazine," which was carried by a number of major newspapers throughout the country. As the result of that article and similar articles in veterans publications, a large number of veterans, particularly World War II veterans have been requesting the medals to which they were entitled. By mid-1984, the Army was receiving requests from veterans at a rate of 1,450 per week or over 75,000 on an annual basis. Of the seven medals and medal sets, those primarily affected were the Army Good Conduct Medal Set, the Asiatic-Pacific Campaign Medal Set, the World War II Victory Medal Set, and the World War II Army of Occupation Medal Set. The increased demands for those medal sets resulted in orders to the workshop during 1984 and 1985 which were substantially above any previous experience. DPSC's current forecasts, which are based on recent demands for the seven medals and medal sets, reflects a reduction from the peak demand in 1984 and 1985, but overall, are still somewhat above the pre-1984 averages.

Orders placed by DPSC with Elwyn in 1984 and 1985 for the seven medals and medal sets totaled about \$1,440,000.

Prior to the Court Order of August 20, 1986, the only procurement of any of the seven medals and medal sets planned during FY 1986 and FY 1987 was an order for 28,400 of the Asiatic-Pacific Campaign Medal Set with an estimated value of \$48,280 scheduled for August 1986.

The medals and medal sets proposed for addition to the Procurement List, represent only seven of some 250 medals, medal sets and decorations procured by DPSC.

During the 10-year period ending December 31, 1983, DPSC awarded contracts with a total value of about \$17,000,000 for all of the medals, medal sets, and decorations it procured. In calendar years 1984 and 1985 alone, DPSC awarded contracts valued at

about \$12,000,000 for all medals, medal sets, and decorations, an increase of two and one-half times the yearly average for the previous ten years.

Over the 12-year period, the procurements of the seven medals and medal sets represented about 10% of the total value of all the medals, medal sets, and decorations procured by DPSC.

Medals, medal sets, and decorations are a part of Federal Supply Class 8455 which also includes such items as ribbons, lapel buttons, emblems, and insignia. DPSC reports that its awarded contracts in FY 1986 totaling over \$8,000,000 for all items in Class 8455.

Computing Impact

As the result of the addition of the seven medals and medal sets to the Procurement List in January 1984, during the past two and one-half years the Government's requirements for those items have been provided by Elwyn. As of November 20, 1986, no commercial firm had received an award for any of these items since September 1983, or more than three years earlier.

Since there have been no recent procurements of these items from commercial suppliers and the quantities which were last procured from commercial suppliers do not reflect the current requirements for the items, the Committee approved a procedure for computing impact for the medals and medal sets at its meeting on September 11, 1986. Under that procedure the contractor or contractors who received the last award for a particular medal or medal set prior to January 1984 ("last contractor"), is considered to be the "current contractor" and the value of impact for that medal or medal set is determined by multiplying the current estimated annual requirement by the current fair market price. The Committee has been provided information by DPSC, on the current requirements for each of the seven medals and medal sets.

An exception to that procedure is if an award was made for a medal or medal set before the Committee has acted on the proposed addition of the item. In that case, the firm receiving the award is considered to be the current contractor for the item and the impact is the value of that firm's contract divided by the number of years of requirements represented by the award.

The total impact on each firm would be determined by adding the values of each item, as determined above for which that firm had recently been awarded a contract, or, where there had been no recent procurement, was the

last contractor for the item prior to January 1984.

As the result of the court order terminating DPSC procurements of medals and medal sets from Elwyn in August 1986, DPSC took action to procure from commercial sources the Asiatic-Pacific Campaign medal set and the Air Force Good Conduct medal set. DPSC issued solicitations for those two items in September 1986 which opened in October 1986, and awards are expected to be made shortly to the low bidder.

Lordship submitted the lowest bid for both items.

Applying the above procedures, the Committee has determined possible impact on the commercial firms which have received awards for the seven medals and medal sets during the past five years.

Impact on Lordship

Lordship claims that the proposed addition will have a serious impact on that firm's sales. Based on the data submitted by Lordship, that firm's sales in a recent 24-month period averaged about \$5,200,000 on an annual basis. Applying the Committee's procedure for evaluating impact discussed above, and assuming that Lordship will be awarded the contracts for the two medal sets for which that firm was the low bidder, the impact of the addition of the seven medals would result in the possible loss of sales of \$298,600 which is less than 6% of Lordship's annual sales. This is not considered to be serious impact, particularly in view of the fact that more than 95% of the Government's \$8,000,000 market for medals, decorations, insignia and similar items in Federal Supply Class 8455 will continue to be available for competitive bidding by Lordship.

A more accurate assessment of the impact of the addition to the Procurement List of the seven medals and medal sets on Lordship's sales can be made by comparing the value of awards to Lordship of medals, medal sets and decorations in calendar years 1982 and 1983 (just prior to the addition of the seven items to the Procurement List) to awards it received during calendar years 1984 and 1985. The total value of Lordship's awards for medals, medal sets, and decorations in 1982 and 1983 was about \$4,465,000. The total value of awards for the same items in 1984 and 1985 was about \$7,787,000. Thus, after the seven items were added to the Procurement List in January 1984 the value of Lordship's awards for medals, medal sets and decorations increased by about \$3,322,000 or by 74% over the prior two years.

The fact that Lordship's awards have declined since April 1, 1986 cannot be attributed to the fact that the seven items were not available for competitive procurement. Prior to the issuance of the court order terminating orders to Elwyn, the only procurement the Government was expected to make in all of calendar year 1986 and the first 10 months of 1987 was for the Asiatic-Pacific Campaign medal set with an estimated value of about \$48,000.

Based on awards to all contractors during the first nine months of 1986, it appears that DPSC's procurement of medals, medal sets and decorations in calendar year 1986 will be about \$2,000,000, or the lowest figure in eight years.

Lordship states that the number of that firm's employees has dropped from 134 prior to 1984 to 102 at the present time. An analysis has been made of the contracts for the seven medals and medal sets awarded to Lordship in the four calendar years prior to January 1984 to determine the labor hours and man-years which those contracts represented. The analysis shows that:

a. Contracts awarded to Lordship for three of the seven items in 1980 totaled 129,400 units representing less than 8,000 man-hours of labor.

b. Lordship received no awards for any of the seven items in 1981.

c. Contracts awarded to Lordship for three of the seven items in 1982 totaled 158,480 units which represented less than 10,000 man-hours of labor.

d. Lordship received only one award for any of the seven items in 1983 for a quantity of 72,400 units which represented less than 5,000 man-hours of labor.

The above man-hours of labor show that Lordship's contracts for the seven items on the Procurement List represented less than 5 man-years of labor in 1983 and, averaged less than 3 man-years over the four years. Thus, Lordship's claim of the loss of 32 jobs cannot be attributed to the addition of the seven items to the Procurement List, but rather to the drop in the Government's procurement of medals, medal sets, and decorations during the first nine months of calendar year 1986.

Impact on Milspec

Milspec commented this the Committee approved the earlier addition of the seven medals and medal sets based on erroneous data and that the set-aside awards to Elwyn resulted in a projected loss of sales by Milspec of \$336,000.

Milspec had received an award for only one of the seven medals or medal sets prior to January 1984. That award

was for a portion of the procurement of the Air Force Good Conduct medal set in 1982. During the period between August 6 and September 20, 1982, DPSC made four procurements for a total quantity of 132,800 of those medal sets. The awards were divided between Milspec and Lordship. Since these awards were made in a very brief period of time, both firms are considered to be "last contractors" under the procedures for evaluating impact which the Committee approved at the Committee meeting on September 11, 1986. The value of impact was computed by dividing the total value of \$63,240 for the Air Force Good Conduct medal set between the two firms based on the percentage of the total quantity which was awarded to each firm during that period. Using this procedure, the total value of impact on Milspec's sales would be \$30,725. Based on Milspec's projected annual sales of about \$500,000 for 1986, the addition of the seven medals and medal sets to the Procurement List would result in a loss of sales of about 6% for that firm.

Milspec reports that it only bids on the procurements of medals, medal sets and decorations. DPSC procurements of these items between 1979 and 1985 averaged more than \$3,000,000 annually. If the seven medals and medal sets are added to the Procurement List, 90% of the total value of medals, medal sets and decorations will continue to be available for competitive bidding by Milspec.

However, it is expected that Lordship will be awarded the contract as the result of the recent solicitation for the Air Force Good Conduct medal. In that case, Lordship would be the current contractor and the impact on Milspec would no longer be considered.

Benefits to Handicapped in Workshop

Both Lordship and Milspec commented that they have subcontracted a portion of the production of medals and medal sets to handicapped agencies, including the workshop which has proposed the addition of the items to the Procurement List. The data provided to the Committee by the agencies who have received the subcontractors addressed the total number of persons who have been employed on subcontract work for those contractors for the total quantities of medals, decorations, and insignia that they are producing for the Government, rather than the number of handicapped persons who have been involved with the seven items being considered for addition to the Procurement List.

Lordship has questioned the benefits to severely handicapped workers in the workshop in view of the fact that Lordship has subcontracted a portion of its production of the medals and medal sets to three handicapped agencies. Lordship also reported that since October 1985, Lordship has provided transitional employment in its plant for handicapped clients rather than subcontracting the work to a handicapped agency.

The Committee requested Lordship to provide certain specific information on any portion of the production of the seven medals and medal sets which Lordship had subcontracted in the past. Lordship has provided invoices and billing statements, covering subcontract work between April 1978 and September 1986 and client payroll sheets on Transitional Employment covering the past year. However, *Lordship has not identified any subcontract work which has been performed on any of the seven medals and medal sets.*

A line-by-line review of the 338 invoices, billing statements, and client payroll sheets submitted by Lordship revealed the following:

a. Of the subcontract work, 90% of the total value of the subcontract work and transitional employment to the three agencies consisted of assembling boxes or the mounting of metal grade insignia or similar metal emblems on cards and packaging those items as distinguished from work on decorations, medals, or medal sets.

b. The only reference in the invoices to any of the seven medals and medal sets was one invoice for \$18.36 for work (the type of work was not indicated) on 1,020 "Army Good Conduct" on October 6, 1983. In 1982, Lordship received awards for 84,560 Army Good Conduct medal sets and 43,920 Air Force Good Conduct medal sets with deliveries required between February 1983 and November 1983. This is the only record of Lordship's possibly having subcontracted work on the seven medals and medal sets to any of the three handicapped agencies.

c. Lordship did not begin to subcontract work on decorations, medals, and medal sets to the three handicapped agencies until October 1984, nine months after the seven medals and medal sets were added to the Procurement List and just prior to Lordship's filing suit against the Committee. The only possible exception was subcontract work on what appears to be two medals in October 1983 with a total value of \$62.29. Prior to October 1984, the only subcontracted work relating to decorations, medals, and

medal sets was for the assembly of the boxes for some of those items.

Lordship has also provided a listing of subcontracts to agencies employing the handicapped and submitted data comparing wages paid monthly to handicapped due to that firm's subcontracting over a recent 29-month period and the wages paid to Elwyn's severely handicapped workers during approximately the same period. The comparison is very misleading since almost 90% of the subcontracted work reported by Lordship represents the subcontracting by that firm for carding and packaging of metal insignia and similar items and is not related to decorations, medals, or medal sets. Furthermore, the portion of the work which Lordship has subcontracted on decorations, medals, and medal sets results from the millions of dollars of awards that that firm has received each year for those items and can not be related to approximately 10% of the total procurement of all decorations, medals and medal sets that is represented by the forecasted procurements of the seven medals and medal sets.

Lordship received awards for decorations, medal, and medal sets (excluding insignia, badges, ribbons, and lapel buttons) totalling more than \$8,000,000 during the period from January 1, 1984 to August 31, 1986. Lordship's subcontracting of the production of decorations, medals and medal sets during that same period amounted to only \$20,633. Thus, about 1/4 of 1 percent of the value of Lordship's total awards for decorations, medals and medal sets was subcontracted to handicapped agencies during that period. Applying that percentage to the total estimated impact on Lordship of \$298,600 results in subcontract work valued at less than \$800 annually. This is in comparison to about \$47,500 annually in severely handicapped wages the workshop would expect to pay if the seven medals and medal sets were added to the Procurement List.

Using the average dollar billing per patient hour of work of \$0.38 per hour from data provided by one of the handicapped agencies to which Lordship is subcontracting work, the \$800 per year equates to about 2,100 patient hours, or just over 1 man-year. This is in contrast to the 13 to 25 man-years of direct labor for severely handicapped persons which Elwyn plans to provide if the seven medals and medal sets are added to the Procurement List.

Lordship also commented that Elwyn is paying only 12.4% of the contract revenue for medals and medal sets to its handicapped workers.

The total severely handicapped pay to produce the forecasted requirements of the seven items is about \$47,500. This represents over 17% of the total annual value of the procurement of the seven medals and medal sets.

This ratio of wages to total cost is considered to be completely acceptable for the type of production operation the workshop uses in the manufacturing of the seven medals and medal sets.

Milspec also commented that, since 1981, that firm had subcontracted the production of 350,000 service ribbons and 435,000 ribbon drapes to Elwyn.

As with any contract, the extent of subcontracting, if any, and to which source, is solely the prerogative of the prime contractor. Thus, there is no assurance that the workshop which has proposed to add these items to the Procurement List or any other agency employing severely handicapped individuals will continue to receive subcontracts from the current contractors. On the other hand, if the medal and medal sets are added to the Procurement List, the producing workshop's severely handicapped workers will perform the bulk of the work required to produce the seven items with the result that many more severely handicapped workers will be provided meaningful and consistent employment.

Lordship has submitted written offers which guarantee certain levels of subcontract work to Elwyn and the three handicapped agencies with which it has subcontracted work in the past. The offers are contingent upon there being no additions of "medals, medal sets and other Lordship products" to the Procurement List. A decision by the Committee not to add the seven medals and medal sets to the Procurement List on the basis of Lordship's commitments to subcontract with Elwyn and the three other organizations for the severely handicapped would constitute tacit agreement by the Committee that it would forego future additions to the Procurement List of the seven medals and medal sets and *any other items produced by Lordship*. Such agreement, in the Committee's view, would be contrary to the intent of Public Law 92-28 which gives to the Committee the responsibility for adding to the Procurement List any commodity or service which it determines is suitable for procurement by the Government pursuant to the Act.

In view of the fact that after January 1984 (when the Committee took its earlier action adding the seven medals and medal sets to the Procurement List), Lordship increased dramatically its

subcontracting to the three handicapped agencies, these offers cannot be considered as genuine efforts to provide additional work for handicapped persons, but rather are intended to try to confuse further the issue of the relative benefit to handicapped workers. In fact, the letters to the three handicapped agencies to which Lordship has subcontracted work could be construed as implying that Lordship will curtail its subcontracting work to those agencies if the Committee adds the seven items to the Procurement List.

Lordship also commented that the benefits to severely handicapped workers are insignificant in comparison to the increased costs to the Government. The legislative history of Public Law 92-28 recognizes that the primary purpose of the Act is to create job opportunities for blind and other severely handicapped individuals and to assist in the rehabilitation of those individuals through work (House Report No. 92-228, May 25, 1971). The Act also assigns to the Committee the responsibility for establishing the fair market price for commodities and services on its Procurement List. If a proposed addition to the Procurement List will create work for blind or other severely handicapped individuals and the proposed price meets the Committee's criteria as a fair market price, there is no requirement for the Committee to try to balance the trade-off between any added cost to the Government against the opportunities for the employment of blind or other severely handicapped persons.

As indicated above, Elwyn plans to use the medals and medal sets to provide from 13 to 25 man-years of employment for severely handicapped persons. Thus, the production of these medals and medal sets clearly meets the purpose of Public Law 92-28 by providing the opportunity for the employment of a significant number of severely handicapped individuals.

Adequacy of Notice

Lordship has commented that it has received inadequate notice of the Committee's standards with regard to several of the issues raised by the proposal. Lordship's counsel, in a series of letters between August 27 and October 3, 1986, raised questions relating to the requirements for 75% severely handicapped direct labor, the method for determining impact and the method for determining the net benefit to handicapped workers. The Executive Director responded promptly to each letter providing guidance with respect to each of the questions raised.

On September 19, 1986, Lordship's counsel was provided copies of the outline of the procedure for evaluating impact approved by the Committee at its meeting on September 11, 1986 as well as the procurement history of the seven medals and medal sets from 1974 through 1983, a listing of the annual requirements and current fair market prices to be used in evaluating impact. This was well before the deadline for submitting comments of October 15 which had been extended from September 26 at Lordship's request.

Responses to additional and clarifying questions were provided in letters dated September 30 and October 8, 1986 from the Executive Director. Finally, it was pointed out in the letter of September 30, that the Committee's procedures and standards for determining the suitability of commodities and services being considered for addition to the Procurement List are adequately covered in its regulations and numbered memoranda, copies of which had been made available to Lordship's counsel.

Additions

After consideration of the relevant matter presented, the Committee has determined that the 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 actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

- The actions will not result in any additional reporting, recordkeeping or other compliance requirements.
- The actions will not have a serious economic impact on any contractors for the commodities listed.
- The actions will result in authorizing small entities to produce the commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List 1987:

Commodities

- Medals
8455-00-261-4501 (Good Conduct, Marine Corps)
Medal Set
8455-00-082-5528 (Good Conduct, Air Force)
8455-00-269-5761 (Good Conduct, Army)
8455-00-269-5783 (Women's Army Corps)
8455-00-269-5763 (Army of Occupation, World War II)
8455-00-269-5764 (Asiatic-Pacific Campaign)

8455-00-269-5782 (World War II Victory)

C.W. Fletcher,

Executive Director.

[FR Doc. 86-27236 Filed 12-2-86; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Command and Control Management; Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Command and Control Management will meet in closed session on December 18, 1986, February 24, and March 16-17, 1987 in the Pentagon, Arlington, Virginia, and on January 19, 1987 at the MITRE Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting this Task Force will evaluate progress made since 1978 on selected aspects of Command and Control Management.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force 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.

November 28, 1986.

[FR Doc. 86-27117 Filed 12-2-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92-463, announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: 18 December 1986

Times of Meeting: 0800-1630 hours

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board's Ad Hoc Subgroup for the Army Combat Models will meet to coordinate a final draft report. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.
[FR Doc. 86-27167 Filed 12-2-86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: 18 December 1986

Time: 0900-1630 daily

Place: Society of American Military Engineers, 607 Prince Street, Alexandria, VA

Agenda: The Army Science Board's Ad Hoc Subgroup on the ETL Effectiveness Review will conduct an open meeting for the purpose of reporting writing. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrator Officer, Army Science Board.
[FR Doc. 86-27188 Filed 12-2-86; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers

Intent To Prepare a Draft Environmental Statement for Regulatory Permit Actions for the Proposed Chula Vista Bayfront Projects, Chula Vista, CA

AGENCY: US Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to prepare draft environmental statement.

SUMMARY:

1. Proposed Action

The proposed Chula Vista Bayfront projects are all located in the vicinity of the Sweetwater River Marsh in Chula Vista, San Diego County, California. They relate to construction of and mitigation for some elements of the Midbayfront Development Plan. The proposed Chula Vista Bayfront projects to be discussed in the EIS include provision of approximately 25 acres of endangered species habitat on the existing D Street Fill, approximately 21 acres of wetland enhancement, a drainage discharge structure into San Diego Bay for approximately 40 acres of the Midbayfront development site, a drainage discharge structure for the approximately 12-acre Gunpowder Point development site, maintenance dredging for the historic kelp boat basin, circulation improvements connecting the Midbayfront with the D Street Fill, interstate highway on-and-off ramps, a causeway across the 24th Street Channel, a desiltation basin in the Midbayfront, and the northern levee road tidal control structure and emergency access way.

2. Alternatives

For each of the proposed Chula Vista Bayfront projects, reasonable alternatives, including the no-action alternative, will be described and analyzed. A draft project description of potential reasonable project alternatives is available upon request from Robin Putnam, City of Chula Vista Community Development Department, 276 Fourth Avenue, Chula Vista, CA 92010. The project description and the potential reasonable alternatives will be refined following the public scoping meeting.

3. Scoping Process.

This document will be prepared as a joint EIR/EIS, with the City of Chula Vista acting as a joint lead agency with the Corps of Engineers. A public scoping meeting has been scheduled to solicit agency and public input to the proposed projects. Based on preliminary review of the proposed projects, the potentially significant issues to be addressed in the EIS include physiography and sedimentation, soils and geology, biological resources, endangered species, and transportation and circulation. Potentially affected endangered species are the California least tern, light-footed clapper rail, brown pelican, and salt marsh bird's beak. Candidate endangered species potentially affected are the reddish egret, California black rail, western snowy plover, long-billed curlew,

California brackish water snail, and salt marsh skipper butterfly. Impact on the following resources will also be evaluated: Water quality, air quality, cultural resources, land use/growth inducement, and coastal access.

The relationship of the proposed projects to the following environmental protection statutes and other requirements will be addressed in the EIS: the Endangered Species Act, the Clean Water Act, the Clean Air Act, the River and Harbor Act of 1899, the National Historic Preservation Act, the Coastal Zone Management Act, the Farmland Protection Policy Act, and Floodplain Management Act. Coordination documents will be prepared for the following concerns: endangered species, important farmlands, and cultural resources.

4. Future Public Meetings

A scoping meeting for the purpose of gathering public comments and suggestions on the content of the EIR/EIS will be held on Monday, December 15, 1986 at 7:00 p.m. The location of this meeting will be the City of Chula Vista, Public Services Building, 276 Fourth Avenue, Chula Vista, California 92010.

5. Publication of DEIS.

The Draft Environmental Impact Statement is expected to be available to concerned agencies and the interested public for review and comment in about April 1987.

6. Address.

Questions about the proposed actions and Draft Environmental Impact Statement can be answered by Ms. Kathleen Kunysz, Environmental Resources Branch US Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053-2325, telephone (213) 894-0246.

Dated: November 26, 1986.

Norman I. Jackson,

Lieutenant Colonel, Corps of Engineers,
Deputy District Engineer for Civil Works.

[FR Doc. 86-27169 Filed 12-2-86; 8:45 am]

BILLING CODE 3710-KF-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy

Agency (IEA) will be held on December 10, 1986, at the offices of the Center for International Conferences, 19 Avenue Kleber, 75016, Paris, France, beginning at 10:00 a.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ) which is scheduled to be held at the aforesaid location on that date. The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the draft agenda.
2. Summary record of the 54th meeting.
3. Emergency Response Policy Discussion.

—Stocks and other Measures—
 Overview of the Current Situation
 —Minimum Operating Requirements—
 Implications on Accessible Stock Levels
 —Progress on Procedures for Consultations on Coordinated Stockdraw and Other Measures
 4. Other Emergency Preparedness Issues.

- Progress on Extended Voluntary Offer Process
- Review of Member Countries' Emergency Response Programs:
 - Greece
 - Luxembourg
 - Norway
 - Turkey
- 1987 Program of Work
- Next Cycle of Emergency Response Program Reviews
- Workshop on Practical Issues of Oil Consumption Reduction Measures
- 5. Other Topics.
 - End November Oil Market Report
 - Base Period Final Consumption (4th Quarter 1985—3rd Quarter 1986)
 - 6. Any Other Business.
 - 7. Date of Next Meeting.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, the SEQ meeting is open only to representatives of members of the SEQ, representatives of members of the IAB, their counsel, representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of committees of

Congress, representatives of the IEA, representatives of the Commission of the European Communities, and invitees of the IAB or the IEA.

Issued in Washington, DC, December 28, 1986.

J. Michael Farrell,

General Counsel.

[FR Doc. 86-27133 Filed 12-2-86; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 9827-000]

Snowbird Ltd.; Availability of Environmental Assessment and Finding of No Significant Impact

November 28, 1986.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

EXEMPTIONS

Project No.	Project name	State	Water body	Nearest town or county	Applicant
9827-000	Wasatch Tunnel.....	UT	Wasatch Drain Tunnel.....	Alta, Sandy.....	Snowbird Ltd.

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. 86-27163 Filed 12-2-86; 8:45 am]

BILLING CODE 6717-01-M

Federal Energy Regulatory Commission

[Project No. 8260-002]

The City of Gloversville, NY; Surrender of Exemption

November 26, 1986.

Take notice that the City of

Gloversville, New York, exemptee for the proposed Jackson Summit Project No. 8260, has requested that its exemption be terminated. The exemption was issued on September 25, 1984. The project would have been located on the Rice Reservoir in Fulton County, New York. The exemptee cites that the proposed project is not economically feasible as the basis for the surrender request.

The exemptee filed the request on September 15, 1986, and the exemption for Project No. 8260 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. 86-27164 Filed 12-2-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8175-003]

The City of Gloversville, NY; Surrender of Exemption

November 28, 1986.

Take notice that the City of Gloversville, New York, exemptee for the proposed Gloversville Filtration Plant Hydropower Project No. 8175 has requested that its exemption be terminated. The exemption was issued on June 27, 1984. The project would have been located on the transmission pipeline in Fulton County, New York. The exemptee cites that the proposed project is not economically feasible as the basis for the surrender request.

The exemptee filed the request on September 15, 1986, and the exemption for Project No. 8175 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. 86-27165 Filed 12-2-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3123-2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the *Federal Register* a notice of proposed information collection requests (ICRS) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382-2712 or FTS 382-2712.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: National Survey Of Hazardous Waste Facilities (Pretest) (EPA ICR #1190).

Abstract: EPA will conduct a pretest of a survey designed to develop a comprehensive data base on facilities that manage hazardous waste. The Agency will use the information in implementing regulations mandated by the Hazardous and Solid Waste Amendments, particularly the land disposal restrictions provisions.

Respondents: Owners/operators of hazardous waste facilities.

Agency PRA Clearance Requests Completed by OMB

Note.—Items listed as "extended": OMB extended expiration dates a few months so the ICRs would not expire while they were being submitted and/or reviewed.

EPA ICR #0011, Selective Enforcement Auditing Reporting Requirements, was extended on 10/24/86 (OMB #2060-0064; expires 1/31/87).

EPA ICR #0107, Source Compliance

and State Action Reporting, was extended on 10/31/86 (OMB #2060-0096; expires 1/31/87).

EPA ICR #0113, Review of National Emissions Standards for the Hazardous Waste Air Pollutant Mercury, was approved on 10/24/86 (OMB #2060-0097; expires 10/31/89).

EPA ICR #0155, Pesticide Applicator Certification and Training, was extended on 9/30/86 (OMB #2070-0029; expires 12/31/86).

EPA ICR #0287, Report of Nonexpendable Property Acquired by Contractor, was approved 11/3/86 (OMB #2030-0009; expires 11/30/89).

EPA ICR #0788, Hazardous Substance Response Fund Contractor Cost Report, was approved 11/4/86 (OMB #2030-0019; expires 10/31/89).

EPA ICR #0799, RCRA Interim Status Inspection Checklist, was extended on 10/3/86 (OMB #2050-0040; expires 12/31/86).

EPA ICR #0877, Environmental Radiation Ambient Monitoring Systems (ERAMS), was approved 10/24/86 (OMB #2060-0015; expires 10/31/89).

EPA ICR #0916, Annual Updates to National Emission Data System and Hazardous and Trace Emission System, was extended on 10/31/86 (OMB #2060-0088; expires 1/31/87).

EPA ICR #0988, Water Quality Standards Regulations, was approved 10/28/86 (OMB #2040-0049; expires 9/30/89).

EPA ICR #0999, Information Requirements for Hazardous Waste Incinerators, was extended on 9/26/86 (OMB #2050-0002; expires 12/31/86).

EPA ICR #1057, NSPS—Sulfuric Acid, was approved 10/17/86 (OMB #2060-0041; expires 10/31/89).

EPA ICR #1081, NESHAP for Limiting Arsenic Emissions from Glass Manufacturing Facilities, was approved 11/3/86 (OMB #2060-0043; expires 10/31/89).

EPA ICR #1082, NESHAP for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities, was approved 11/3/86 (OMB #2060-0042; expires 10/31/89).

EPA ICR #1170, Collection of Emergency and Regulatory Support Data, was approved 8/18/86 (OMB #2070-0034; expires 8/31/89).

EPA ICR #1253, Industrial Subtitle D Facility Study, was approved 10/24/86 (OMB #2050-0060; expires 10/31/87).

EPA ICR #1283, Research Questionnaire on Health Habits and Drinking Water, was approved 10/20/86 (OMB #2080-0024; expires 9/30/87).

EPA ICR #1308, Information Request for Development of NESHAP for Chromium Emissions from Cooling Towers, was approved 10/24/86 (OMB #2060-0140; expires 6/30/87).

EPA ICR #1351, Solid Waste (Municipal) Landfill Survey, was approved 10/4/86 (OMB #2050-0061; expires 10/31/87).

Comments on the abstracts in this notice may be sent to:

Patricia Minami, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Carlos Tellez, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503

Dated: November 28, 1986.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 86-27147 Filed 12-2-86; 8:45 am]

BILLING CODE 5560-50-M

[OPP-42061B; FRL 3120-7]

Approval of the Fort Berthold Plan for Certification of Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Approval of the Fort Berthold plan for certification of applicators of restricted use pesticides.

SUMMARY: The Three Affiliated Tribes of the Fort Berthold Indian Reservation submitted a plan to EPA to certify applicators of restricted use pesticides. EPA issued two notices of intent to approve that plan and allowed 30 days public comment on each notice. These notices were published in the *Federal Register* on July 31, 1985 (50 FR 31011) and June 23, 1986 (51 FR 22860). Comments were received on both notices and are discussed below. This notice announces the approval of the Fort Berthold Plan.

EFFECTIVE DATE: This action was effective October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Edward L. Stearns, Air and Toxic Substances Division (8AT-TS), Region VIII, Environmental Protection Agency,

999 18th Street, Denver, Colorado 80202-2413 (303-293-1745).

SUPPLEMENTARY INFORMATION: The comments received during the first public comment period were discussed in the June 23, 1986 Federal Register notice announcing the second public comment period. EPA received a petition from non-Indian residents on the Reservation. The petitioners requested that EPA not approve the plan and instead grant jurisdiction to the State of North Dakota to administer the program. EPA does not have the authority to enlarge or diminish jurisdiction, nor can it "grant" jurisdiction to any governmental entity. Other letters raised concern over the jurisdiction of the Tribe to administer the pesticide code on the non-Indian fee land within the Reservation. We responded to this issue in the second Federal Register notice of June 23, 1986 referenced herein. The plan as submitted by the Three Affiliated Tribes meets all of the regulatory requirements imposed by EPA and therefore must be approved. The Three Affiliated Tribes are already conducting this program under authority of Tribal law. Accordingly, the Fort Berthold Pesticide Applicator Certification Plan is approved. Details regarding the parties' responsibilities are contained in a separate cooperative enforcement agreement.

Dated: November 14, 1986.

John G. Welles,

Regional Administrator, EPA Region VIII.
[FR Doc. 86-27037 Filed 12-2-86; 8:45 am]

BILLING CODE 6560-50-M

[PF-474; FRL-3121-7]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petitions proposing the establishment of tolerances and/or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-474] and the petition number, attention Product Manager (PM) named in each petition, at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS-757C), Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. Written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS-767C), Attn: (Product Manager (PM) named in the petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person, contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
Dennis Edwards, PM-12	Rm. 202, CM #2 703-557-2388.	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202.
George LaRocca, PM-15	Rm. 204, CM #2 703-557-2400.	Do.
William Miller, PM-16	Rm. 211, CM #2 703-557-2600.	Do.
Lois Rossi, PM- 21	Rm. 227, CM #2 703-557-1900.	Do.
Richard Mountfort, PM- 23	Rm. 237, CM #2 703-557-1830.	Do.
Robert Taylor, PM-25	Rm. 245, CM #2 703-557-1800.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and/or food and feed additive (FAP) petitions as follows proposing the establishment and/or amendment of tolerances or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

1. *FAP 7H5521.* Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, Research Triangle Park, NC 27709. Proposes amending 21 CFR Part 193.15 by establishing a regulation permitting the combined residues of the insecticide aldicarb [2-methyl-2-(methylthio)propionaldehyde O-(methylcarbamoyl)oxime] and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfanyl)propionaldehyde O-

(methylcarbamoyl)oxime and 2-methyl-2-(methylsulfonyl)propionaldehyde O-(methylcarbamoyl)oxime in or on dried potatoes at 2.0 parts per million (ppm) resulting from application of aldicarb to the growing crop. (PM-12).

2. *FAP 7H5519.* E.I. du Pont de Nemours & Co., Agricultural Products Department, Walker's Mill Bldg., Barley Mill Plaza, Wilmington, DE 19898. Proposes amending 21 CFR, Chapter I, as follows:

a. In Part 193, by establishing a regulation permitting residues of the insecticide trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the thiazolidine moiety in or on the commodity raisins at 10.0 ppm resulting from application of the insecticide to the growing crop. (PM-15).

b. In Part 561, by establishing a regulation permitting residues of the above insecticide in or on the commodities grape pomace (wet) at 3.0 ppm, grape pomace (dry) at 15.0 ppm, and raisin waste at 10.0 ppm resulting from application of the insecticide to the growing crop. (PM-15).

3. *FAP 7H5518.* Merck and Co., Inc., Merck Sharp & Dohme Research Laboratories, Hillsborough Road, Three Bridges, NJ 08887. Proposes amending 21, Chapter I, as follows:

a. In Part 193, by establishing a regulation permitting residues of the insecticide avermectin and the delta 8,9-geometric isomer of avermectin B1a in citrus oil at 0.10 ppm resulting from application of the insecticide to the growing crop. (PM-15).

b. In Part 561, by establishing a regulation permitting residues of avermectin in or on dried citrus pulp at 0.10 ppm resulting from application of the insecticide to the growing crop. (PM-15).

4. *FAP 6H5515.* Mobay Chemical Corp., P.O. Box 4913, Hawthorne Road, Kansas City, MO 64120. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate with a tolerance limitation of 0.05 ppm in foods processed in food handling establishments where the insecticide was used for hygienic pest control purposes. (PM-15).

5. *PP 6F3321.* In the Federal Register of December 26, 1985 (50 FR 52850), EPA issued a notice which announced that Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852 proposed to amend 40 CFR 180.262 by establishing a tolerance for residues of the

nematocide/insecticide ethoprop (*O*-ethyl *S,S*-dipropyl phosphorodithioate) in or on brussels sprouts at 0.02 ppm.

Rhone-Poulenc, Inc. has amended the petition by increasing the tolerance level to 0.05 ppm. The proposed analytical method for determining residues is gas chromatographic procedure using a phosphorous flame photometric detector. (PM-16).

6. *PP 7F3470*. Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419. Proposes to amend 40 CFR 180.408 by establishing tolerances for the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester], and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl) alanine methyl ester in or on the commodities blueberries at 2.0 ppm, stone fruits at 1.0 ppm, walnuts and almonds at 0.5 ppm, and almond hulls at 5.0 ppm. The proposed analytical method for determining residues is gas chromatography. (PM-21).

7. *FAP 7H5520*. Ciba-Geigy Corp. Proposes amending 21 CFR 193.277 by establishing a regulation permitting the combined residues of metalaxyl and its metabolites in or on dried apricots and prunes at 4.0 ppm resulting from application of metalaxyl to the growing crop. (PM-21).

8. *PP 7F3471*. Fermenta Plant Protection Co., P.O. Box 348, Painesville, OH 44077. Proposes amending 40 CFR 180.275 by establishing a tolerance for the combined residues of the fungicide chlorothalonil [(2,4,5,6-tetrachloroisophthalonitrile)] and its metabolite, 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on pecans at 0.02 ppm. The proposed analytical method for determining residues is gas chromatography. (PM-21).

9. *PP 6F3459*. Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105. Proposes amending 40 CFR Part 180 by establishing a tolerance for residues of the herbicide 2-ethoxy-2-oxoethyl 5-(2-chloro-4-(trifluoromethyl)phenoxy-2-nitrobenzoate) in or on soybeans at 0.01 ppm. The proposed analytical method for determining residues is electron capture gas chromatography using a ⁶³Ni electron capture detector. (PM-23).

10. *PP 7F3472*. Brea Agricultural Service, Inc., Stockton, CA by Delta Management Group, Fenwick Professional Park, 1414 Fenwick Lane, Silver Spring, MD 20910. Proposes amending 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for residues of the plant growth regulator hydroxy-

propanoic acid in or on all raw agricultural commodities. The proposed analytical method for determining residues is titration using the USP XXI procedure. (PM-25).

Authority: 21 U.S.C. 346a and 21 U.S.C. 348.

Dated: November 24, 1986.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-27038 Filed 12-2-86; 8:45 am]

BILLING CODE 6590-50-M

[FRL-3122-5]

Guidelines for Ground-Water Classification Under the EPA Ground-Water Protection Strategy

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of draft document for public comment.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability for public review and comment of draft "Guidelines for Ground-Water Classification under the EPA Ground-Water Protection Strategy." The purpose of this document is two-fold: (1) To further define the classes, concepts and key terms related to the ground-water classification system outlined in the Ground-Water Protection Strategy (August, 1984), and (2) to describe the procedures and information needs for classifying ground water. These Guidelines are not enforceable in particular EPA programs until legally incorporated by program guidance, regulations or other appropriate means.

DATES: The document will be available for public comment on or about December 10, 1986. Comments must be received by February 8, 1987 or postmarked on that date.

ADDRESSES: Those persons interested in obtaining a copy of either the full, 400-page document or only the shorter executive summary will be able to do so as follows:

(1) Single copies will be available from EPA at the following address: Office of Ground-Water Protection, U.S. Environmental Protection Agency, 401 M St., SW. (WH-550G), Washington, DC 20460. To receive a copy, requesters should send their names and addresses to the Office of Ground-Water Protection at this time.

(2) Copies will also be available for public inspection at the Public Reference Unit, U.S. Environmental Protection Agency, Room M2404, 401 M St., SW., Washington, DC 20460, and at all ten of

the EPA Regional Office Libraries during their operating hours.

Individuals desiring to make comments on this document must submit their written comments no later than February 8, 1987 to: Project Officer Ground-Water Classification Guidelines, Office of Ground-Water Protection, U.S. Environmental Protection Agency, 401 M St., SW. (WH-550G), Washington, DC 20460. Comments will not be accepted unless they are submitted in this manner.

FOR FURTHER INFORMATION CONTACT:

Jose Valdes, Office of Ground-Water Protection, U.S. Environmental Protection Agency, 401 M St., SW. (WH-550G), Washington, DC 20460; 202/382-7077 or FTS: 382-7077.

SUPPLEMENTARY INFORMATION:

In August 1984, EPA issued its Ground-Water Protection Strategy to provide clear objectives to guide the Agency's ground-water protection efforts and ensure consistency among related programs. The strategy established a ground water classification system based on the policy that, depending on their value to society, use and vulnerability to contamination, different ground waters merit different levels of protection. The following classes of ground water were established:

- Class I—Special ground water.
- Class II—Ground water currently or potentially a source of drinking water.
- Class III—Ground water not a current or potential source of drinking water.

Pursuant to the goals of the Strategy, the purpose of the Ground-Water Classification Guidelines are to: (1) Further define the classes, concepts and key terms outlined in the Strategy, and (2) to describe the procedures and data requirements for performing ground water classifications. Although comments on all aspects of the document are being sought, two options are specifically presented for public comment regarding the definition of each of three Class I terms: "highly vulnerable," "substantial population" and "economically infeasible." Public comments on the options presented will be considered by the Agency in determining how best to incorporate these parameters in classification decisions.

It is important to note that the Guidelines are not enforceable in particular EPA programs until legally incorporated by program guidance, regulations, or other appropriate means. Interested individuals may wish to provide their ideas on appropriate

means to incorporate the guidelines in EPA actions.

Dated: November 25, 1986.

Lawrence J. Jensen,

Assistant Administrator for Water.

[FR Doc. 86-27149 Filed 12-2-86; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-3120-5]

Availability of Quality Criteria for Water 1986

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of a document summarizing all ambient water quality criteria developed to date by EPA, including a summary of the methodologies used to develop the criteria.

SUMMARY: Environmental Protection Agency (EPA) announces the availability of "Quality Criteria for Water 1986". This document includes summaries of all the contaminants for which EPA has developed criteria recommendations. Summaries of the methodologies used to develop these criteria are also included. As new criteria are developed and existing criteria revised, updated criteria summaries will be made available annually free of charge to those who purchase this document through the U.S. Government Printing Office. Copies of this document are available only through the U.S. Government Printing Office. The cost of the document is \$23 in the United States and \$28 outside the U.S.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Gostomski, Environmental Protection Agency, Criteria and Standards Division, 401 M Street SW. (WH-585), Washington, DC 20460, (202) 245-3030.

TO OBTAIN A COPY OF THE DOCUMENT CONTACT: Superintendent of Documents, U.S. Government Printing Office, N. Capitol and H Street, NW., Washington, DC 20401. Order #1986-159-300 50472.

Dated: November 21, 1986.

Lawrence J. Jensen,

Assistant Administrator for Water.

[FR Doc. 86-27150 Filed 12-2-86; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL 3120-6]

Water Quality Criteria; Availability of Documents

AGENCY: Environmental Protection Agency.

ACTION: Notice of final ambient water quality criteria documents.

SUMMARY: EPA announces the availability and provides summaries of five ambient water quality criteria documents. These criteria are published pursuant to section 304(a)(1) of the Clean Water Act. These water quality criteria may form the basis for enforceable standards.

ADDRESSES: This notice contains: (1) Summaries of five documents containing final ambient water quality criteria for the protection of aquatic organisms and their uses, and (2) responses to public comments. Copies of the complete criteria documents may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 (phone number (703) 487-4650). A list of the NTIS publication order numbers for all five documents is published below. These documents are also available for public inspection and copying during normal business hours at: Public Information Reference Unit, U.S. Environmental Protection Agency, Room 2404 (rear), 401 M Street SW., Washington, DC 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services. Copies of these documents are also available for review in the EPA Regional Office libraries. Copies of the documents are *not* available from the EPA office listed below. Requests sent to that office will be forwarded to NTIS or returned to the sender.

1. Ambient Water Quality Criteria for Chlorpyrifos—EPA 440/5-86-005; NTIS Number PB 87-105267.

2. Ambient Water Quality Criteria for Nickel—EPA 440/5-86-004; NTIS Number PB 87-105359.

3. Ambient Water Quality Criteria for Pentachlorophenol—EPA 440/5-86-009; NTIS Number PB 87-105391.

4. Ambient Water Quality Criteria for Parathion—EPA 440/5-86-007; NTIS Number PB 87-105383.

5. Ambient Water Quality Criteria for Toxaphene—EPA 440/5-86-006; NTIS Number PB 87-105375.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Gostomski, Criteria and Standards Division (WH-585), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460, (202) 245-3030.

SUPPLEMENTARY INFORMATION:

Background

Section 304(a)(1) of the Clean Water Act (33 U.S.C. 1314(a)(1)) requires EPA to publish and periodically update ambient water quality criteria. These

criteria are to reflect the latest scientific knowledge on the identifiable effects of pollutants on public health and welfare, aquatic life, and recreation.

EPA has periodically issued ambient water quality criteria, beginning in 1973 with publication of the "Blue Book" (Water Quality Criteria 1972). In 1976, the "Red Book" (Quality Criteria for Water) was published. On November 28, 1980 (45 FR 79318), and February 15, 1984 (49 FR 5831), EPA announced the publication of 65 individual ambient water quality criteria documents for pollutants listed as toxic under section 307(a)(1) of the Clean Water Act.

EPA issued nine individual water quality criteria documents on July 29, 1985 which updated or revised criteria previously published in the "Red Book" or in the 1980 water quality criteria documents. A revised version of the National Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms was announced at the same time. A bacteriological ambient water quality criteria document was published on March 7, 1986 (51 FR 8012). A water quality criteria document for dissolved oxygen was published on June 24, 1986 (51 FR 22978). All of the publications cited above were summarized in "Quality Criteria for Water, 1986" which was released by the Office of Water Regulations and Standards on May 1, 1986.

Today EPA is announcing the availability of five individual water quality criteria documents which update and revise certain criteria previously published in the "Blue Book" and in the 1980 ambient water quality criteria documents. The criteria document for aluminum replaces criteria previously published in the 1972 "Blue Book". The criteria documents for nickel, toxaphene, and pentachlorophenol replace the aquatic life criteria previously published in the 1980 ambient water quality criteria documents. Chlorpyrifos and parathion are new documents. Draft criteria documents for chlorpyrifos, nickel, and pentachlorophenol were made available for public comment on March 11, 1986 (51 FR 8361) and for parathion and toxaphene on May 1, 1986 (51 FR 16205). These final criteria have been derived after consideration of all comments received.

Dated: November 21, 1986.

Lawrence J. Jensen,

Assistant Administrator for Water.

Appendix A—Summary of Water Quality Criteria

1. Chlorpyrifos

Freshwater Aquatic Life. The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of chlorpyrifos does not exceed 0.041 $\mu\text{g/L}$ more than once every three years on the average and if the one-hour average concentration does not exceed 0.083 $\mu\text{g/L}$ more than once every three years on the average.

Saltwater Aquatic Life. The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of chlorpyrifos does not exceed 0.0056 $\mu\text{g/L}$ more than once every three years on the average, and if the one-hour average concentration does not exceed 0.011 $\mu\text{g/L}$ more than once every three years on the average.

Three years is the Agency's best scientific judgment of the average amount of time aquatic ecosystems should be provided between excursions. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific allowed excursion frequencies may be established if adequate justification is provided.

Use of criteria for developing water quality-based permit limits and for designing waste treatment facilities requires selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other considerations might make their use impractical, in which case one must rely on a steady-state model.

2. Nickel

Freshwater Aquatic Life. The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected

unacceptably if the four-day average concentration (in $\mu\text{g/L}$) of nickel does not exceed the numerical value given by $_{e}(0.8460[\ln(\text{hardness})] + 1.1645)$ more than once every three years on the average, and if the one-hour average concentration (in $\mu\text{g/L}$) does not exceed the numerical value given by $_{e}(0.8460[\ln(\text{hardness})] + 3.3612)$ more than once every three years on the average. For example, at hardnesses of 50, 100 and 200 mg/L CaCO_3 , the four-day average concentrations of nickel are 88, 160 and 280 $\mu\text{g/L}$, respectively, and the one-hour average concentrations are 790, 1400 and 2500 $\mu\text{g/L}$.

Saltwater Aquatic Life. The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of nickel does not exceed 8.3 $\mu\text{g/L}$ more than once every three years on the average, and if the one-hour average concentration of nickel does not exceed 75 $\mu\text{g/L}$ more than once every three years on the average.

"Acid-soluble" is probably the best measurement at present expressing criteria for metals and the criteria for nickel were developed on this basis. However, at this time, no EPA approved method for such a measurement is available to implement criteria for metals through the regulatory programs of the Agency and the States. The Agency is considering development and approval of a method for a measurement such as "acid-soluble." Until one is approved, however, EPA recommends applying criteria for metals using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be measured because the total recoverable method cannot distinguish between individual oxidation states, and (2) in some cases these criteria might be overly protective when based on the total recoverable method.

Three years is the Agency's best scientific judgment of the average amount of time aquatic ecosystems should be provided between excursions. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific allowed excursion frequencies may be established if adequate justification is provided.

Use of criteria for developing water quality-based permit limits and for designing waste treatment facilities

requires selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other considerations might make their use impractical, in which case one must rely on a steady-state model.

3. Pentachlorophenol

Freshwater Aquatic Life. The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably, if the four-day average concentration (in $\mu\text{g/L}$) of pentachlorophenol does not exceed the numerical value given by $_{e}(1.005[\text{pH}] - 5.290)$ more than once every three years on the average, and if the one-hour average concentration (in $\mu\text{g/L}$) does not exceed the numerical value given by $_{e}(1.005[\text{pH}] - 4.830)$ more than once every three years on the average. For example, at $\text{pH}=6.5, 7.8,$ and $9.0,$ the four-day average concentrations of pentachlorophenol are 3.5, 13 and 43 $\mu\text{g/L}$, respectively, and the one-hour average concentrations are 5.5, 20 and 68 $\mu\text{g/L}$. At $\text{pH}=6.8,$ a pentachlorophenol concentration of 1.74 $\mu\text{g/L}$ has been found to cause a 50% reduction of yearling sockeye salmon in a 56-day test.

Saltwater Aquatic Life. The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of pentachlorophenol does not exceed 7.9 $\mu\text{g/L}$ more than once every three years on the average, and if the one-hour average concentration does not exceed 13 $\mu\text{g/L}$ more than once every three years on the average.

Three years is the Agency's best scientific judgment of the average amount of time aquatic systems should be provided between excursions. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific allowed excursion frequencies may be established if adequate justification is provided.

Use of criteria for developing water quality-based permit limits and for

designing waste treatment facilities requires selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other considerations might make their use impractical, in which case one must rely on a steady-state model.

4. Parathion

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of parathion does not exceed 0.013 $\mu\text{g/L}$ more than once every three years on the average and if the one-hour average concentration does not exceed 0.065 $\mu\text{g/L}$ more than once every three years on the average.

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" require the availability of specified data for the derivation of a criterion. A saltwater criterion for parathion cannot be derived because very few of the required data are available.

Three years is the Agency's best scientific judgment of the average amount of time aquatic ecosystems should be provided between excursions. The resilience of ecosystems and their abilities to recover differ greatly, however, and site-specific allowed criteria may be established if adequate justification is provided.

Use of criteria for developing water quality-based permit limits and for designing waste treatment facilities requires selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other considerations might make their use impractical, in which case one must rely on a steady-state model.

5. Toxaphene

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except

possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of toxaphene does not exceed 0.0002 $\mu\text{g/L}$ more than once every three years on the average and if the one-hour average concentration does not exceed 0.73 $\mu\text{g/L}$ more than once every three years on the average. If the concentration of toxaphene does exceed 0.0002 $\mu\text{g/L}$, the edible portions of consumed species should be analyzed to determine whether the concentration of toxaphene exceeds the FDA action level of 5 mg/kg. If the channel catfish is as sensitive as some data indicate, it will not be protected by this criterion.

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the one-hour average concentration of toxaphene does not exceed 0.21 $\mu\text{g/L}$ more than once every three years on the average and if the four-day average concentration does not exceed 0.0002 $\mu\text{g/L}$ more than once every three years on the average. If the four-day average concentration of toxaphene does exceed 0.0002 $\mu\text{g/L}$, the edible portions of consumed species should be analyzed to determine whether the concentration of toxaphene exceeds the FDA action level of 5 mg/kg.

Three years is the Agency's best scientific judgment of the average amount of time aquatic ecosystems should be provided between excursions. The resilience of ecosystems and their abilities to recover differ greatly, however, and site-specific allowed criteria may be established if adequate justification is provided.

Use of criteria for developing water quality-based permit limits and for designing waste treatment facilities requires selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other considerations might make their use impractical, in which case one must rely on a steady-state model.

[FR Doc. 86-27152 Filed 12-2-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

First Security Savings and Loan Association, Grand Junction, CO; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(2) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for First Security Savings and Loan Association, Grand Junction, Colorado on November 21, 1986.

Dated: November 26, 1986.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-27097 Filed 12-2-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the *Federal Register* in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-005200-051.

Title: Pacific Coast European Conference.

Parties:

Blue Star Line, Ltd.
Compagnie Generale-Maritime
A/S Det ostasiatiska Kompagni
Hapag-Lloyd AG
Johnson Line AB
Sea-Land Service, Inc.

Synopsis: The proposed amendment would modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 224-011036.

Title: New York Terminal Agreement.

Parties:

The Port Authority of New York and

New Jersey (Port)
Universal Maritime Service Corp.
(UMS)

Synopsis: The agreement would permit the Port to lease a container terminal at Port Newark, New Jersey to UMS.

By Order of the Federal Maritime Commission.

Dated: November 28, 1986.

Joseph C. Polking,
Secretary.

[FR Doc. 86-27100 Filed 12-2-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bankers Trust Corp. et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have 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.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications

must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than December 19, 1986.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust Corporation*, New York, New York; to acquire the corporate trust and stock transfer business of Wells Fargo Bank, N.A., San Francisco, California, and thereby engage in trust company activities including acting as indenture trustee, transfer agent, registrar, paying agent and various other agency responsibilities for securities issued by corporations and municipal entities.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *South Carolina National Corporation*, Columbia, South Carolina; to acquire Confidential Credit Corporation, Anderson, South Carolina, and thereby engage in making or acquiring loans and other extensions of credit as would be made by a consumer finance company, acting as agent for credit life, credit accident and health, and property insurance directly related to the extension of credit pursuant to § 225.25(b)(1) and (b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 28, 1986.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 86-27202 Filed 12-2-86; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 19, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Charles K. Breland*, Spanish Fort, Alabama, voting trustee, and Christopher W. Kanaga, Orleans, Massachusetts, voting trustee; to acquire 23.26 percent of the voting shares of FirstBank Holding Company, Inc., Robertsdale, Alabama, and thereby indirectly acquire First Bank of Baldwin County, Robertsdale, Alabama.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *French E. Hickman*, Midwest City, Oklahoma; to acquire 13.9 percent of the voting shares of Midwest National Bancshares, Inc., Midwest City, Oklahoma, and thereby indirectly acquire Midwest National Bank, Midwest City, Oklahoma.

Board of Governors of the Federal Reserve System, November 28, 1986.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 86-27203 Filed 12-2-86; 8:45 am]

BILLING CODE 6210-01-M

FNB Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may

express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 19, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *FNB Corp.*, Mount Clemens, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Mount Clemens, Mount Clemens, Michigan.

In connection with this application, Applicant also proposes to engage *de novo* in executing credit life and disability reinsurance agreements with a primary underwriter pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 28, 1986.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 86-27204 Filed 12-2-86; 8:45 am]

BILLING CODE 6210-01-M

Livermore Bankshares, 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 requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 22, 1986.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Livermore Bankshares, Inc.*, Livermore Falls, Maine; to become a bank holding company by acquiring 100 percent of the voting shares of Livermore Falls Trust Company, Livermore Falls, Maine.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Peoples Financial Corporation*, Westmont, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of First Peoples Bank of New Jersey, Westmont, New Jersey.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Southland Bancorporation*, Clayton, Alabama; to acquire 100 percent of the voting shares of Southland Bank of Dothan, Dothan, Alabama.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mark Twain Bancshares, Inc.*, St. Louis, Missouri; to acquire at least 95 percent of the voting shares of Bankers Trust Company, Belleville, Illinois.

2. *Vernois Bancshares, Inc.*, Mt. Vernon, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Vernois Bancorp, Inc., Mt. Vernon, Illinois, and thereby indirectly acquire Bank of Illinois in Mt. Vernon, Mt. Vernon, Illinois.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Community Bancshares, Inc.*, Chillicothe, Missouri; to merge with Bosworth Bancshares, Inc., Chillicothe, Missouri, and thereby indirectly acquire Bosworth State Bank, Bosworth,

Missouri; Chillicothe Bancshares, Inc., Chillicothe, Missouri, and thereby indirectly acquire Community Bank, Chillicothe, Missouri, Maryville Bancshares, Inc., Chillicothe, Missouri, and thereby indirectly acquire Citizens State Bank, Maryville, Missouri; Savannah Bancshares, Inc., Chillicothe, Missouri, and thereby indirectly acquire Community Bank, Savannah, Missouri; and Warrensburg Bancshares, Inc., Chillicothe, Missouri, and thereby indirectly acquire Community Bank, Warrensburg, Missouri.

2. *Farmers Bancshares, Inc.*, St. Joseph, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Bank of Maysville, Maysville, Missouri. Comments on this application must be received by December 12, 1986.

Board of Governors of the Federal Reserve System, November 28, 1986.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 86-27205 Filed 12-2-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Project Grants for Preventive Health Services—Childhood Immunization Availability of Funds for Fiscal Year 1987

Introduction

The Centers for Disease Control announces the availability of funds for Fiscal Year 1987 for Project Grants for Preventive Health Services—Childhood Immunization (Reference Immunization Program Announcement published in the *Federal Register*, 48 FR 9580, March 7, 1983). The Catalog of Federal Domestic Assistance Number is 13.268. This grant program is authorized by section 317 of the Public Health Service Act (42 U.S.C. 247b), as amended. Regulations governing programs for preventive health services are codified at 42 CFR Part 51b, Subparts A and B.

Purpose

The objectives of this grant program are to reduce morbidity and mortality due to common vaccine-preventable diseases; to maintain interruption of indigenous measles transmission; to maintain 90 percent immunization levels for school children under age 15 against measles, poliomyelitis, diphtheria, tetanus, and rubella; to maintain 95 percent immunization levels for school enterers and 90 percent immunization

levels for children enrolled in licensed day-care centers against measles, poliomyelitis, diphtheria, tetanus, pertussis, rubella, mumps, and Haemophilus Influenza Type b (Hib); to develop, test, and implement systems for use in the States to ensure that 90 percent or more of all children complete basic immunizations by age 2; to hasten the elimination of congenital rubella syndrome; and to promote adult immunization.

Eligible Applicants

Eligible applicants for this program are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

Availability of Funds

Approximately \$75,000,000 will be available in Fiscal Year 1987 to award approximately 63 grants with the average award expected to be \$1,190,500, ranging from \$24,000 to \$4,135,000. Grants are usually funded for 12 months in a 3-to 5-year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Based on the 1987 appropriation, grant funds are now available to purchase Hib vaccine. No new grants are expected to be made in 1987 since current grantees are coordinating activities in all political jurisdictions in the United States (Grants may be awarded to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau in lieu of the Trust Territory of the Pacific Islands). Funding estimates outlined above may vary and are subject to change.

Application Information

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs (30-day review by State Single Point of Contact). Application forms, information on review procedures, deadlines, the consequences of late submission, and copies of the program announcement and regulations may be obtained from the appropriate Department of Health and Human Services Regional Office as set forth below.

Dated: November 26, 1986.

William E. Muldoon,

Director, Office of Program Support Centers for Disease Control.

Department of Health and Human Services (HHS) Regional Offices

- Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223-6827
- Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278 (212) 264-2561
- Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521-35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101 (215) 596-6637
- Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323 (404) 221-2316
- Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606 (312) 353-1385
- Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202 (214) 767-3879
- Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106 (816) 374-3291
- Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294 (303) 844-6163
- Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556-5810
- Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, M.S. 402, Seattle, Washington 98121 (206) 442-0430

[FR Doc. 86-27115 Filed 12-2-86; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-86-826; FR-2289]

Delegation of Authority; Revision and Update

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

ACTION: Notice of delegation of authority.

SUMMARY: This delegation of authority delegates from the Assistant Secretary for Housing—Federal Housing

Commissioner to the Director and Deputy Director of the Office of Single Family Housing the authority to (1) investigate any facts, conditions, practices, or matters that may be deemed necessary or proper to aid in the enforcement of the Real Estate Settlement Procedures Act of 1974 (RESPA) and (2) hold hearings, administer oaths, and require by subpoena the attendance and testimony of such witnesses and production of such documents as the Secretary deems advisable.

EFFECTIVE DATE: October 9, 1986.

FOR FURTHER INFORMATION CONTACT: Grant E. Mitchell, Assistant General Counsel for Fiscal Management and Energy, Office of General Counsel, Department of Housing and Urban Development, Room 10248, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-6550. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On November 23, 1981, the Secretary delegated to the Assistant Secretary for Housing—Federal Housing Commissioner the authority to administer RESPA. (See delegation of authority in the *Federal Register* at 46 FR 57348.) On July 14, 1982, the Department published a delegation of authority in the *Federal Register* which delegated from the Assistant Secretary for Housing—Federal Housing Commissioner to the Director and Deputy Director of the Office of Single Family Housing the authority to administer RESPA. (See 47 FR 30653.)

Section 461(e) of the Housing and Urban-Rural Recovery Act of 1983 (HURRA) amended RESPA and granted the Secretary the authority to (1) investigate any facts, conditions, practices, or matters that may be deemed necessary or proper to aid in the enforcement of RESPA and (2) hold hearings, administer oaths, and require by subpoena the attendance and testimony of such witnesses and production of such documents as the Secretary deems advisable. This delegation of authority delegates the above-stated authority under (HURRA) from the Assistant Secretary for Housing—Federal Housing Commissioner to the Director and Deputy Director of the Office of Single Family Housing.

Accordingly, section B, paragraph 23, of the delegation of authority set forth in the *Federal Register* on July 14, 1982 at 47 FR 30653 is revised to read as follows:

*Section B. Director and Deputy Director,
Office of Single Family Housing*

23. To administer the real Estate Settlement Procedures Act (RESPA) by, but not limited to, (1) investigating any facts, conditions, practices, or matters that may be deemed necessary or proper to aid in the enforcement of RESPA and (2) hold hearings, administer oaths, and require by subpoena the attendance and testimony of such witnesses and production of such documents as the Secretary deems advisable. The Director and Deputy Director of the Office of Single Family Housing also are delegated the power and authority to redelegate to any HUD employee any or all authority under RESPA.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Delegation of Authority, 46 FR 57348.

Dated: October 9, 1986.

Silvio J. DeBartolomeis,
General Deputy Assistant Secretary for
Housing—Deputy Federal Housing
Commissioner.

[FR Doc. 86-27201 Filed 12-2-86; 8:45 am]

BILLING CODE 4210-27-M

Office of Administration

[Docket No. N-86-657]

**Notice of Submission of Proposed
Information Collections to OMB**

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ACTION: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of Information to OMB for review, as

required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Proposal: Report on Tenants Accounts Receivable.

Office: Public and Indian Housing.
Form Number: HUD-52295.

Frequency of Submission: Quarterly.
Affected Public: Individuals or Households, State or Local Governments, and Non-Profit Institutions.

Estimated Burden Hours: 2,380.

Status: Extension.

Contact: John Comerford, HUD, (202) 426-1872; Robert Fishman, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 21, 1986.

Proposal: Designation of Depository for Direct Deposit of Loan and/or Grant Funds.

Office: Administration.
Form Number: HUD-274.

Frequency of Submission: On Occasion.

Affected Public: State or Local Governments.

Estimated Burden Hours: 83.

Status: Extension.

Contact: Sandra K. Jackson, HUD, (202) 755-2193; Robert Fishman, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 21, 1986.

Proposal: Default Status Report on Multifamily Housing Projects.

Office: Housing.

Form Number: HUD-92426.

Frequency of Submission: Monthly.

Affected Public: Businesses or Other For-Profit.

Estimated Burden Hours: 3,000.

Status: Extension.

Contact: Judy Lemeschewsky, HUD, (202) 755-6870; Robert Fishman, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 21, 1986.

John T. Murphy,

Director, Information Policy and Management
Division.

[FR Doc. 86-27200 Filed 12-2-86; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

**Privacy Act of 1974; Revision of Notice
of System of Records**

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise a notice describing a system of records maintained by the Bureau of Mines. Except as noted below, all changes being published are editorial in nature, and reflect minor corrections and administrative revisions which have occurred since the publication of the material in the *Federal Register* on May 20, 1986 (51 FR 18512) as amended on August 20, 1986 (51 FR 29703). The revised notice, published in its entirety below, is titled "Personnel Security Files—Interior, Mines—7".

The principal changes to the notice are being made to reflect the conversion of certain information in the security file for use in a desk top computer within the Bureau's Security Office. The change does not alter the purpose for which the information is used, nor does it create any greater access to the records in the system.

Since these changes do not involve any new or intended use of the information in the system of records, the notice shall be effective upon publication in the *Federal Register*. Additional information regarding these revisions may be obtained from the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main

Interior Building, U.S. Department of the Interior, Washington, DC 20240.

Dated: November 21, 1986.

James P. Jadlo, Jr.
Acting Director, Office of Information Resources Management.

INTERIOR/WMB-7

SYSTEM NAME:

Personnel Security Files—Interior.
Mines—7.

SYSTEM LOCATION:

Bureau of Mines, Department of the Interior, 2401 E Street, NW., Washington, DC 20241.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bureau of Mines employees and contractors, and former employees and contractors whose duties have been designated Special-Sensitive, Critical-Sensitive and Noncritical-Sensitive for national security purposes and/or whose duties have been designated ADP Special-Sensitive, ADP Critical Sensitive, ADP Noncritical-Sensitive or ADP Non-Sensitive. Employees traveling to foreign countries. Employees new to Federal employment whose duties have been designated Non-Sensitive. Executive Reservists whose duties have been designated one of the above three sensitive categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual records contain copies of records for processing personnel security investigations. The following are representative of system documentation but other manual records pertinent to employee position and level of clearance may be a part of the file. Manual records include copies of SF-85 or SF-86 and/or SF-171 supplied by the individual concerned as well as copies of letters of transmittal, etc., between the Bureau of Mines, the Office of Personnel Management, the FBI, etc., concerning the individual's security investigation. Further, contains a copy of certification of clearance status, SF-189, and a Termination of Clearance Statement signed by the individual as appropriate. For those designated Non-Sensitive, the file contains a record of an NACI or NACIC investigation, adjudication, and determination of suitability if appropriate. For employees traveling outside the country, forms DI-1911 and DI-1175 and a foreign travel briefing/debriefing statement are maintained. Automated records contain files regarding employee names, social security numbers, organizations, investigation and classification status and action dates, employee position description requiring clearance;

suspense files of all periodic/regular requirements, such as employee investigations, reinvestigations, briefings, debriefings, foreign travel, and records disposal. The above are representative of system documentation but other automated records pertinent to employee position and level of clearance may be part of the automated file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, as amended, Executive Order 11179, as amended, and Federal Personnel Manual 732, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

The primary use of the automated and manual records is to identify individuals who have national security clearance and/or ADP access authorizations and their level of clearance. Disclosure outside the Department of the Interior may be made (1) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (2) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (3) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the Government, an employee of the Department if a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations or for enforcing or implementing the statute, rule, regulation, order or license; (5) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office;

(6) to the Office of Personnel Management for matters concerned with oversight activities necessary for the Office to carry out its legally authorized

Governmentwide personnel management programs and functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Automated records are maintained on flexible disks. (2) Source documents (manual records) are maintained in manual form in file folders.

RETRIEVABILITY:

(1) Automated records are retrievable by name and/or social security number. (2) Manual records are retrievable by name.

SAFEGUARDS:

(1) Automated records are maintained with safeguards meeting the FIPS PUB 41, "Computer Security Guidelines for Implementing the Privacy Act of 1974." (2) Manual records are maintained in the same manner as defense classified material. (3) Both automated and manual records are maintained in a safe having a three-position dial-type, manipulation proof, combination lock.

RETENTION AND DISPOSAL:

(1) The retention and disposal determination for the automated records stored on flexible disks is pending approval of the Archivist of the United States. Automated records will be destroyed by erasure. (2) Manual records are held in active status until the individual is debriefed or terminated. Manual records are destroyed by fire, shredder, disintegrator or pulverizer not later than 5 years after separation or transfer of the individual or upon notification of death. The records disposal schedules applicable to these records are: Bureau of Mines Schedule, 435 WBM 2.1, Appendix 1(18)(f) and GRS 18, item 7.

SYSTEM MANAGER(S) AND ADDRESS:

Bureau Security Manager, Bureau of Mines, 2401 E Street NW., Washington, DC 20241.

NOTIFICATION PROCEDURE:

To determine whether automated and/or manual records are maintained on you in this system, write to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

A request for access should be addressed to the System Manager. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. Describe as specifically as possible the record sought. If copies

are desired, indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request correction or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained as well as data furnished by other Federal agencies on the person concerned.

[FR Doc. 86-27105 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-53-M

Bureau of Land Management

[AK-963-4213-15; AA-12466]

Alaska Native Claims Selection; Calista Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(8), will be issued to Calista Corporation for approximately 6,400 acres. The lands involved are in the vicinity of Stuyahok, Alaska.

Seward Meridian, Alaska

T. 23 N., R. 64 W. (Unsurveyed)

Secs. 21 through 28, inclusive;
Secs. 33 and 34, inclusive.

Containing approximately 6,400 acres.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in THE TUNDRA DRUMS. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until January 2, 1987 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart

E, shall be deemed to have waived their rights.

Steven L. Willis,

Acting Section Chief, Branch of ANCSA
Adjudication.

[FR Doc. 86-27171 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-JA-M

[CO-050-07-4410-08]

Availability of the Resource Management Plan/Record of Decision for the Northeast Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: The Bureau of Land Management, Canon City District makes available the Resource Management Plan/Record of Decision for the Northeast Resource Area. The record of decision (ROD) for this plan was signed by the BLM Colorado State Director September 16, 1986.

SUMMARY: A resource management plan (RMP) has been developed for the Northeast Resource Area of the Canon City District in Colorado. This planning action meets requirements of the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA). Summarized decisions made in this plan are:

Transfer or disposal of all surface estate with public value to public entities; approximately 12,000 acres.

Disposal of all surface estate without public value to nonpublic entities; approximately 4,500 acres.

Specific review, with public participation, of the remaining approximately 18,236 acres to determine public and private values prior to transfer or disposal from BLM administration.

Interim multiple use resource management of public land until disposal or transfer is made, based on the resource value analysis and management prescriptions in the RMP.

Disposal of subsurface estate will be subject to site-specific study, analysis, review, and public input on a case-by-case application basis.

Continued minerals management of subsurface estate by BLM.

FOR FURTHER INFORMATION CONTACT: Copies of the plan/ROD have been sent to all parties that were involved in the planning process. Other interested parties may request a copy of the plan/ROD by contacting: Area Manager, Bureau of Land Management, Northeast Resource Area Headquarters, Building 41, Denver Federal Center, P.O. Box

25047, Denver, Colorado 80225-0047, (303) 236-4399.

Donnie R. Sparks,

District Manager.

[FR Doc. 86-27172 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-JB-M

[AZ-050-07-4212-13]

Resource Management Planning; Yuma District Resource Management Plan

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to File Category I Amendment to Yuma District Resource Management Plan, Yuma District, Arizona.

SUPPLEMENTARY INFORMATION: In accordance with 43 CFR 1610.2(c) and 1610.3-1(d), notice is hereby given of intent to prepare a planning amendment document. This notice also constitutes the scoping notice required by regulation for the National Environmental Policy Act (40 CFR 1501.7).

(1) Description of the proposed planning policy: The proposed action is to amend the Yuma District Resource Management Plan (RMP) completed in May 1986. The Category I planning amendment will be based upon existing statutory requirements and policies and will carry out the requirements of the Federal Land Policy and Management Act of 1976 (FLPMA). The RMP Amendment and accompanying Environmental Assessment (EA) will provide the basis for changing the RMP Land Ownership Adjustment Section (issue 4) to allow for the exchange of approximately 225 acres of public land not previously identified for exchange. The Amendment and EA are scheduled for completion by February 1, 1987.

(2) Identification of the geographic area involved: The land to be exchanged is located approximately 5 miles north of Lake Havasu City, Arizona (T14N, R20W, section 9 and 4, GSRBM, all west of Highway 95).

(3) General types of issues anticipated: The proposed Amendment addresses the changes to the Land Tenure Adjustment Section only.

(4) Disciplines to be represented and used to prepare the amendment: Topography and soils, vegetation, wildlife, minerals, land use, visual resources, floodplains, threatened and endangered species, cultural resources, and socio-economic factors.

(5) The kind and extent of public participation opportunities to be

provided: Public participation will be carried out through participation in several comment periods to be announced in the **Federal Register** and local newspaper. There is a specific comment period for the governor to inform and seek comment from State and local agencies.

(6) Times, dates, and locations scheduled for any public meetings, hearings, conferences, or gatherings as known: At this time, no scheduling for any public meetings has been planned. All public input will be handled through written comments.

(7) The name, title, address, and telephone number of the BLM Official who may be contacted for further information: Michael R. Ford, Area Manager, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86403, (602) 855-8017.

(8) The location and availability of documents relevant to the planning process: Documents will be available for public review at the Lake Havasu Resource Area Office, 3189 Sweetwater Avenue, Lake Havasu City, Arizona.

Sondra L. Berger,
Acting District Manager.

November 24, 1986.

[FR Doc. 86-27173 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-32-M

[ES-940-07-4520-12; ES-036664, Group 174]

Resource Management Plans, Florida; Filing of Plats of Subdivisions of Sections 25 and 36

November 26, 1986.

1. The plat, in two sheets, of the survey of the subdivisions of sections 25 and 36, and the metes-and-bounds survey of certain parcels in section 36, Township 14 South, Range 23 East, Tallahassee Meridian, Florida, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on January 12, 1987.

2. The survey was made at the request of the Forest Service.

3. All inquiries or protests concerning the technical aspects of the survey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., January 12, 1987.

4. Copies of the plats will be made available upon request and prepayment of the reproduction fee of \$4.00 per copy.

Lane J. Bouman,
Deputy State Director for Cadastral Survey.

[FR Doc. 86-27175 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-GJ-M

[ES-940-07-4520-12; ES-036665, Group 173]

Survey Plat Filings, Florida; Filing of Plats of Subdivisions of Sections 16, 17, 18, 27, 29, and 30

November 26, 1986.

1. The plat, in six sheets, of the survey of the subdivisions of sections 16, 17, 18, 27, 29 and 30, and the metes-and-bounds survey of certain parcels in sections 17 and 30, Township 14 South, Range 23 East, Tallahassee Meridian, Florida, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on January 12, 1987.

2. The survey was made at the request of the Forest Service.

3. All inquiries or protests concerning the technical aspects of the survey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., January 12, 1987.

4. Copies of the plats will be made available upon request and prepayment of the reproduction fee of \$4.00 per copy.

Lane J. Bouman,
Deputy State Director for Cadastral Survey.

[FR Doc. 86-27174 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-GJ-M

[AZ-940-87-4220-10; A-22473]

Opportunity for Public Meeting on Proposed Withdrawal; Arizona

November 25, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Department of the Army, Los Angeles District, Corps of Engineers, filed application Serial Number A-22473 on November 10, 1986, for withdrawal of the following described land from appropriation under the mining laws subject to valid existing rights:

Gila and Salt River Meridian, Arizona

T. 20 S., R. 20 E.,
Sec. 26, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 33, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 34, S $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$.
T. 20 S., R. 21 E.,
Sec. 19, SE $\frac{1}{4}$;
Sec. 31, S $\frac{1}{2}$, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 21 S., R. 20 E.,
Sec. 5, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, E $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 10, SE $\frac{1}{4}$;
Sec. 11, NE $\frac{1}{4}$;
Sec. 13, SE $\frac{1}{4}$;

Sec. 15, NE $\frac{1}{4}$;
Sec. 24, NE $\frac{1}{4}$.

The area described comprises approximately 1880.00 acres of acquired lands of the Department of the Army and 160 acres of State-owned land proposed to be acquired by the Department of the Army.

The purpose of the proposed withdrawal and reservation is to prevent adverse entry under the mining laws and to provide for the continued uninterrupted use of the lands as an integral part of the East Range of the Fort Huachuca Military Reservation.

For a period of 90 days, from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned office of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned office within 90 days from the date of publication of this notice. Upon determination by the State Director, Bureau of Land Management, that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting. The application will be processed in accordance with the regulations set forth in Title 43 CFR Part 2300.

For a period of two years, from the date of publication of this notice in the **Federal Register** the land will be segregated from the operation of the General Mining Laws unless the application is rejected prior to that date. Current administrative jurisdiction over the segregated land will not be affected by the temporary segregation.

All communication in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011.

John T. Mezes,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-27176 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-32-M

[OR-943-07-4220-10; 032; OR-37548]

Oregon; Proposed Withdrawal and Opportunity for Public Meeting**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 832.50 acres of public land for the Tyrrell Seed Orchard and Administrative Site. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATE: Comments and requests for a public meeting should be received by March 3, 1987.

ADDRESS: Comments and meeting requests should be sent to: Oregon State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, 503-231-6905.

On November 18, 1986, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general public land laws, including the mining laws, subject to valid existing rights:

Willamette Meridian

Revested Oregon and California Railroad Grant Land Travis M. Tyrrell Seed Orchard and Administrative Site

T. 20 S., R. 5 W.,

Sec. 9, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$ S E $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ Ne $\frac{1}{4}$ S E $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Ne $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, and W $\frac{1}{2}$ W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 15, W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and N $\frac{1}{2}$ N $\frac{1}{2}$ S W $\frac{1}{4}$;

Sec. 21, W $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ Ne $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$.

The area described contains 832.50 acres in Lane County.

The purpose of the proposed withdrawal is to protect the Tyrrell Seed Orchard and Administrative Site located near Lorane, Oregon.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Oregon State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Oregon State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are leases, licenses, permits, and disposal of mineral or vegetative resources other than under the mining laws.

Dated: November 24, 1986.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-27106 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-33-M

Minerals Management Service**Alaska Region; Changes in the Public Hearings on the Draft Environmental Impact Statement for Beaufort Sea Lease Sale 97**

On November 7, 1986, a Notice was published in the **Federal Register** (Vol. 51, No. 216) indicating the availability of the draft environmental impact statement and the locations and dates of public hearings for proposed Beaufort Sea Lease Sale 97.

The location of the hearing on December 8, 1986, in Barrow, Alaska, has been changed and will now be as follows:

December 8, 1986

Barrow High School, Barrow, Alaska, 7:30 p.m.

The time of the hearing on December 11, 1986, in Nuiqsut, Alaska, has been changed and will now be as follows:

December 11, 1986

Community Center, Nuiqsut, Alaska, 6:00 p.m.

There are no other changes to the November 7, 1986, Notice.

Dated: November 26, 1986.

Wm. D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86-27109 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Development Operations Coordination**AGENCY:** Minerals Management Service.**ACTION:** Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4254, Block 305, Ewing Bank Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on November 24, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Wholesalers Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT:

Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: November 26, 1986.

J. Rogers Percy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-27177 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

Submission of Information Collection Proposed to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 395-7313.

Title: Special Permanent Program Performance Standards—Operations in Alluvial Valley Floors.

Abstract: This section requires the permittee to install, maintain and operate a monitoring system in order to provide specific protection for alluvial valley floors. This information is needed to ensure that the agricultural utility and production of the alluvial valley floor is maintained.

Bureau Form Number: None
Frequency: Semi-annually
Description of Respondents: Coal Mining Operators

Annual Responses: 90
Annual Burden Hours: 1,800

Bureau Clearance Officer: Darlene Grose Boyd 343-5447.

Dated: November 7, 1986.

Donald L. Hinderliter,
Acting Assistant Director for Budget and Administration.

[FR Doc. 86-27179 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-05-M

Submission of Information Collection Proposal to the Office of Management and Budget for Review Under the Paperwork Reduction Act.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and

suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 395-7313.

Title: General Requirements for Surface Coal Mining and Reclamation Operation on Federal Lands 30 CFR 740.

Abstract: Section 522 of the Act requires a Federal land program be established to govern surface coal mining and reclamation operations on Federal lands. The information requested from the applicant is needed to assist the regulatory authority in determining the eligibility of the applicant and compliance with the requirements of the Act.

Bureau Form Number: None
Frequency: Once every 5 years
Description of Respondents: Coal Mine Companies

Annual Responses: 10
Annual Burden Hours 410

Bureau Clearance Officer: Darlene Grose Boyd 343-5447.

Dated: November 7, 1986.

Donald L. Hinderliter,
Acting Assistant Director, for Budget and Administration.

[FR Doc. 86-27178 Filed 12-2-86; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30938]

International Paper Co.; Merger Exemption; Hammermill Paper Co.

International Paper Company (IP) has filed a notice of exemption under 49 CFR 1180.2(d)(2) in connection with its proposed merger with Hammermill Paper Company (Hammermill). As a result of the merger, Hammermill will become a wholly-owned subsidiary of IP. The proposed date of consummation of the IP-Hammermill merger was November 10, 1986.

IP wholly owns the Longview, Portland and Northern Railway Company (LPN). LPN, a class III railroad, provides rail freight service on a 3.5-mile line between Gardiner Junction and Gardiner, OR. IP also owns 40.6 percent of the Mississippi Export Railroad Company (MSE). MSE, a class III railroad, provides rail freight service on a 42-mile line between Pascagoula and Rogers, MS. Through the merger IP will acquire control of the Allegheny Railroad Co. (ALY), which is wholly owned by Hammermill. ALY, a class III

railroad, operates over 150 miles of rail line between Erie and Emporium, PA.

Hammermill also holds a controlling interest in IWK&J Railroad Company which IP will acquire through the merger.¹ IWK&J owns the following lines in Pennsylvania: (a) An 8.25-mile line between Irvine and Warren; (b) a 25.75-mile line between Warren and Kane; (c) an 18.5-mile line between Kane and Johnsonburg, and (d) a 2.0-mile line at Warren.

The acquisition of control of ALY and IWK&J by IP, as a result of the merger, comes within the class of transactions exempted from prior approval under 49 CFR 1180.2(d)(2). The lines of LPN, and MSE are widely separated from the lines of ALY and IWK&J, and the acquisition of control is not part of a series of anticipated transactions that could lead to a connection. The transaction involves no Class I carriers.

As a condition to the use of this exemption, any employee affected by the acquisition of control shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Decided: November 12, 1986.

By the Commission, Jane F. Mackall,
Director, Office of Proceedings.

Noreta R. McGee,
Secretary.

[FR Doc. 86-27070 Filed 12-2-86; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Information, Robotics, and Intelligent Systems; Establishment

The Assistant Director for Computer and Information Science and Engineering has determined that the establishment of the Advisory Committee for Information, Robotics, and Intelligent Systems is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), and other applicable laws. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Advisory Committee for Information, Robotics, and Intelligent Systems.

¹ Hammermill was authorized to acquire a controlling interest in IWK&J by decision served August 21, 1985, in Finance Docket No. 30682, *Hammermill Paper Company—Exemption Under 49 U.S.C. 10746, 10901, 11301, and 11343 et seq.*

Purpose: To provide advice, recommendations, and oversight concerning support for research and research-related activities in the area of Information, Robotics, and Intelligent Systems. Additionally, in some cases, the Committee may be called upon to advise on the merit of proposals for research and research-related activities.

M. Rebecca Winkler,
Committee Management Officer.
November 26, 1986.

[FR Doc. 86-27095 Filed 12-2-86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Bi-Weekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on November 19, 1986 (51 FR 41843) through November 21, 1986.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously

evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice.

By January 2, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the

subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all

public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request:
September 5, 1986.

Description of amendment request:
The proposed amendment would change the Technical Specifications to allow the control materials in the reactor control rod blades to be either the presently used boron carbide powder (B_4C) compacted to approximately 70% of

theoretical density or a hybrid combination of boron carbide powder and solid hafnium. The reason for making this change is that use of the hafnium rods in the outer regions of the control blades is expected to increase the blade lifetime an average of 40% and to reduce absorber rod tube cracking.

Basis for proposed no significant hazards consideration determination:
The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment it must provide to the Commission its analysis, using the standards in 10 CFR 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been provided by the licensee:

As documented in General Electric Topical Report NEDE-22290-A, "Safety Evaluation of the General Electric Hybrid Control Rod Assembly," dated September 1983, the new hybrid control rod blades have the following characteristics:

1. The mechanical, hydraulic, and thermal performance is equal to the present control blades.
2. The geometry of the new hybrid blade is not changed in any manner as to alter current interface relationships with fuel channels, fuel support castings, guide tubes, and control rod drive mechanisms.
3. The hybrid blade is capable of functioning in a reactor environment with the temperature and pressure transients encountered during normal, upset, emergency, and faulted conditions. Stresses and deformations resulting from those transients have been considered when determining the acceptability of the design.
4. The hybrid design is capable of withstanding the loading encountered during handling, shipping, anticipated activities during reactor operation, and environmentally induced loads.
5. The mechanical life of the hybrid control blade is reached either when (1) the internal Helium pressure from the Boron-10 (neutron, alpha) reaction results in stresses in the absorber tube of the control rod reaching the most restrictive design limit which is evaluated against Article NG-3000 of the ASME Boiler and Pressure Vessel Code, Section III, or (2) the local Boron-10 depletion exceeds 70 percent resulting in irradiation induced Boron-Carbide swelling and stresses in the absorber rod tubing.
6. The nuclear life of the hybrid control blade is reached when the Boron-10 depletion results in a 10 percent loss in relative control rod worth in the top quarter section of the blade.

For these reasons, it is determined that operation of PNPS in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a

new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Thus, the proposed amendment poses no significant hazards involvement.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, based on the above, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W.S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: John A. Zwolinski.

Carolina Power & Light Company, Docket No. 50-325 Brunswick Steam Electric Plant, Unit No. 1, Brunswick County, North Carolina

Date of application for amendment:
October 21, 1986.

Description of amendment request:
The proposed amendment would change the Technical Specifications (TS) for Brunswick Steam Electric Plant, Unit 1 (BSEP-1). The proposed changes to Section 3.4.2.3 and Table 3.2.3.2-1 would incorporate more conservative Minimum Critical Power Ratio (MCPR) values.

In addition, Table 3.2.3.2-1 would be revised to combine the turbine trip/load reject without bypass and the feedwater control failure transients into a single pressurization transient.

The amendment request proposes more conservative power distribution limits for operation of BSEP-1. The current limits were supplied in the General Electric Report No. 23A4663, "Supplemental Reload Licensing Submittal for Brunswick Steam Electric Plant, Unit No. 1, Reload 4" submitted April 26, 1985. These more conservative limits will bound the BSEP-1 Reload 5 limits, allowing reload licensing for Brunswick-1 Cycle 6 under the provisions of 10 CFR 50.59.

An additional change made in this request includes the combining of the TS Table 3.2.3.2-1, Transient Operating Limit MCPR Values for turbine trip/load reject without bypass and feedwater control failure into a common category of pressurization transients. Creation of the common pressurization transients category of MCPR values will aid future 10 CFR 50.59 reload licensing. For each pressurization transient MCPR value, a

factor of conservatism was added to the limiting transient for each exposure range/ODYN Option combination. This results in pressurization transient MCPR values which bound both the original sets of MCPR values.

The final core configuration resulting from the proposed amendment will consist of no fuel assemblies significantly different from those previously found acceptable to the NRC. The amendment request is similar to that requested for BSEP Unit 2 Reload 6 submitted on December 20, 1985 and issued on April 30, 1986.

Basis for proposed no significant hazards consideration determination:

The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and has determined the following:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because in each case the changes represent more conservative MCPR limits. Formation of a common pressure transient category of MCPR values in TS Table 3.2.3.2-1 was done for simplicity and has no impact on safety. In addition, the final core configuration will consist of no fuel assemblies significantly different from those previously found acceptable to the NRC.

2. The proposed amendment does not create the possibility of a new or different accident because the final core configuration will consist of no fuel assemblies significantly different from those previously found acceptable to the NRC.

3. The proposed amendment does not involve a significant reduction in a margin of safety because the plant will be operated under stricter power distribution limits as a result of the amendment.

Based on the above reasoning, the licensee has determined that the proposed amendment does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Based on this review, the staff therefore proposes to determine that the proposed

amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: Thomas A. Baxter, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Daniel R. Muller.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: September 30, 1986.

Description of amendment request: The proposed amendment, if approved, would revise the Fermi-2 Operating License No. NPF-43 Plant Technical Specification 3/4.1.3.5 entitled "Control Rod Scram Accumulators." The Fermi-2 Technical Specification 4.1.3.5.b.1.a presently states that each control rod scram accumulator shall be determined OPERABLE at least once per 18 months by performing a CHANNEL CALIBRATION of the pressure detectors and verifying an alarm setpoint of 940 +30, -0 psig on decreasing pressure.

Several operating boiling water reactors (BWR), including Fermi-2, have experienced hydraulic control unit (HCU) accumulator pressure switch actuation below the limits stated in their respective Technical Specifications during regularly scheduled surveillance tests. These pressure switches trip on low HCU accumulator nitrogen pressure and alarm in the control room. The purpose of the proposed change is to increase the pressure switch setpoint to provide adequate instrument drift allowance so that sufficient nitrogen pressure is maintained for the required scram performance.

The General Electric Company (GE) has been contacted by the BWR owners group concerning this matter and has recommended to the BWR owners of plants with the 940 +30, -0 psig Technical Specification requirement to state that the low pressure alarms be set at "equal to or greater than 940 psig on decreasing pressure," thus enabling the pressure switches to be set for trip at a higher value.

Basis for proposed no significant hazards consideration determination:

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed

amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the change proposed to Technical Specification 3/4.1.3.5: (1) Does not involve a significant increase in the probability or consequences of an accident previously evaluated, because increasing the alarm setpoint will not affect or change the original functional mode of the CRDHS and will increase the reliability of control rod insertion by ensuring that adequate nitrogen pressure is maintained in the HCU accumulators; (2) does not create the possibility of a new or different kind of accident from any previously evaluated, because the setpoint will not be lower than the 940 psig currently specified; and (3) the change does not involve a significant reduction in safety margin for the reason stated in (2) above; i.e., the change would involve setpoint values higher than 940 psig but not lower than 940 psig, and does not reduce safety margin.

The Commission agrees with the licensee's determinations and proposes to determine that the requested change does not involve a significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for the licensee: John Flynn, Esq., The Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 4899.

NRC Project Director: Elinor G. Adensam.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendments request: August 20, 1985, as supplemented on May 13, 1986.

Description of amendments request: These proposed amendments would revise the Turkey Point Plant Units 3 and 4 Technical Specifications in three areas. The first change would revise the immediate notification requirements and the Licensee Event Reporting System per guidance provided in the NRC staff's Generic Letter 83-43 to assure compliance with the revised §50.72 and the new § 50.73 of Title 10 of the Code of Federal Regulations. The second change would revise the Off-Site Organization for Facility Management and Technical

Support and the Plant Organization Chart to reflect the current structure and position titles. The third change would revise the surveillance requirements regarding fire hose hydrostatic testing, and would delete the Technical Specification concerning a training program for the fire brigade. In addition to the revisions, bases would be updated for the fire suppression water system and steam generator inspection results to support existing technical specifications and reflect the proposed change in the reporting requirements.

The initial application dated August 20, 1985, was noticed in the *Federal Register* on October 9, 1985 (50 FR 41248). By letter dated May 13, 1986, the licensee proposed additional changes to the Plant Organization Chart reflecting changes in organizational structure and position titles. The submittal also corrected some incorrect references on proposed Technical Specification page 6-18. In addition, the reporting requirement for reactor coolant specific activity, which was initially deleted, was reinstated on proposed Technical Specification page 6-21. The proposed reporting requirement is consistent with Generic Letter 85-19 which provided licensees guidance for reporting primary coolant specific activity. The licensee has indicated in a letter dated September 29, 1986, that existing Fire Protection technical specifications will be deleted in accordance with NRC Generic Letter 86-10, "Implementation of Fire Protection Requirements," dated April 24, 1986. The staff has determined, due to the changes described above, that a renounce should be issued.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751, March 6, 1986). One of these examples (vii) of actions not likely to involve a significant hazards consideration relates to a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The first requested change meets the example in that the proposed changes are based on the NRC staff's guidance provided in Generic Letter 83-43 to assure compliance with the reporting requirements of 10 CFR 50.72 and 50.73 and Generic Letter 85-19 relating to primary coolant specific activity. Since this portion of the amendment request only revises the reporting requirements in accordance with the current regulations and does not alter plant

equipment, safety analysis or operational controls, the staff proposes to determine that this portion of the amendment request meets the example and does not involve a significant increase in the probability or consequences of an accident previously evaluated, does not create the possibility of a new or different accident from any accident previously evaluated and does not involve a significant reduction in margin.

The second change revises the Off-Site Organization and Plant Organization Chart to reflect the current organizational structure and position titles. These changes are administrative and would not alter plant equipment, safety analysis or operational controls. Since no plant equipment, safety analysis or operational controls would be changed, the staff proposes to determine that this portion of the amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated, does not create the possibility of a new or different accident from any accident previously evaluated and does not involve a significant reduction in a margin of safety.

The third change relates to fire protection requirements as defined in 10 CFR 50 Appendix R. As previously indicated, the licensee is in the process of proposing an amendment to the technical specifications which will delete the existing Appendix R technical specifications, incorporate the Appendix R requirements in the Final Safety Analysis Report (FSAR) and maintain their approved fire protection program as described in the FSAR. This will be accomplished in accordance with the guidance provided in GL-86-10. The staff intends to take no action on this portion of the licensee's request and, therefore, makes no proposed significant hazards findings.

The Bases section relating to the steam generator inspection results have been changed to reflect the current Technical Specifications and the proposed changes in reporting requirements.

Based on the above, the staff therefore proposes to determine that the changes requested in the proposed amendments, with the exception of the changes relating to fire protection which the staff will not act on, do not involve a significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: Lester S. Rubenstein.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of amendment request: October 17, 1986.

Description of amendment request: The proposed amendment would: (1) Permit a time delay for auxiliary feedwater initiation into the steam generators; (2) change the steam generator and feedwater header differential pressure trip values; and (3) reformat the auxiliary feedwater instrumentation requirements to be consistent with the St. Lucie Plant, Unit No. 1 Technical Specification format. The specific changes are as follows.

Table 3.3-3, "Engineered Safety Features Actuation System Instrumentation," will be changed. This table contains channel operability requirements. The operability requirements for steam generator differential pressure and feedwater header differential pressure will be removed from the auxiliary feedwater section to a new section entitled "Auxiliary Feedwater Isolation." The channel operability requirements themselves will not be changed. This change represents a reformatting and is consistent with the way the Unit No. 1 specifications are formatted.

Table 3.3-4, "Engineered Safety Features Actuation System Instrumentation Trip Values," will be changed. This table contains channel trip (actuation) values. The trip values for steam generator differential pressure and feedwater header differential pressure will be removed from the auxiliary feedwater section to a new section entitled "Auxiliary Feedwater Isolation." This change represents a reformatting and is consistent with the way the Unit No. 1 specifications are formatted. The trip or actuation values themselves are also proposed to be changed. The steam generator differential pressure trip value will be changed from 180 psid to 275 psid. The feedwater header differential pressure trip value will be changed from 100 psid to 150 psid.

Table 3.3-5, "Engineered Safety Features Response Times," will be changed. The response time (time delay) for auxiliary feedwater initiation will be changed from 120 seconds to 305 seconds.

Table 4.3-2, "Engineered Safety Features Actuation System

Instrumentation Surveillance Requirements," will be changed. The surveillance requirements will be reformatted the same way as described above.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee addressed the above three standards in the amendment application. In regard to the first standard, the licensee provided the following analysis:

Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The addition of an Auxiliary Feedwater Actuation System (AFAS) time delay does not have any impact on the probability of, or the assumptions contained in, the bounding accident analyses. Actuation of the Auxiliary Feedwater (AFW) system occurs within the time frames assumed in these analyses and as such, the conclusions are not affected. Conclusions reached in all applicable accident analyses are well within the acceptance criteria. The addition of an AFAS time delay primarily reduces unnecessary challenges on the AFW system under the condition of a plant trip with offsite power and main feedwater available. Therefore, this change does not increase the probability or consequences of an accident previously evaluated.

In connection to the second standard, the licensee states that:

Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

Two classes of events, increased heat removal and decreased heat removal, are those events which are affected by operation of the AFW system. The St. Lucie Unit 2 Cycle 2 Stretch Power Reload Safety Evaluation (RSE) decreased heat removal events were re-evaluated and the limiting increased heat removal events reanalyzed to verify that operation of the AFW system with an installed time delay would not produce unacceptable results. Therefore, installation of an AFAS time delay does not create the possibility of a new or different kind of accident.

Regarding the third standard, the licensee states that:

Use of the modified specification would not involve a significant reduction in a margin of safety.

The results presented in the safety evaluation show that for the Steam Line Break (SLB) event, critical heat fluxes and containment peak pressure remain well within acceptance criteria. For the feedwater line break event, DNBR limits, radiological consequences, peak RCS pressure, and pressurizer fill considerations remain within previously established acceptance criteria. Therefore, there is no significant reduction in margin of safety when operating with the proposed AFW system time delay.

The above analysis provided by the licensee focused primarily on the technically oriented proposed changes (e.g., time delay). However, there are a number of formatting changes that the licensee proposed as discussed in the description of amendment request section above. The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples [51 FR 7751] of amendments that are considered not likely to involve significant hazards consideration. Example (i) relates to a purely administrative change to the Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. The formatting change described above is considered to be an administrative related change and comes under example (i).

The staff has reviewed the licensee's no significant hazards consideration determination analysis. In addition, the staff notes that the formatting changes are administrative in nature. Based upon this review, it appears that the standards have been met as far as the technically oriented changes are concerned because the safety analyses presented by the licensee appear to justify the time delay. In addition, the formatting changes appear to be administrative in nature and come under example (i), as one example of a change that is not likely to involve a significant hazards consideration.

Based upon the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1815 L Street, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana.

Date of Amendment Request: September 25, 1986.

Description of Amendment Request: The proposed changes would revise Technical Specifications 3.1.1.1, "Boration Control, Shutdown Margin— T_{avg} Greater Than 200 °F"; 3.1.1.2, "Boration Control, Shutdown Margin— T_{avg} Less Than or Equal to 200 °F"; 3.1.2.4, "Boration Systems, Charging Pumps—Operating"; 3.1.2.6, "Boration Systems, Boric Acid Makeup Pumps—Operating"; 3.10.1, "Special Test Exceptions, Shutdown Margin"; and the Bases section of the Shutdown Margin Technical Specifications. The reason for these changes is to revise the requirements for Shutdown Margin and, consequently, for boration of the reactor coolant system (RCS) whenever all full-length control element assemblies (CEAs) are fully inserted in the core. While continuing to meet all safety analysis acceptance criteria, the proposed changes will result in a significant savings in time and in the processing of waste water.

The proposed changes consist of the following:

a. The Shutdown Margin requirements for Modes 2 through 5 would be revised according to whether or not full length CEAs are fully inserted into the core. The proposed Specification 3.1.1.1 would be applicable when any full-length CEA is fully or partially withdrawn while the proposed Specification 3.1.1.2 would be applicable when any full-length CEAs are fully inserted. The proposed change to Limiting Condition for Operation (LCO) 3.1.1.1 would require that in Modes 1 through 5 with any full-length CEA fully or partially withdrawn, the Shutdown Margin shall be greater than or equal to 5.15% delta k/k when T_{avg} is greater than 200 °F. This is essentially the same requirement that was in place for Cycle 1. The proposed change to LCO 3.1.1.2 would require that in Modes 2 through 5 when all full-length CEAs are fully inserted, the Shutdown Margin shall be greater than or equal to that shown in Figure 3.1-0. This figure shows the required shutdown margin as a function of cold leg temperature.

b. The licensee has requested that the ACTION statements to LCO 3.1.1.1 and 3.1.1.2 be revised to require boration when the Shutdown Margin has been determined to be less than that required by the LCO. That is, the ACTION Statements will no longer refer to a specific value for Shutdown Margin

(5.5% or 2.0%); instead, they will simply refer to the appropriate LCO.

c. A similar change to that described for the ACTION statements is also being proposed for surveillance requirements 4.1.1.1 and 4.1.1.2. It is proposed that the surveillance requirements will no longer refer to a specific value of Shutdown Margin (5.15% or 2.0%); instead, they would refer back to the LCO. In addition, the proposed change would add a surveillance requirement to LCO 3.1.1.2 which is similar to the current surveillance requirement 4.1.1.1.2.

d. It is proposed that the ACTION statements to LCOs 3.1.2.4 and 3.1.2.6 be revised such that they refer back to the appropriate Shutdown Margin specification rather than requiring the core to be at least 2.0% delta k/k subcritical at 200 °F.

e. LCO 3.10.1 would be revised to refer to the Shutdown Margin requirements of Specification 3.1.1.1 or 3.1.1.2 instead of only the requirements of 3.1.1.1. The proposed change would also revise the LCO ACTION statement "b" requirement to refer to a Shutdown Margin as required by Specification 3.1.1.2 instead of 3.1.1.1.

f. The Technical Bases for Shutdown Margin (3.4.1.1.1 and 3.4.1.1.2) and the Index to the Technical Specifications would be revised to reflect the proposed changes discussed previously.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes to determine that the proposed changes do not involve significant hazards considerations because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of any accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below:

(1) The anticipated operation occurrences (AOOs) and accidents that have the potential for being impacted by the proposed changes are Steam Line Break, CEA Withdrawal, CEA Ejection, inadvertent boron dilution and the startup of an inactive reactor coolant pump. All these AOOs and accidents have been reevaluated to determine the consequences resulting from the proposed changes. The results of these evaluations show that the consequences are within the appropriate acceptance criteria discussed below.

Standard Review Plan (SRP) 15.1.5 requires that steam line break events

must be evaluated considering the potential for fuel damage. If the minimum DNBR during a steam line break falls below specified limits (based on acceptable correlations such as CE-1), fuel damage must be assumed. The results of the limiting steam line break analysis indicate that the minimum Departure from Nucleate Boiling Ratio (DNBR) remains sufficiently high to preclude the potential for fuel damage.

SRP Section 15.4.3 requires that the consequences of an uncontrolled CEA withdrawal from a subcritical or low power startup condition be evaluated to show the minimum DNBR remains above specified limits. The reevaluation of the limiting CEA withdrawal event indicates that the minimum DNBR will remain above the Waterford 3 safety limit of 1.26.

SRP section 15.4.4 requires that for the startup of an inactive reactor coolant pump (RCP), fuel clad integrity should be maintained by ensuring that specified acceptable fuel design limits (SAFDLs) are not exceeded. The results of the limiting startup of an inactive RCP indicates that the reactor remains subcritical and the SAFDLs are not exceeded, thus maintaining clad integrity.

SRP Section 15.4.6 requires that for an inadvertent deboration event, a minimum time interval of 15 minutes for Modes 2 through 5 and 30 minutes for Mode 6 be available from the time an alarm makes the operator aware that an unplanned boron dilution is in progress until a loss of shutdown margin occurs. The results of the reevaluation of the limiting boron dilution event show that sufficient time exists for the operator to identify the event and take action to terminate it. When all full-length CEAs are fully inserted into the core, the CEA ejection event is mitigated by maintaining the proper amount of Shutdown Margin. By definition, the Shutdown Margin must account for the CEA of highest worth being out of the core. Thus, if credit is being taken for the revised shutdown margin requirements of Specification 3.1.1.2 and a CEA ejection event occurred, the core would still be subcritical by at least that amount required by the Shutdown Margin.

Therefore, since all AOOs and accidents which may have been impacted by the proposed changes have been analyzed and found to be acceptable, the proposed changes will not significantly increase the probability or consequences of any accident previously evaluated.

(2) The only significant change resulting from this proposed amendment is the reduction in required Shutdown

Margin when all full length CEAs are fully inserted in the core. This may require some modifications to the plant operating procedures but will not make any physical change to the facility. All procedure changes will be reviewed and approved by appropriate plant personnel prior to implementation as required by the Administrative Controls in the Technical Specifications. Thus, operation of the facility in accordance with the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The intent of this Specification is to ensure that the reactor will remain subcritical following a design accident or anticipated operational occurrence. During operation in Modes 1 and 2, with k-eff greater than or equal to 1.0, the transient insertion limits of Specification 3.1.3.6 ensure that sufficient Shutdown Margin is available to maintain the reactor in a subcritical condition. For other modes of operation, the most restrictive condition occurs at the end of cycle (EOC), with the core inlet coolant temperature (T-cold) at no-load operating conditions, and is associated with the steam line break accident.

In the analysis of this accident, the Shutdown Margin required by the proposed changes to Specification 3.1.1.1 and/or 3.1.1.2 is sufficient to control the reactivity transient and ensure that the fuel performance and off-site dose criteria are satisfied. As the initial T-cold decreases, the potential RCS cooldown and resulting activity transient is less severe and, therefore, the required Shutdown Margin also decreases. Below a T-cold of approximately 200 °F, the inadvertent boron dilution event becomes limiting with respect to Shutdown Margin requirements. At this temperature (and below), the required Shutdown Margin ensures that sufficient time for operator action exists between the initial indication of the boron dilution and the total loss of Shutdown Margin.

Therefore, the operation of the facility in accordance with the proposed changes will not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St. NW., Washington, DC 20037.

NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of Amendment Request: October 1, 1986.

Description of Amendment Request: The proposed changes would revise Technical Specification 3.2.4, "Power Distribution Limits, DNBR Margin", and the associated Surveillance Requirement 4.2.4.4. The reason for these changes is that Cycle 2 core parameters and Core Protection Calculator (CPC) software are different than they were for Cycle 1. An additional proposed change would correct a typographical error in ACTION statement (a).

The Core Operating Limits Supervisory System (COLSS) is a monitoring system which continuously calculates and advises operators of margins to core operating limits on fuel design and the licensed power level. When COLSS is in service and at least one of the two Control Element Assembly Calculators (CEAC's) is operable, the Departure from Nucleate Boiling Ratio (DNBR) margin is maintained at an acceptable level by ensuring that the COLSS calculated core power is less than the COLSS calculated Power Operating Limit (POL) based on DNBR. Maintaining the core power below the DNBR-based POL ensures that the Specified Acceptable Fuel Design Limits (SAFDL's) will not be violated during an Anticipated Operational Occurrence (AOO).

If neither CEAC is operable, the CPC's lack the CEA position information necessary to ensure a reactor trip when necessary. In this case, Specification 3.2.4b requires that the COLSS calculated core power shall be maintained at 19% below the COLSS calculated power operating limit to compensate for the potential error in the CPC DNBR calculation. The proposed revision would decrease this required adjustment to 13% as a result of the reevaluation of the limiting Cycle 2 transients.

If COLSS is out-of-service but at least one CEAC is operable, Specification 3.2.4c applies. It states that the DNBR operating margin shall be maintained by comparing the DNBR indicated on any operable CPC channel with the allowable value from Figure 3.3-2. The licensee proposes to revise this figure to

account for the less favorable Cycle 2 core parameters and CPC software.

If COLSS is out-of-service and both CEAC's are inoperable, Specification 3.2.4d applies. It states that the DNBR operating margin shall be maintained by comparing the DNBR indicated on any operable CPC channel with the allowable value from Figure 3.2-3. The licensee proposes to revise this figure to account for all the proposed changes to Specifications 3.2.4a, 3.2.4b and 3.2.4c, which are described above.

The proposed change would also delete the surveillance requirement described by Specification 4.2.4.4, which currently imposes a penalty as a function of burnup on the CPC calculated DNBR. This penalty is an allowance for rod bow and is incorporated in the proposed change to the DNBR Safety Limit and Reactor Trip Setpoint described in Technical Specifications 2.1.1.1 and 2.2.1.

In addition, a typographical error is being corrected in ACTION statement (a) by replacing "linear heat rate" with "DNBR."

Basis for Proposed No Significant Hazards Considerations Determination: The NRC staff proposes to determine that the proposed changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of any accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) The Cycle 2 safety analyses have shown that when COLSS is in service and at least one CEAC is operable, Specification 3.2.4a provides enough margin to DNB to accommodate the limiting AOO without violating the SAFDL's. For the case when neither CEAC is operable but COLSS is in service, the CPC's assume a preset CEA configuration and cannot obtain the required CEA position information to ensure the SAFDL on DNBR will not be violated during an AOO. Thus, as a result of the reevaluation of the limiting AOO's for Cycle 2, Specification 3.2.4b requires that core power be reduced to a value 13% less than the current COLSS calculated power operating limit. This ensures the limiting AOO will not result in a violation of SAFDLs. The proposed revision to Figure 3.2-2 accounts for the situation when COLSS is out-of-service but at least one CEAC is operable. In

this case, the Cycle 2 safety analyses have shown that by maintaining the CPC calculated DNBR above the value shown in the figure, the limiting AOO will not result in a violation of the SAFDL's. When COLSS is out-of-service and both CEAC's are inoperable, there must be additional margin to DNB set aside in the CPC's to ensure they can mitigate the consequences of the limiting AOO. A reevaluation of the limiting transients performed as part of the Cycle 2 safety analysis has shown that by maintaining the CPC calculated DNBR above the limits shown in the proposed revision to Figure 3.2-3, there is sufficient thermal margin to ensure that the limiting AOO will not result in a violation of the SAFDL's. Therefore, the proposed changes will not significantly increase the probability or consequences of any accident previously evaluated.

(2) The proposed changes are primarily a result of changes in the Cycle 2 core parameters and application of new analytical methods. There has been no physical change to the facility. All changes are either internal to the CPC's or are reflected as proposed revisions to the Technical Specifications. Thus, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The intent of this Specification is to ensure that there is always sufficient margin to DNB such that the CPC's can mitigate the consequences of the most limiting AOO prior to a violation of the SAFDL's. Generally, this margin is continuously monitored by COLSS; however, if COLSS is out-of-service, the limitation on CPC calculated DNBR (as a function of ASI) shown in Figures 3.2-2 and 3.2-3 represents a conservative envelope of operating conditions consistent with the Cycle 2 safety analysis assumptions. This band of operating conditions maintains an acceptable minimum DNBR throughout all AOO's. The penalty factor imposed by surveillance requirement 4.2.4.4 has been deleted because these penalties have been included in the low DNBR trip setpoint. Thus, the proposed changes will not result in a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: University of New Orleans

Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St. NW., Washington, DC 20037.

NRC Project Director: George W. Knighton.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: October 23, 1986.

Description of amendment request: The amendment would change Sections 2 and 5 of the Technical Specifications to incorporate revised reporting requirements on primary coolant iodine spikes. These changes are modeled after recommendations contained in Generic Letter 85-19, "Reporting Requirements on Primary Coolant Iodine Spikes." Specifically, the proposed changes are as follows:

1. Item 2.1.3(2) has been deleted because Generic Letter 85-19, states "that the existing requirements to shut down a plant if coolant iodine activity limits are exceeded for 800 hours in a 12 month period can be eliminated."

2. Item 2.1.3(5) the second sentence is revised to change the reporting of an iodine spike from the short term to the ANNUAL REPORT.

3. Item 2.1.3(5) has been expanded (adding 2.1.3(5)(d) and 2.1.3(5)(e)) to provide for the detailed report requirements.

4. Item 5.9.4b1.(e) is added to provide for the reporting of an iodine spike in the ANNUAL REPORT.

Basis for proposed no significant hazards consideration determination: In September 1985, the Commission issued Generic Letter 85-19 regarding the reporting requirements on primary coolant iodine spikes. The Generic Letter also provided model technical specifications to be used as guides in the preparation of plant specific technical specification changes. This application for amendment has been submitted by the licensee in response to the recommendations and guidelines provided by the NRC in Generic Letter 85-19.

The staff has concluded that the proposed changes meet the criteria of 10 CFR 50.92. A discussion of the criteria follows:

(i) Involve any significant increase in the probability or consequences of an accident previously evaluated.

This change incorporates the recommendation of Generic Letter 85-19 and as such does not affect the

probability or consequences of an accident previously evaluated. The change does not affect any of the assumptions or conditions that were used in the analyses used for licensing the plant. The change does delete an unnecessary short term reporting requirement and its associated limiting condition from the Technical Specifications. However, the reporting of primary coolant iodine spikes will be continued in the annual report.

(ii) Create the possibility of a new or different kind of accident from any accident previously evaluated.

Since the change does not affect the assumptions or operating conditions in the plant, no new path is created that could lead to a new or different kind of accident from any previously evaluated.

(iii) Involve any reduction in the margin of safety.

The specific purpose of this change is to eliminate an unnecessary short term reporting requirement and its associated minor limiting condition. Since the basic assumptions and operating conditions used in the analysis of the plant are not affected the margins of safety will not be affected, in a positive or negative manner.

In addition, the Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751) of amendments that are considered not likely to involve significant hazards considerations. Example (i) relates to a change which is administrative in nature, intended to achieve consistency or correct an error. The proposed change is representative of example (i) in that it reduces the reporting requirements from short term reports to the annual report and it deletes a minor limiting condition in accordance with the recommendations contained in Generic Letter 85-19.

Based on the above, the Commission proposes to determine that the proposed amendment involves no significant hazards considerations.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: October 27, 1986.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to add an Assistant Shift Supervisor with a Senior Reactor Operator (SRO) license to the shift complement and to provide additional administrative controls concerning assignment of personnel involved in fuel handling. These changes incorporate the requirements of TMI Action Item I.A.1.3, "Shift Manning," into the TS.

The requirement that two SROs be on site with at least one of them in the control room when the reactor is in other than a cold condition will increase the level of experience and expertise available to mitigate the consequences of operational transients or accidents. Additional administrative controls on fuel handling activities will reduce the probability of fuel handling accidents and mispositioned or misoriented fuel bundles remaining in the reactor core.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751) of actions likely to involve no significant hazards considerations. One of the examples (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications.

The proposed TS revisions are in response to the requirements of TMI Action Item I.A.1.3 and constitute additional limitations, restrictions or controls not presently included in the TS. Therefore, these proposed changes are similar to the Commission's example (ii) above. Thus, since the application for amendment involves proposed changes similar to examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Daniel R. Muller.

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: September 30, 1986.

Description of amendment request: The proposed amendment would permit operation after approval of changes to the Radiological Effluent Technical Specifications that would bring them into compliance with Appendix I of 10 CFR Part 50. It provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring: Concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual. The proposed amendment would supersede and expand the current Radiological Effluent Technical Specifications in the Appendix "B" Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (51 FR 7751). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional

restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Project Director: Daniel R. Muller.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: August 8, 1986.

Description of amendment request: The proposed amendment was a revision to diesel generator aspects of a request originally filed on February 1, 1985. The original request was noticed in 50 FR 23554. At that time the staff stated that the diesel generator portion of the request was being deferred pending generic staff approval. Subsequently, the staff has completed this evaluation.

In addition to the diesel generator reliability changes, the licensee also requested, in the August 8, 1986 submittal, that the requirement to verify diesel generator starting as a result of an Engineered Safety Feature (ESF) actuation signal coincident with a simulated loss of offsite power (LOOP) be removed. The reason for this request was the fact that the test was difficult to perform and would not add any assurance of diesel generator operability.

Finally, the licensee requested that a typographical error in the Sequoyah Unit 1 Technical Specification be corrected.

Basis for proposed no significant hazards consideration determination: NRC published guidance in the **Federal Register** (51 FR 7744) concerning examples of amendments that are not likely to involve a significant hazard.

Example (vii) provided in 51 FR 7744 identifies a change to an operating license likely to involve no significant hazard if it is:

(vii) A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

Since the diesel generator reliability changes resulted from Generic Letter 84-15, the staff proposes to find that these changes contain no significant hazard.

Example (i) provided in 51 FR 7744 identified a change likely to involve no significant hazard if it is:

(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature.

Since the deletion of the diesel generator start on an ESF signal and simulated LOOP removes an unnecessary test, the staff considers this an administrative change. Therefore, the staff proposes to find that this amendment request contains no significant hazard.

Additionally, the staff considers the correction of a typographical error an administrative change. Therefore, the staff also proposes to find that this request contains no significant hazard.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Lewis E. Wallace, Acting General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Project Director: B.J. Youngblood.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1 Callaway County, Missouri

Date of amendment request: September 29, 1986.

Description of amendment request: The proposed amendment request modifies the Callaway Technical Specifications, section 3/4.8.1.1 with an objective to increase overall emergency diesel generator (D/G) reliability, and to prevent undue stress and wear on the D/G engines. This request includes the following in order to meet this objective:

1. For action statement tests, the initial D/G start test would be performed within either 24 hours or 8 hours, depending on the actual degraded condition.
2. For action statement tests, there would be no repeat starting of the D/G after the initial start test.
3. Fast loadings (60-seconds) would be deleted except for one per 6 months and during the 18-month (refueling) tests.
4. For routine surveillance testing, the D/Gs would be loaded to 60% of continuous rated load (which corresponds to 3721 kW).
5. Engine prelude and other manufacturer recommended warmup procedures would be added as a requirement for all D/G test starts.
6. The accelerated frequency for routine tests (based upon accumulated

test results) would be changed to reduce the amount of accelerated testing by basing the testing on a reliability goal of 0.95 per D/G.

7. An incentive would be added that reduces the failure count to zero and resets the test frequency to a 31 day interval if a major engine overhaul is performed and a defined test series is completed.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination. This amendment request consists of seven categories of changes to Specification 3/4.8.1.1. The following discussions address these changes and their corresponding significant hazard evaluations in the same order as the transmittal letter.

1. For action statement tests, the initial D/G test would be performed within either 24 hours or 8 hours, depending on the actual degraded condition.

a. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed test requirements provide adequate assurance of diesel generator operability and also provides additional time for inspection and prelude and other warmup procedures recommended by the manufacturer.

b. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This is based on the fact that the method and manner of plant operation is unchanged and the revised requirement is to enhance diesel generator reliability.

c. This change does not involve a significant reduction in a margin of safety. This is based on the fact that no design change is involved, but surveillance testing is being revised to enhance reliability.

2. For action statement tests, there would be no repeat starting of the D/G after the initial start test.

a. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed test requirements provide adequate assurance of diesel generator availability and decrease the likelihood of D/G failure attributed to accelerated wear from too frequent starting.

b. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This is based on the fact that the method and manner of plant operation is unchanged and the revised requirement is to enhance diesel generator reliability.

c. This change does not involve a significant reduction in a margin of safety. This is based on the fact that no design change is involved, but surveillance testing is being revised to enhance reliability.

3. Fast loadings (60-seconds) would be deleted except for one per 6 months and during the 18-month (refueling) tests.

a. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The engine manufacturer has recommended gradual loading of the D/Gs during routine surveillance testing as a means of engine preconditioning and to avoid subjecting the D/G to the severe thermal transients which result from fast loading. A fast loading performed every 184 days is sufficient to ensure diesel generator load acceptance capability.

b. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This is based on the fact that the method and manner of plant operation is unchanged and the revised loading rate will provide for increased engine life.

c. The change does not involve a significant reduction in a margin of safety. This is based on the fact that no design change is involved. In the event of a diesel start signal being generated during a test, the test will be over-ridden and a fast load will commence.

4. For routine surveillance testing, the D/Gs would be loaded to 60% of continuous rated load (3721kW).

a. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Loading the engines to 60% of rated load is consistent with the manufacturer's recommendation and the reduced loading better represents the actual loading if all associated safety-related loads were powered from their associated D/G.

b. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This is based on the fact that the method and manner of plant operation is unchanged. The D/G will still accept all ESF loads if actually required during a test sequence.

c. This change does not involve a significant reduction in a margin of safety. This is based on the fact that no design change is involved and the D/G will still accept all ESF loads if actually required during a test sequence.

5. Engine prelude and other manufacturer recommended warmup procedures would be added as a requirement for all D/G test starts.

a. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Prelude and warmup are considered to enhance D/G reliability and are recommended in NRC Generic Letter 84-15 and by the NUMARC Station Black-Out Working Group. Callaway test requirements currently incorporate reduced cold starts, so this would serve to eliminate all remaining cold starts.

b. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This is based on the fact that the method and manner of plant operation is unchanged and the revised requirement is to enhance reliability.

c. This change does not involve a significant reduction in a margin of safety. This is based on the fact that no design change is involved, but surveillance testing is being revised to enhance reliability.

6. The accelerated frequency for routine tests (based upon accumulated test results) would be changed to reduce the amount of accelerated testing by basing such testing on a reliability goal of 0.95 per D/G.

a. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed test schedule provides adequate assurance of diesel generator operability without maintaining a punitive testing schedule following corrective action that is counter-productive to diesel generator reliability.

b. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This is based on the fact that the method and manner of plant operation is unchanged and the revised test schedule is to enhance diesel generator reliability.

c. This change does not involve a significant reduction in a margin of safety. This is based on the fact that no design change is involved, but surveillance testing is being revised to enhance reliability.

7. An incentive would be added that reduces the failure count to zero if a major engine overhaul is performed.

a. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The resetting of the number of failures to zero following a major engine overhaul and associated post-maintenance tests encourages corrective actions which enhance reliability.

b. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This is based on the fact that the method and manner of plant operation is unchanged and the revised provision is to enhance reliability.

c. This change does not involve a significant reduction in a margin of safety. This is based on the fact that no design change is involved.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a reduction in the required margin of safety. The staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has therefore made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts &

Trowbridge, 2300 N Street, NW.,
Washington, DC 20037.

NRC Project Director: B.J.
Youngblood.

Yankee Atomic Electric Company,
Docket No. 50-029, Yankee Nuclear
Power Station, Franklin County,
Massachusetts

Date of amendment request: October
22, 1986.

Description of amendment request:
The proposed change to the Technical
Specifications (TS) would modify the
period of time when valve CS-MOV-532
can be in the open position from 30
minutes per week to 120 minutes per
week. The valve is in the recirculation
path from the low pressure safety
injection (LPSI) pumps back to the
safety injection tank. This valve is
normally closed when the LPSI system
is in standby, but must be opened to
permit surveillance testing of the LPSI
pumps and mixing of the borated water
in the tank. The valve also receives a
close signal on a safety injection
actuation signal. Failure in the open
position would result in reduction in
LPSI flow to the core should the system
be needed. The 30 minute time period
presently allowed by the TS is too short
to adequately complete the testing and
maintenance needed to demonstrate
LPSI system operability.

*Basis for proposed no significant
hazards consideration determination:*
The Commission has provided
standards (10 CFR 50.92(c)) for
determining whether a significant
hazards consideration exists. A
proposed amendment to an operating
license for a facility involves no
significant hazards consideration if
operation of the facility in accordance
with the proposed amendment would
not: (1) Involve a significant increase in
the probability or consequences of an
accident previously evaluated; (2) create
the possibility of a new or different kind
of accident from any accident previously
evaluated; or (3) involve a significant
reduction in a margin of safety.

The proposed change could increase
the probability of one failure mode of
the LPSI system that has already been
considered; that is, failure to close of
the valve. This failure mode, even with
the proposed change, is a small contributor
(less than 1%) to the overall system
failure probability. Furthermore, a
longer time for maintenance and testing
of the rest of the LPSI system could
enhance the overall LPSI system
reliability. Therefore, the staff concludes
that the proposed change would not
result in a significant increase in the
probability or consequences of an
accident previously evaluated.

Limited plant operation with this
valve open is a mode of operation
already permitted by the TS. A small
increase in this time period thus cannot
create the possibility of a new or
different kind of accident from those
previously evaluated.

The proposed change would increase
the failure probability of the LPSI
system by less than 1% and would
permit maintenance and testing to
minimize other system failures. Thus,
the proposed change would not result in
a significant reduction in a margin of
safety.

Therefore, the staff proposes to
determine that the proposed change
does not involve a significant hazards
consideration.

*Local Public Document Room
location:* Greenfield Community College,
1 College Drive, Greenfield,
Massachusetts 01301.

Attorney for licensee: Thomas Dignan,
Esquire, Ropes and Gray, 225 Franklin
Street, Boston, Massachusetts 02110.

NRC Project Director: George E. Lear.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of
the last bi-weekly notice, the
Commission has issued the following
amendments. The Commission has
determined for each of these
amendments that the application
complies with the standards and
requirements of the Atomic Energy Act
of 1954, as amended (the Act), and the
Commission's rules and regulations. The
Commission has made appropriate
findings as required by the Act and the
Commission's rules and regulations in 10
CFR Chapter I, which are set forth in the
license amendment.

Notice of Consideration of Issuance of
Amendment to Facility Operating
License and Proposed No Significant
Hazards Consideration Determination
and Opportunity for Hearing in
connection with these actions was
published in the *Federal Register* as
indicated. No request for a hearing or
petition for leave to intervene was filed
following this notice.

Unless otherwise indicated, the
Commission has determined that these
amendments satisfy the criteria for
categorical exclusion in accordance
with 10 CFR 51.22. Therefore, pursuant
to 10 CFR 51.22(b), no environmental
impact statement or environmental
assessment need be prepared for these
amendments. If the Commission has
prepared an environmental assessment
under the special circumstances
provision in 10 CFR 51.12(b) and has

made a determination based on that
assessment, it is so indicated.

For further details with respect to the
action see: (1) The applications for
amendments, (2) the amendments, and
(3) the Commission's related letters,
Safety Evaluations and/or
Environmental Assessments as
indicated. All of these items are
available for public inspection at the
Commission's Public Document Room,
1717 H Street, NW., Washington, DC,
and at the local public document rooms
for the particular facilities involved. A
copy of items (2) and (3) may be
obtained upon request addressed to the
U. S. Nuclear Regulatory Commission,
Washington, DC 20555, Attention:
Director, Division of Licensing.

**Alabama Power Company, Docket Nos.
50-348 and 50-364, Joseph M. Farley
Nuclear Plant, Unit Nos. 1 and 2,
Houston County, Alabama**

Date of application for amendments:
July 3, 1986, supplemented August 27,
1986.

Brief description of amendments:
Technical Specification (TS) 3.1.2.5.b.2
and 3.5.1.c are revised to increase the
boron concentration by 300 ppm in the
Refueling Water Storage Tank and in
the reactor coolant system
accumulators.

Date of issuance: November 5, 1986.

Effective date: November 5, 1986.

Amendment Nos.: 68 and 60.

*Facilities Operating License Nos.
NPF-2 and NPF-8.* Amendments revised
the Technical Specifications.

*Date of initial notice in Federal
Register:* July 30, 1986 (51 FR 27277).

The Commission's related evaluation
of the amendment is contained in a
Safety Evaluation dated November 5,
1986.

The August 27, 1986 letter provided
supplemental information and did not
change the initial determination
published in the *Federal Register*.

No significant hazards consideration
comments received: No.

*Local Public Document Room
location:* George S. Houston Memorial
Library, 212 W. Burdeshaw Street,
Dothan, Alabama 36303.

**Arkansas Power and Light Company,
Docket No. 50-313, Arkansas Nuclear
One, Unit No. 1, Pope County, Arkansas**

Date of application for amendment:
July 18, 1986.

Brief description of amendment: The
amendment allows the removal of the
center control rod assembly from
Arkansas Nuclear One, Unit No. 1.

Date of issuance: November 14, 1986.

Effective date: November 14, 1986.

Amendment No.: 103.

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 24, 1986 (51 FR 33940). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 14, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Arkansas Power and Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of applications for amendments: July 18, 1986 and July 31, 1986.

Brief description of amendment: The amendment: (1) Increased the setpoint for reactor trip on high pressure from 2300 psig to 2355 psig, and (2) increased the anticipatory reactor trip on turbine trip arming threshold from 20% of full power to 45% of full power and (3) corrected several editorial errors.

Date of issuance: November 14, 1986.

Effective date: November 14, 1986.

Amendment No.: 104.

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 24, 1986 (51 FR 33941). Since the date of the initial notice, the licensee submitted clarifying information dated October 17, 1986, concerning the July 31, 1986, application. This information did not change the original application in any way and, therefore, did not warrant renouncing.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 14, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Commonwealth Edison Company, Docket Nos. 50-237/249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of application for amendments: January 20, 1986 as supplemented July 29, 1986.

Brief description of amendments: The amendments approve the issuance of Technical Specifications (TS) pages correcting typographical errors, changes in nomenclature, sentence structure and references. For Dresden Unit 3 only,

they allow post-maintenance testing of control rod drives in the refuel mode with low pressure cooling systems inoperable. They also revise TS Table 3.7.1 to reflect the results of minor appropriate plant modifications recently implemented.

Date of issuance: November 10, 1986.

Effective date: November 10, 1986.

Amendment Nos.: 94, 90.

Provisional Operating License No. DPR-19 and Facility Operating License No. DPR-25. The amendments revise the Technical Specifications.

Date of initial notice in Federal Register: October 8, 1986 (51 FR 36086).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 10, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of application for amendments: December 20, 1985, supplemented by letters dated April 29, August 13, and September 3, 1986.

Brief description of amendments: The amendments to Operating License No. NPF-11 and Operating License No. NPF-18 revise the La Salle Units 1 and 2 Technical Specifications to incorporate certain changes made to the Administrative Controls Section of the Technical Specifications.

Date of issuance: November 21, 1986.

Effective date: November 21, 1986.

Amendment Nos.: 47 and 29.

Facility Operating License Nos. NPF-11 and NPF-18: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: January 29, 1986 (51 FR 3711) and October 22, 1986 (51 FR 37507).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 21, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: September 4, 1986.

Brief description of amendment: This license amendment modifies inservice inspection surveillance requirements for the reactor coolant pump (RCP) flywheels consistent with the guidance found in Regulatory Guide 1.14, Revision 1. In particular, this amendment would increase the frequency of each pump flywheel inspection to include an ultrasonic volumetric examination of the bore and keyway areas at approximately 3-year intervals and a surface examination and 100% volumetric examination at approximately 10-year intervals. The present technical specifications require only a surface examination and volumetric examination of only one reactor coolant pump every second outage.

Date of issuance: November 12, 1986.

Effective date: November 12, 1986.

Amendment No.: 87.

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 8, 1986 (51 FR 36086).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 12, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: July 9, 1986, as supplemented September 12, 1986.

Brief description of amendments: The amendments modify the Technical Specifications to permit an exception to the experience requirements for two candidates for senior reactor operator licenses for Catawba Units 1 and 2.

Date of issuance: November 20, 1986.

Effective date: November 20, 1986.

Amendment Nos.: 19 and 9.

Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: October 8, 1986 (51 FR 36088).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 20, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room

location: York County Library, 138 East

Black Street, Rock Hill, South Carolina 29730.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: December 12, 1985.

Brief description of amendments: The amendments change Technical Specification 4.2.5 and Table 3.2-1 "DNB Parameters" for the Reactor Coolant System average temperature and pressurizer pressure so as to provide for direct comparison of measured values with parameter limits. In revising Table 3.2-1, a blank column previously included for possible future application to three-loop operation has been deleted.

Date of issuance: November 18, 1986.

Effective date: November 18, 1986.

Amendment Nos.: 65 and 46.

Facility Operating License Nos. NPF-9 and NPF-17. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 27, 1986 (51 FR 30570).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 18, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: April 2, 1984, and supplemented on April 18, 1984, October 11, 1985, and February 21, 1986.

Brief description of amendments: These amendments revise the Technical Specifications relating to the Inservice Inspection (ISI) Program to assure conformance with the requirements of 10 CFR 50.55a, "Codes and Standards."

Date of issuance: October 27, 1986.

Effective date: October 27, 1986.

Amendment Nos.: 119 and 113.

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 23, 1984 (49 FR 21830). Renoticed September 24, 1986 (51 FR 33949).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 27, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of application for amendment: July 18, 1986.

Brief description of amendment: The amendment updates Technical Specification Table 3.6.3-1 to reflect the current plant design with respect to primary containment isolation valves.

Date of issuance: November 10, 1986.

Effective date: November 10, 1986.

Amendment No.: 68.

Facility Operating License No. NPF-5. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 8, 1986 (51 FR 36091).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 10, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of application for amendments: April 23, 1984 as superseded July 18, 1986.

Brief description of amendments: The amendment adds and clarifies operability and surveillance requirements pertaining to the Anticipated Transient Without Scram and End-of-Cycle Recirculation Pump Trip instrumentation.

Date of issuance: November 17, 1986.

Effective date: November 17, 1986.

Amendment No.: 69.

Facility Operating License No. NPF-5. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 24, 1984 (49 FR 42822) and September 10, 1986 (51 FR 32269).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 17, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: March 11, 1986, as supplemented September 5, 1986 (TSCR 145).

Brief description of amendment: Authorizes a change to the Appendix A Technical Specification (TS) pertaining to the operability of the Rod Worth Minimizer (RWM) during reactor startup. The change adds a note to TS 3.2.B.2.b in Section 3.2, Reactivity Control, which allows, during Cycle 11 only, an unlimited number of reactor startups without the RWM. The change requires that the Control Rod Pattern Templates (CRPT) must be used during Cycle 11 when the RWM is bypassed or inoperable until 50% control rod density (black and white pattern) is achieved or 10% power is reached, whichever occurs first. All other provisions of TS 3.2.B.2.b remain in effect.

Date of issuance: November 7, 1986.

Effective date: November 7, 1986.

Amendment No.: 113.

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 23, 1986 (51 FR 153981).

The September 5, 1986, letter provided additional clarifying information.

This information did not change the initial application nor the initial determination published in the **Federal Register**.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated November 7, 1986.

No significant hazards consideration comments received: No. However, on September 10, 1986, the staff consulted with the State of New Jersey, Department of Radiation Protection. The State's comments regarding the issuance of this amendment have been addressed in section 4.0 of the staff's Safety Evaluation.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Kansas Gas and Electric Company, Kansas City Power and Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of application for amendment: August 25, 1986.

Brief description of amendment: The amendment modifies the Technical Specifications to delete the requirement for periodic functional (resistance) testing of the fuses for the containment penetration conductor overcurrent protection.

Date of issuance: November 18, 1986.

Effective date: November 18, 1986.

Amendment No.: 5.

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 24, 1986 (51 FR 33951).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 18, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas, and Washburn University School of Law Library, Topeka, Kansas.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of application for amendment: May 23, 1986, as supplemented by letters dated August 29, 1986 and October 1, 1986.

Brief Description of Amendment: The amendment revised the Technical Specifications by deleting a surveillance requirement for trisodium phosphate aggregation, revising a surveillance requirement for the diesel fire pump batteries, deleting the requirement to shut the plant down when coolant activity levels are exceeded for 800 hours in a 12-month period and reducing the reporting requirements for iodine spiking.

Date of issuance: November 13, 1986.

Effective date: November 13, 1986.

Amendment No.: 8.

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Dates of initial notice in Federal Register: September 10, 1986 (51 FR 32271).

The Commission's related evaluation of the amendment is contained in a

Safety Evaluation dated November 13, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: September 15, 1986.

Brief description of amendment: This amendment would add three isolation valves for the post-accident sampling system in Technical Specifications Table 3.6.4-1.

Date of issuance: November 12, 1986.

Effective date: November 12, 1986.

Amendment No.: 24.

Facility Operating License No. NPF-29. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 8, 1986 (51 FR 360981).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 12, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: September 5, 1986.

Brief description of amendment: The amendment changes the Technical Specifications to reflect removal of the reactor vessel head spray piping.

Date of issuance: November 10, 1986.

Effective date: November 10, 1986.

Amendment No.: 103.

Facility Operating License No. DPR-62. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 8, 1986 (51 FR 36098).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 10, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: May 12, 1986.

Brief description of amendment: The amendment modifies Technical Specification Sections 6.5.3.8, 6.5.3.9, 6.5.3.10 and Figure 6.2-1 to reflect changes in the management organization at Niagara Mohawk Power Corporation.

Date of issuance: November 17, 1986.

Effective date: November 17, 1986.

Amendment No.: 89.

Facility Operating License No. DPR-63. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 27, 1986 (51 FR 30579).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 17, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: July 15, 1986.

Brief description of amendments: The licensee proposed a revision to the existing reactor coolant system heatup and cooldown curves which are valid for ten effective full power years (EFPY). The proposed revised curves provide reactor coolant system heatup and cooldown limitations up to 15 EFPY.

In addition, the licensee proposed a number of minor changes that fall into four categories consisting of: (1) The Radiation Environmental Monitoring Program, (2) design features (Section 5 of the technical specifications), (3) Security Plan Implementing Procedures, and (4) administrative changes (Section 6 of the technical specification (TS)).

The Radiation Environmental Monitoring Program changes involved correcting errors regarding references, core environmental sampling, iodine monitoring, and sample locations. The design features appearing in Section 5 of the TS were corrected and updated to agree with the current Code of Federal Regulations. The changes involving the Security Plan Implementing Procedures dealt with clarifying the scope of review

of the Operations Committee. Changes to the administrative section of the TS dealt with correcting errors and updating administrative requirements to meet recent changes to 10 CFR Part 50, Section 50.49.

Date of issuance: November 14, 1986.

Effective date: November 14, 1986.

Amendment Nos.: 80 and 73.

Facility Operating License Nos. DPR-42 and DPR-60. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 24, 1986 (51 FR 33955).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 14, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: September 26, 1986.

Brief description of amendment: This amendment revises Section 5 of the Technical Specifications to incorporate recent organizational and job title changes.

Date of issuance: November 24, 1986.

Effective date: November 24, 1986.

Amendment No.: 101.

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 22, 1986 (51 FR 37502 at 37518).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 24, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room

location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: April 8, 1986.

Brief description of amendments: The amendments change the Technical Specifications to delete references to charcoal filter heaters in the Standby Gas Treatment Systems.

Date of issuance: November 17, 1986.

Effective date: November 17, 1986.

Amendment Nos.: 130, 126 and 101.

Facility Operating Licenses Nos.

DPR-33, DPR-52 and DPR-68:

Amendments revised the Technical Specifications.

Date of initial notice in Federal

Register: July 2, 1986 (51 FR 24263).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 17, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: August 29, 1986.

Brief description of amendments: The amendments revise the Technical Specifications (TS) Section 6, Administrative Controls, to reflect recent corporate and station title changes and realign the Quality Control Program from operations to construction in order to enhance the independence of the Quality Assurance Program.

Date of issuance: November 10, 1986.

Effective date: November 10, 1986.

Amendment Nos.: 87 and 73.

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in Federal

Register: October 8, 1986 (51 FR 36106).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 10, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room

locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: June 30, 1986.

Brief description of amendments: The amendments revise the NA-1 TS, Section 4.7.14, Surveillance Requirements for Fire Suppression Systems, by increasing the frequency for fire pump diesel engine surveillance and delete a portion of the required surveillance for the fire pump diesel

starting 24 volt battery bank and charger for NA-1 & 2.

Date of issuance: November 12, 1986.

Effective date: November 12, 1986.

Amendment Nos.: 88 and 74.

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revise the Technical Specifications.

Date of initial notice in Federal

Register: July 30, 1986 (51 FR 27291).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 12, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room

locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of application for amendments:

February 14, 1979, as supplemented September 21, 1982, and August 30, 1985.

Brief description of amendments: These amendments revise the Technical Specifications by deleting the inservice inspection requirement for reactor vessel closure head cladding.

Date of issuance: November 21, 1986.

Effective date: November 21, 1986.

Amendment Nos.: 110 and 110.

Facility Operating License Nos. DPR-32 and DPR-37. Amendments revised the Technical Specifications.

Date of initial notice in Federal

Register: August 23, 1983 (48 FR 36428)

and October 23, 1985 (50 FR 43036).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 21, 1986.

No significant hazards consideration comments received: No.

Local Public Room location: Swem

Library, College of William and Mary, Williamsburg, Virginia 23185.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has

determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see: (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By January 2, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may

be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: October 27, 1986, as supplemented November 13, 1986.

Brief description of amendments: The amendments modify the Technical Specifications to increase the speed of the Auxiliary Feedwater pump turbine from 3600 rpm to up to and including 3800 rpm. The amendments also provide an additional 72 hours for both units, on a one-time basis, to remain in Mode 3.

Date of Issuance: November 20, 1986.

Effective Date: November 13, 1986.

Amendment Nos. 20 and 10.

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation is contained in a Safety Evaluation dated November 20, 1986.

Attorney for licensees: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

Local Public Document Room

Location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: October 20, 1986.

Brief description of amendments: The amendments revise Technical Specification 4.8.1.c.1 which requires that each diesel generator be subjected to an inspection in accordance with manufacturer's recommendations at least once each eighteen months. The amendments result in a one time deferral of the inspection of both diesel generators until the next Unit 3 refueling outage which is currently scheduled to begin in March 1987. The inspections will then be performed during each succeeding Unit 3 refueling outage. By initially deferring these inspections, they would be performed with only one unit at power as would normally be the case during a refueling outage.

Date of issuance: November 10, 1986.

Effective date: November 10, 1986.

Amendment Nos.: 120 and 114.

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. A short notice requesting public comments by November 10, 1986, was published in the *Federal Register* on October 27, 1986 (51 FR 37992).

Comments received: No.

The Commission's related evaluation of the amendments and final determination of no significant hazards consideration are contained in a Safety Evaluation dated November 10, 1986.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street NW., Washington, DC 20036.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland this 25th day of November, 1986.

For the Nuclear Regulatory Commission.

Thomas M. Novak,

Acting Director, Division of PWR Licensing-A.

[FR Doc. 86-27803 Filed 12-2-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-321 and 50-366]

Georgia Power Co., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.48(c) and Appendix R to 10 CFR 50 to the Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and the City of Dalton, Georgia (the licensees), for the Edwin I. Hatch Nuclear Plant, Units 1 and 2 located in Appling County, Georgia.

Environmental Assessment

Identification of the Proposed Action: The licensee would be exempted from the requirements of section III.G.1. of Appendix R to 10 CFR 50 to the extent that repairs would be permitted to maintain hot shutdown for a fire in the Unit 1 and Unit 2 control room area.

The licensee would be exempted from the requirements of section III.G.2. of Appendix R to 10 CFR 50 as follows:

(1) To the extent that certain components within the suppression system/water curtain boundary within the following areas would not be required to be wrapped:

Unit 1 Reactor Building North of Column Line R7

Unit 1 Reactor Building South of Column Line R7

Unit 2 Reactor Building North of Column Line R19

Unit 2 Reactor Building South of Column Line R19

(2) To the extent that barriers would not be required between redundant pathways in the following areas so that a fire in these areas will not lead to loss of control of the high pressure coolant injection (HPCI) system:

Unit 1 Reactor Building North of Column Line R7

Unit 2 Reactor Building South of Column Line R19

(3) To the extent that a 20-foot separation distance would not be required between redundant cables in the Intake Structure, outside of the automatic suppression areas.

The licensee would be exempted from the requirements of section III.J. of Appendix R to 10 CFR 50 to the extent that 8-hour battery powered emergency lighting would not be required in the control room and in the yard.

The licensee would be exempted from the scheduler requirements of 10 CFR 50.48 and Appendix R to 10 CFR 50 to the extent that installation of new

circuit breakers and fuses identified as necessary to ensure electrically coordinated circuits would not be required to be completed in Units 1 and 2 prior to the licensee's current implementation schedule November 30, 1986 but instead would be required to be completed by the end of the next scheduled refueling outage for each of these Units commencing after November 30, 1986.

As an interim compensatory measure, until these circuit breakers and fuses are installed, the licensee is required to provide procedures that direct the operator to reestablish power to the Appendix R components that are tripped as a result of the fire.

The exemption is responsive to the licensee's application for exemption dated May 16, 1986 as supplemented by letters dated July 22, September 23, October 31, November 14, and November 21, 1986.

The Need for the Proposed Action: The exemption to section III.G.1. to allow repairs to be made in order to maintain hot shutdown of the reactor is needed to allow greater flexibility and ensure reliable, long-term maintainability of hot shutdown conditions.

The exemption to section III.G.2. to allow certain components within suppression system/water curtain boundary to not be wrapped is necessary because enclosure of these components would jeopardize their operability and would therefore be detrimental to overall plant safety. Since the existing separation distances and barriers provides adequate protection to assure that the complete pathway is available to secure the HPCI system, the exemption to section III.G.2. to eliminate the requirement that barriers be provided between redundant pathways to prevent the loss of control of the HPCI system in the event of a fire in specified areas is needed to avoid unnecessary modifications and their associated costs.

The Commission issued an exemption to the requirements of 10 CFR 50.48 dated May 14, 1985 extending the deadline for completion of fire protection modifications requiring plant shutdown until November 30, 1986 for both Hatch Units. The licensee has been unable to procure a few of the components required to complete these modifications by November 30, 1986, specifically the new circuit breakers and fuses identified as necessary to ensure required electrically coordinated circuits. In order to avoid shutting down the two Units until the parts are available or shutting down the two Units specifically for the purpose of

installing these breakers and fuses the licensee needs an exemption to allow it to extend the installation completion schedule for these specific components until the end of the next scheduled refueling outage commencing after November 30, 1986 for each Unit.

Environmental Impact of the proposed Action: The proposed action with respect to the exemptions from Sections III.G. and III.J. would not impact the ability to effect safe shutdown of the plant in the event of a fire and would provide an acceptable level of safety, equivalent to that attained by compliance with these sections of Appendix R to 10 CFR 50. By using reasonable interim compensatory measures, the proposed exemption to the scheduled requirements of 10 CFR 50.48 will provide a degree of fire protection such that there is no significant increase in the risk of fire at this facility.

The probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources: This action does not involve the use of resources not considered previously in connection with the Final Environmental Statements (FES) relating to this facility, *FES for Hatch Units 1 and 2*, USAEC (October 1972) and *FES for Hatch Unit 2*, NUREG-0417 (March 1978).

Agencies and Persons Consulted: The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated May 16, 1986 as supplemented by letters dated September 23, October 31, November 14, and November 21, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Applying County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Maryland, this 28th day of November, 1986.

For the Nuclear Regulatory Commission,
George W. Rivenbark,

*Acting Director, Project Directorate #2,
Division of BWR Licensing.*

[FR Doc. 86-27197 Filed 12-2-86; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Revision 1 to Regulatory Guide 3.52, "Standard Format and Content for the Health and Safety Sections of License Renewal Applications for Uranium Processing and Fuel Fabrication," has been developed to provide more specific guidance for preparing the health and safety sections of license renewal applications.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing

Office, Post Office Box 37082, Washington, DC 20013-7082, telephone (202) 275-2060 or (202) 275-2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 26th day of November 1986.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 86-27194 Filed 12-2-86; 8:45 am]

BILLING CODE 7590-01-M

Standard Review Plan; Availability

The Nuclear Regulatory Commission (NRC) is issuing for public comment a revision to Branch Technical Position MEB 3-1 of Standard Review Plan section 3.6.2 in NUREG-0800. The revision would change requirements relating to postulated arbitrary intermediate pipe ruptures in Class 1, 2 and 3 piping as specified in B.1.c.(1)(d) and B.1.c.(2)(b)(ii) of Branch Technical Position MEB 3-1. Other postulated intermediate pipe ruptures and terminal end ruptures would not be affected in the proposed revision. Dynamic effects (missile generation, pipe whipping, pipe break reaction forces, jet impingement forces and decompression waves within the ruptured pipe), and environmental effects (pressure, temperature, humidity and flooding) resulting from arbitrary intermediate pipe ruptures would be eliminated from the design basis under the proposed revision. The NRC staff and the NRC Committee to Review Generic Requirements recommended that in addition, compartment, subcompartment and cavity differential pressurizations associated with arbitrary intermediate pipe ruptures should also be eliminated from the design basis. The NRC Advisory Committee on Reactor Safeguards (ACRS), however, has recommended that these compartment, subcompartment and cavity differential pressurizations should be retained in the design basis even when other effects of arbitrary intermediate pipe rupture are eliminated. While this latter recommendation is still being deliberated within the NRC, the position stated in the proposed revision allows the elimination of differential pressurization due to arbitrary intermediate pipe ruptures. This decision is based on a number of

considerations; specifically, (1) differential pressurizations due to terminal end breaks, due to intermediate breaks at high stress and high usage factor locations and due to leakage cracks are still required, (2) double-ended pipe ruptures are rare events, double-ended pipe ruptures at intermediate locations are very rare events (only about 10% of all pipe failures occur at intermediate locations), and double-ended pipe ruptures at selected arbitrary (low stress) intermediate locations are extremely rare events.

A regulatory analysis prepared by Lawrence Livermore National Laboratory has indicated that cost savings of \$41 million and averted occupational radiation exposures of 17,000 man-rem could result from the proposed revision without any significant increase in public risk. The regulatory analysis did not identify differential pressurization as an important contributor to the values and impacts associated with the elimination of arbitrary intermediate pipe ruptures from the design basis, but instead focused on the removal of pipe whip restraints and jet impingement barriers.

Arbitrary intermediate pipe ruptures were originally postulated more than fifteen years ago to provide greater assurance that conservatism is maintained, particularly with respect to consequences on equipment. The U.S. Nuclear Regulatory Commission Piping Review Committee in NUREG-1061, Volume 5 dated April 1985, recommended that arbitrary intermediate pipe ruptures should be deleted from the design basis because they complicate pipe system design, increase costs of design, degrade the effectiveness of inservice inspection, increase heat losses from piping and could cause unanticipated thermal expansion stress (with associated crack growth).

Under the proposed revision, licensees of operating plants desiring to eliminate effects of arbitrary intermediate pipe ruptures may do so without prior Commission approval unless such changes conflict with the license or technical specifications. Approximately fifteen utilities have already taken advantage of this relaxation since 1984.

Public comment is solicited on this proposed revision, particularly with regard to the differential pressurization issue described above. Comment letters should be sent to: Michael Lesar, Acting Chief, Rules and Procedures Branch, Division of Rules and Records, U.S. Nuclear Regulatory Commission, Room

4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland, 20014. Comment period expires January 20, 1987. Comments received after this date will be considered if it is practical to do so, but assurance of consideration can only be given to comments received on or before this date.

The proposed revision to Branch Technical Position MEB 3-1 of Standard Review Plan section 3.6.2 and the Regulatory Analysis pertaining to this revision are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Dated at Rockville, Maryland this 25th day of November 1986.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 86-27195 Filed 12-2-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-417]

Mississippi Power & Light Co. et al; Transfer of Control of Construction Permit for Grand Gulf Nuclear Station, Unit 2

Notice is hereby given that the United States Nuclear Regulatory Commission (Commission) is considering approval under 10 CFR 50.80 of the transfer of control of the Grand Gulf Nuclear Station Unit 2 construction permit from Mississippi Power and Light Company (MP&L) to a nuclear generating company, System Energy Resources, Inc. (SERI) formerly named Middle South Energy, Inc. (MSE). Ownership of the Grand Gulf Nuclear Station, Unit 2 will be unchanged, being 90% owned by MSE (now SERI) and 10% owned by the South Mississippi Electric Power Association (SMEPA). MP&L and MSE (now SERI) are subsidiaries of Middle South Utilities, Inc. and SMEPA is an association of rural electric cooperatives. By letter dated September 2, 1986, as amended by letters dated October 4, 13 and 24, 1986, the joint licensees informed the Commission that on July 22, 1986 the Board of Directors of Middle South Utilities had taken action to rename MSE as SERI and to authorize transferring to SERI all responsibilities for the operation of Unit 1 and the construction of Unit 2. Notice of Consideration of Issuance of Amendment to Facility Operating licenses, containing notice of the proposed transfer of license for Grand Gulf Nuclear Station Unit 1 was

published in the **Federal Register** on November 3, 1986 (51 FR 39927).

The licensees propose that the application be considered in two parts. The first part will deal with a technical amendment which reflects transfer of control and operational responsibilities from MP&L to SERI. The second part will deal with consideration of the antitrust conditions presently embodied in the construction permit. Accordingly, the Commission proposes to proceed with approval of transfer of control to SERI but to continue to hold MP&L and SERI to the terms of the existing antitrust conditions pending completion of review of the antitrust considerations of this transfer and related amendment.

Pursuant to 10 CFR 50.80 the Commission may approve the transfer of control of a license, after notice to interested persons, upon the Commission's determination that the holder of the license following the transfer of control is qualified to have the control of the license and the transfer of control is otherwise consistent with applicable law, regulations and orders of the Commission.

For further details with respect to the subject transfer, see the letters from MP&L of September 2, and October 4, 13 and 24, 1986, which are available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Hinds Jr. College, McLendon Library, Raymond, Mississippi 39154.

Dated at Bethesda, Maryland this 25th day of November, 1986.

Walter R. Butler,

Director, BWR Project Directorate No. 4
Division of BWR Licensing.

[FR Doc. 86-27196 Filed 12-2-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-15428; 812-6462]

The Advantage Government Securities Fund; Application

November 21, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

Applicants: The Advantage Government Securities Fund, The Advantage Income Fund, The Advantage Growth Fund, and The Advantage Special Fund.

Relevant Sections of Act: Exemption requested under section 6(c) of the Act from the provisions of section 22(d) of the Act and Rule 22d-1 thereunder.

Summary of Application: Applicants seek to amend a prior order to permit them to implement a redemption/deposit privilege.

Filing Date: August 20, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, an order disposing of the application will be issued. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC no later than 5:30 p.m., on December 15, 1986. Requests must be in writing, setting forth the nature of your interest, the reasons for the request, and the issues contested. Applicants should be served with a copy of the request, either personally or by mail, and the request should also be sent to the Secretary of the SEC, along with proof of service (by affidavit or, in the case of an attorney-at-law, by certificate). Notification of the date of a hearing should be requested by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549; Applicants, 60 State Street, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: George Martinez, Attorney (202) 272-3024 or H.R. Hallock, Jr., Special Counsel (202) 272-3030, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations

Applicants, all Massachusetts business trusts, are registered under the Act as open-end diversified management investment companies. Applicants' investment adviser is Boston Security Counsellors, Inc. ("Counsellors") and their distributor is Advest, Inc. ("Advest"). Advest Bank ("Bank") is a Connecticut-chartered savings bank organized in May 1984 whose deposit accounts are insured by the Federal Deposit Insurance Corporation. Counsellors, Advest and Bank are wholly owned subsidiaries of The Advest Group, Inc., a publicly owned holding company, the subsidiaries of which offer diverse financial services.

On January 30, 1986, an order was issued (Investment Company Act Release No. 14927) ("Prior Order"): (i) Pursuant to section 6(c) of the Act, exempting Applicants from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rules 22c-1 and 22d-1 thereunder to permit Applicants to impose a contingent deferred sales charge ("CDSL") on certain redemptions of their shares and to waive or credit such CDSL in certain instances; and (ii) pursuant to section 11(a) of the Act, permitting certain offers of exchange. Applicants now seek an order amending the Prior Order to the extent necessary to permit Applicants to institute a redemption/deposit privilege with the Bank.

Applicants propose to establish a master custodial account ("Master Account") at the Bank through their custodian and transfer agent, State Street Bank and Trust Company ("State Street"), specifically to receive deposits of the redemption proceeds of Applicants' shares pursuant to the redemption/deposit privilege. In conjunction with the use of the redemption/deposit privilege, State Street will open a sub-account ("Sub-Account") of the Master Account with respect to any shareholder exercising the privilege. This structure is required to enable State Street to continue to track the holding period of Applicants' shares (or, upon exercise of the privilege, the proceeds of redemption thereof) for purposes of calculating and assessing any future CDSL. Shareholders may redeem their shares without paying a CDSL and deposit the entire proceeds in such Sub-Account. Balances in the Sub-account will consist solely of the proceeds of redemptions of Applicants' shares, pursuant to the exercise of the redemption/deposit privilege, and interest paid on such balances. These balances will earn interest at a rate competitive with other banks. A \$10 service fee will be imposed, payable to State Street, upon exercise of the redemption/deposit privilege.

Sub-Account balances may be withdrawn at any time; however, if a shareholder withdraws moneys without reinvesting in applicants' shares, then the shareholder may not subsequently redeposit such money in the Sub-Account. When shares of an Applicant are redeemed in connection with the redemption/deposit privilege, the date of purchase of such shares will continue to apply for purposes of assessing any future CDSL. Thus, amounts withdrawn from the Sub-Account, but not used to purchase shares of an Applicant, will be

subject to the CDSL imposed by Applicants, pursuant to the Prior Order, to the same extent that such CDSL would have applied, at the time of the withdrawal, of the shares redeemed to make such deposit. If, however, a shareholder upon withdrawal purchases shares of an Applicant with amounts continuously on deposit in the Sub-Account (including interest earned on such balances), then, for purposes of assessing any CDSL in the future, such shares will be deemed to have been purchased on the date that the shares redeemed, upon exercise of the redemption/deposit privilege, were originally purchased.

Applicants recognize that waiving the CDSL in connection with the redemption/deposit privilege could be viewed as causing Applicants' shares to be sold at other than a uniform offering price. Applicants therefore intend to meet all of the conditions set out in Rule 22d-1 under the Act when providing for waivers of the CDSLs in such instances. Applicants note, however, that the relief afforded by Rule 22d-1 under the Act does not appear to be available with respect to CDSLs. Thus, Applicants seek an exemption from the provisions of section 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit waivers of the CDSL in connection with the redemption/deposit privilege.

Applicants believe that their proposal is fair and in the best interests of investors and is fully consistent with the exemption standards of section 6(c) of the Act. Applicants assert that the requested exemption is consistent with the policies underlying section 22(d) of the Act, and that the waiver of the CDSL will not harm Applicants or their shareholders nor unfairly discriminate among shareholders or investors. Applicants contend that waiver of the CDSL in connection with the redemption/deposit privilege will give shareholders who wish to change the nature of their investment the opportunity to transfer amounts invested in Applicants' shares to an interest-bearing deposit account without paying a CDSL.

Accordingly, Applicants believe that the redemption/deposit privilege will encourage shareholders to view their shares as long-term investments. Applicants maintain that the redemption/deposit privilege will not discriminate among their shareholders since the privilege will be available to all present and future shareholders on precisely the same basis. Applicants submit that the \$10 service fee is being imposed solely to defray the

administrative expenses incurred in offering the redemption/deposit privilege. Finally, Applicants assert that the interest rate paid on its special money market deposit accounts has been and will continue to be competitive with interest paid on similar deposit accounts at other state-chartered banks, and represent that Bank seeks to set interest rates which are competitive with the returns available from such other banks.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc 86-27124 Filed 12-2-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15429; 812-6325]

Forum Group, Inc.; Application

November 21, 1986.

Notice is hereby given that Forum Group, Inc. ("Applicant"), an Indiana corporation, 8900 Keystone Crossing, Suite 1200, Post Office Box 40498 Indianapolis, Indiana 46240-0498 (the "Applicant"), filed an application on March 28, 1986, and amendments thereto on August 7, October 3, and November 20, 1986 for an order pursuant to section 3(b)(2) of the Investment Company Act of 1940 (the "Act"), declaring it to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities. Applicant further requests a temporary order pursuant to section 6(c) of the Act exempting Applicant during the period from April 1, 1986, until the Commission shall make a final determination upon the request for exemption made by the application. All interested persons are referred to the application on file with the Commission for a full statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable provisions thereof.

According to the application, the Applicant was incorporated in Kentucky in 1969 and changed its corporate domicile to Indiana in 1981. The Applicant represents that it has, since 1969, been continuously engaged in the business of acquiring, developing, owning, operating and managing retirement living centers, nursing homes, facilities for the developmentally disabled and other long-term healthcare facilities. The Applicant claims that it has never held, nor does it intend to hold, itself out as being engaged in an investment company business.

On March 31, 1985, the Applicant sold substantially all the assets of its acute care division (principally psychiatric and medical-surgical hospitals) (the "Sale"). The Applicant states that the net proceeds of the Sale were approximately \$135 million and were temporarily placed in various short-term investments and marketable securities. As a result of the Sale, Applicant has owned and continues to own "investment securities" having a value exceeding forty percent of the value of its total assets (excluding cash and Government securities). Thus, Applicant admits that it may at least arguably fall within the definition of investment company in section 3(a)(3) of the act. Subsequent to the Sale, Applicant states that it relied on the "transient investment company" exemption provided by Rule 3a-2 under the Act to exempt it from being deemed an investment company under the Act.

For example, Applicant states that, at June 30, 1986, its investments were as follows:

Interest-Bearing Investments.....	\$29,536,847
Marketable Securities	81,348,012
Preferred and Common Stock/ Dividend Funds	42,242,820
Investment Cash Account.....	1,691,748
Total.....	154,820,427

The Applicant states that its total assets on the same date were \$308,729,115; its investment revenues for the three months ended June 30, 1986, were \$4,319,756; and its total revenues for the same period were \$24,951,429. The Applicant states that, consequently, its investment assets exceeded forty percent but less than fifty percent of its total assets, and about seventeen and 31/100 percent of its revenues were derived from such investment assets. Applicant's securities portfolio is managed by a series of professional investment advisers and managers. The Applicant claims that its executive officers spend less than five percent of their time, and its directors spend almost no time, attending to securities investments.

The Applicant represents that, since the consummation of the Sale, it has actively been seeking appropriate opportunities to reinvest the proceeds of the Sale in additional long-term healthcare facilities and business, and that its officers and employees have investigated hundreds of acquisition and development opportunities. The Applicant claims to have effected the reinvestment of a portion of the proceeds of the Sale in additional long-

term healthcare operating assets. However, the Applicant states that it has determined that most of the acquisition and development opportunities investigated would not be a prudent use of corporate funds and, therefore, would not be in the best interests of its shareholders. Furthermore, Applicant states that because of competition in, and the unpredictability of, the market, and of the lead time to bring acquisition and development projects to fruition, Applicant cannot control the time required to identify and consummate long-term healthcare facility and business acquisition and developments. In addition, because of the particular business in which Applicant is engaged and in which it desires to reinvest the proceeds of the sale, it cannot control the time required to reinvest a sufficient amount of those funds in appropriate additional long-term healthcare operating assets to remove itself from the Act.

On August 22, 1986, Application sold \$100,000,000 aggregate principal amount, and on September 18, 1986, Applicant sold an additional \$5,000,000 aggregate principal amount of 6¼% Convertible Subordinated Debentures due August 1, 2011. Approximately \$70,000,000 of the net proceeds of the sale of the debentures were used to repay (i) the outstanding balance of revolving credit loans under a loan agreement with four banks, and (ii) all of Applicant's outstanding commercial paper. Applicant anticipates using the balance of the net proceeds to develop and acquire additional luxury retirement living centers and other long-term healthcare facilities, and to provide working capital. Pending utilization for the foregoing purposes, Applicant will invest the net proceedings in cash items and Government securities.

The Applicant believes that an order pursuant to section 3(b)(2) of the Act is appropriate because it is primarily engaged in the business of acquiring, developing, owning, operating and managing retirement living centers, nursing homes, facilities for the developmentally disabled and other long-term health care facilities. The Applicant asserts that this is demonstrated by its historical operations in such business; its plans to continue such business operations in the future; its public disclosures of its policies; the diligent efforts of its management and employees to identify new long-term healthcare facility and business acquisition and development investment opportunities; the relatively small amount of time spent by its

management on investments compared to the time spent on operations of existing long-term healthcare facilities, and acquisition and development of additional long-term healthcare facilities and businesses; the temporary nature of its securities holdings; and the relatively small percentage of its revenues drawn from such securities holdings.

The Applicant hereby agrees that any order issued by the Commission pursuant to sections 3(b)(2) or 6(c) of the Act may be subject to the following conditions:

- (a) At no time will more than fifty percent of the value [as defined in section 2(a)(41) of the Act] of Applicant's total assets (exclusive of the Government securities and cash items) consist of securities other than:
 - (i) Government securities;
 - (ii) Securities issued by employees' securities companies;
 - (iii) Securities issued by majority-owned subsidiaries of Applicant [other than subsidiaries relying on the exclusion from the definition of investment companies in section 3(b)(3) or section 3(c)(1) of the Act which are not investment companies]; and
 - (iv) Securities issued by companies:
 - (x) Which are controlled primarily by Applicant;
 - (y) Through which Applicant engages in a business other than that of investing, reinvesting, owning, holding or trading in securities; and
 - (z) Which are not investment companies.
- (b) Applicant will not engage in trading in securities for short-term speculative purposes.
- (c) Applicant will continue its intent to become primarily engaged in non-investment company businesses as soon as reasonably possible.

The request for temporary exemptive relief pending a final determination on the application by the Commission has been considered, and it is found that, in view of the circumstances set forth above and in the application, that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act to grant an immediate temporary order as requested by Applicant. Accordingly, It is ordered, pursuant to section 6(c) of the Act, that the application for a temporary order exempting Applicant from all provisions of the Act be, and hereby is, granted, during the period from April 1, 1986 until the Commission shall make a final determination upon request for exemption set forth in the application, subject to the undertakings to which Applicant has consented and which are set forth above in the application.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 12, 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.

Jonathan G. Katz,
Secretary.

[FR Doc. 86-27126 Filed 12-2-86; 8:45 am]
BILLING CODE 8010-01-M

[Release No. IC-15436; (812-6482)]

Meeschaert International Bond Trust; Application for Exemption

November 25, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Meeschaert International Bond Trust ("Applicant").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and Rule 22c-1.

Summary of Application: Applicant seeks an order to permit it to assess a contingent deferred sales charge on redemptions of its shares.

DATE: *Filing Dates:* The application was filed on September 23, 1986, and amended on November 18, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 22, 1986. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate Request

notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 47 Miller Hill Road, Dover, MA 02030.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272-2847 or Brion R. Thompson, Special Counsel (202) 272-3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION:

Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations:

1. Applicant was organized as an unincorporated business trust under the laws of The Commonwealth of Massachusetts, and is registered as an open-end, diversified, management investment company under the 1940 Act.

2. Shares of Applicant are proposed to be distributed by Meeschaert & Co., Inc. ("Distributor"). Applicant's shares will be offered and sold without the deduction of a sales charge at the time of the purchase. However, certain redemptions of shares of Applicant will be subject to a contingent deferred sales charge (the "Charge"). The proceeds of the Charge will be paid to Applicant to defray costs incurred in connection with the sale of Applicant's shares.

3. Applicant proposes to impose the Charge at the time of redemption of those shares which are redeemed within four calendar years after purchase. The Charge will decline from 4% to 1% depending upon the length of time the shares have been held. In no event could the amount of the Charge, in the aggregate, ever exceed 4% of the lesser of (A) the net asset value of the shares redeemed or (B) the total cost of such shares. The Charge will be imposed as a declining percentage of the lesser of (A) the net asset value of the shares being redeemed, or (B) the total cost of such shares.

4. No Charge will be imposed when a shareholder redeems amounts derived from (A) shares acquired through reinvestment or dividend income and capital gains distributions, or (B) shares which have been held for more than four calendar years.

5. The amount of the Charge, if any, will be calculated by determining the year during which the purchase payment is the source of the redemption was made, and applying the appropriate percentage to the amount of the redemption subject to the Charge.

Subject to the limitations described above, when the Charge is imposed, the amount of the Charge will be: 4% of amounts redeemed during the same calendar year that the shares were purchased; 3% of amounts redeemed during the first calendar year after the year of purchase; 2% of amounts redeemed during the second calendar year after the year of purchase; and 1% of amounts redeemed during the third calendar year after the year of purchase. No Charge will be imposed with respect to shares redeemed during the fourth and subsequent calendar years following the year of purchase. In determining whether the Charge is payable and, if so, the percentage applicable, it will be assumed that shares held the longest are the first to be redeemed.

6. Applicant proposes to finance its distribution expenses under a distribution plan adopted under Rule 12b-1 under the 1940 Act (the "Plan"). Under the Plan, Applicant will pay amounts to Distributor or other persons distributing or selling Applicant's shares at any time after the inception of the Plan in order to pay a commission equal to up to 5% of the price paid to Applicant for each share of Applicant previously offered for sale at net asset value and sold at any time after the inception of the Plan, all or any part of which may be or may have been reallocated or otherwise paid to others by Distributor or Applicant in respect of or in furtherance of sales of shares of Applicant after inception of the Plan. All sales of Applicant's shares will be subject to commissions payable pursuant to the Plan. The Trustees of Applicant will consider, among other things, the effect of the Charge in connection with their annual review of the Plan.

7. The exemptions requested are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act because the Charge will enable Applicant's shareholders to have the advantages of greater investment dollars working for them from the time of their purchase of Applicant's shares than would be the case if those shares were sold subject to a traditional front-end sales load. Also, the Charge is fair to Applicant's shareholders because it applies only to redemptions of amounts representing purchase payments for shares and does not apply to either increases in the value of a shareholder's account through capital appreciation or to increases representing reinvestment of dividends and distributions.

For the Commission by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 86-27125 Filed 12-2-86; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 23840; File No. SR-OCC-86-23]

**Self-Regulatory Organization;
Proposed Rule Change by the Options
Clearing Corp.; Relating to Settlements
of Foreign Currency Options**

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on November 18, 1986, The Options Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's
Statement of the Terms of Substance of
the Proposed Rule Change**

The proposed rule change would allow Clearing Members to settle through OCC's Delivery Versus Payment ("DVP") system any or all of their gross foreign currency option exercise and assignment activity as well as any portion of the net obligations remaining after giving effect to such gross DVPs.

**II. Self-Regulatory Organization's
Statement of the Purpose of, and
Statutory Basis for, the Proposed Rule
Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

**A. Self-Regulatory Organization's
Statement of the Purpose of, and
Statutory Basis for, the Proposed Rule
Change**

The purpose of the proposed rule change is to enable customers to receive and deliver currencies at their banks directly from the OCC's agent bank

using OCC's Delivery Versus Payment ("DVP") system for settling exercises and assignments of foreign currency options.

Background

OCC's present foreign currency options settlement system nets each Clearing Member's receive and deliver obligations for each currency on each settlement date down to a single currency receive or deliver and a single U.S. dollar pay or collect. Settlements are accomplished either "regular way," with dollar and currency drafts and credits through OCC, or through the DVP mechanism, which involves contractual commitments directly between OCC's and the Clearing Member's agent bank (see File No. SR-OCC-84-14 for a detailed description of the DVP settlement system). DVPs may be initiated for all or any portion of a Clearing Member's net settlement obligation in any currency; any portion not subject to a DVP is settled "regular way."

Certain institutional participants in the foreign currency markets have expressed a desire for the ability to settle option exercises and assignments by initiating DVP's directly to OCC's agent bank, instead of settling through their brokers. This procedure would eliminate the need for separate customer-side and street-side settlements, while at the same time reducing the customer's dependence on the credit of its broker.¹

There is nothing in OCC's present rules that directly prohibits customer-initiated DVP's. Whether a DVP is initiated by a Clearing Member or by a customer for the Clearing Member's account makes no difference to OCC. In either case, OCC holds margin from the Clearing Member to protect against the risk of nonperformance.

As a practical matter, however, OCC's netting system makes it impossible for customers to be assured in advance of the ability to settle via DVP. To the

extent that a customer's exercise or assignment nets against another exercise or assignment through the same Clearing Member settling on the same day, there will be no currency to deliver or receive, and the DVP procedure will therefore be unavailable. Because most exercises of foreign currency options occur just before the delivery dates for foreign currency futures, the potential for netting is particularly high at those times, and the chances of being able to settle via customer-initiated DVP's are correspondingly reduced.

General Description of the Proposed Rule Change

The proposed rule change would enable Clearing Members to assure customers of the ability to settle via DVP. It would accomplish this by allowing Clearing Members to elect to settle through the DVP system any or all of their gross exercise and assignment activity (including their customers' individual activity), as well as all or any portion of the net obligations remaining after effect to such "gross DVP's." This would be accomplished as follows:

1. By 7:00 A.M. (Central Time) on the business day after exercise (T+1), the Clearing Member will receive an Exercise and Assignment Report detailing gross exercises and assignments by account and showing the projected net obligations both within and across accounts.

2. Until noon, the Clearing Member may submit DVP authorizations, specifying on the form whether a given authorization is to apply to the Clearing Member's gross activity or to the projected net obligation (adjusted by the Clearing Member to reflect any gross DVP's). Any combination of DVPs may be submitted so long as the total currency and dollars deliverable under DVP's against the Clearing Member's adjusted net obligations do not exceed the respective amounts of those net obligations.

3. OCC will process the DVPs received and apply those that have been accepted for the Clearing Member's gross activity against the Clearing Member's non-netted totals. OCC will then net the Clearing Member's remaining obligations (if any), and apply the DVPs accepted for the Clearing Member's net obligations against the net totals. Any obligations remaining will settle "regular way."

4. By 3:00 P.M. (Central Time) on T+1, the Clearing Member will receive an Exercise Settlement Report (replacing the original and updated Exercise Settlement Reports currently provided for in the Rules) reflecting the process

outlined in Step 3 above. Settlement will then proceed as before.

Specific Changes

1. Rules 602A

The exclusion of gross DVP's from OCC's net delivery system also requires their exclusion from OCC's net margin system for exercised and assigned foreign currency options. This can best be illustrated by an example. Assume that currency X has a current market price of \$1.50, and a Clearing Member has exercised a call on that currency with an exercise price of \$1.25 and has simultaneously been assigned on two calls, each with an exercise price of \$1.00. If the resulting delivery obligations were netted, the Clearing Member's net dollar obligation to OCC on the netted contracts would be \$.25 per unit of underlying currency, which would be settled on T+2 under Rule 1606(b). In addition, the Clearing Member would be required to deposit margin of \$.50 (plus the applicable margin interval) on the non-netted short position.

If instead the exercise were to be settled via DVP, and the Clearing Member became insolvent after its bank and OCC's agent bank had independently committed themselves to make settlement, OCC's aggregate exposure on the two assigned short positions would be \$1.00 per unit of underlying currency (2 times \$.50), which would not be covered by the margin of \$.50 (plus the margin interval) that would have been required had delivery obligations been netted. The proposed amendment to Rule 602A would exclude from OCC's net margin system exercises and assignments that are to be settled through gross DVP's, and would instead margin those exercises and assignments separately. (An exercise would of course require margin only if it fell out-of-the-money before the settlement date.)

2. Rule 1107

The proposed rule changes in Rule 1107 are of a technical and clarifying nature. The proposed amendment to Rule 1107(a) would make it clear that where a bank has independently committed itself under a DVP authorization to effect settlement for the account of a Clearing Member, and the Clearing Member is subsequently suspended, the settlement will be allowed to proceed in the ordinary course. (If the bank defaulted on its obligation, OCC would have the authority to "stipulate otherwise" and execute or direct a buy-in or a sell-out, the cost of which would be covered by the margin held by OCC.)

¹ Institutional positions in foreign currency options may involve very large underlying amounts (i.e., exercise settlement amounts and amounts of underlying currencies) relative to the market values of the options themselves. Effective exercise settlements through brokers may expose these amounts to risk in the event of the broker's insolvency. If an institution could instead effect settlement directly with OCC's agent bank, that risk would be substantially reduced. (The risk would not be entirely eliminated, because OCC's obligation as issuer runs only to its Clearing Members. If OCC's agent bank were to default on a customer-initiated DVP settlement, only the customer's Clearing Member could demand performance from OCC, and to that extent the customer would again be relying on its broker. However, the risk that OCC's agent bank would default on its DVP commitment to the customer's bank is relatively small.)

The proposed amendment to Rule 1107(d) would revise a cross-reference to reflect the changes proposed to be made in Rule 1605. The proposed amendment to Rule 1107(e) would delete the first sentence, which is unduly narrow in that it fails to cover the possibility that OCC might itself sell out currency deliverable to a Receiving Clearing Member (cf. Rule 1609(b)), rather than directing a sell-out by a Clearing Member. The language of the remainder of the subsection would be broadened to cover buy-ins and sell-outs by OCC as well as by Clearing Members.

3. Rule 1602

The proposed changes in Rules 1602 would delete present subsection (b), the subject matter of which is covered in amended Rule 1605, and would conform subsection (a) to reflect the revised report nomenclature used in amended Rule 1605.

4. Rule 1603

The proposed amendment to Rule 1603(b) is a technical change, reflecting the previous adoption of Rule 602A and the revised terminology used in that Rule (i.e., "marking price" instead of "daily underlying security marking price").

5. Rule 1605

The proposed changes in Rule 1605 would revise the provisions of that Rule to reflect the revised procedures on T+1 described above. As a byproduct of the new procedures, a Clearing Member would know by 3:00 P.M. on T+1 whether OCC had rejected any DVP authorizations, as well as the effect of any such rejections on its settlement obligations, rather than having to wait for the updated Exercise Settlement Report that OCC currently delivers on T+2. In addition, the amendments to Rule 1605 would integrate the provisions of that Rule with Rule 1606A, replacing the present scheme under which Rule 1606A simply overrides contrary provisions in Rule 1605.

6. Rule 1606

The proposed changes in Rule 1606 would conform the provisions of that Rule to Rules 1605 and 1606A, as proposed to be amended.

7. Rule 1606A

The proposed changes in Rule 1606A would amend that Rule to reflect the revised settlement procedures described above. In addition, the proposed rule change would delete present Rule 1606A(c), which requires that dollars delivered or received via DVP must equal the net exercise price payable or receivable against the net quantity of foreign currency covered by the DVP. Because of Clearing Members' arrangements with banks that finance

their trading activities, they may on occasion find it necessary or desirable to receive via DVP, against delivery of a given quantity of foreign currency, a greater or lesser amount of dollars than the exercise price of an exercised or assigned option on that currency. Because OCC margins Clearing Members' net settlement obligations without regard to the mode of settlement—i.e., whether settlement will be effected "regular way" or via DVP—the amount of dollars being sent or received via net DVP does not affect OCC's margin requirements, and the restriction presently contained in Rule 1606A(c) serves no purpose as applied to net DVP's. However, the restriction would effectively remain with respect to gross DVP's, because those would by definition relate only to individual exercises and assignments (or combinations thereof), rather than to net settlement obligations.

* * * * *

The proposed rule change is consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended (the "Act"), because it would promote prompt and accurate customer-side settlement of foreign currency option exercises and foster cooperation and coordination with institutions that regularly engage in such settlements. Although the proposed rule change may have the effect of increasing the number of deliveries necessary to satisfy street-side settlement requirements, it would correspondingly reduce the number of separate customer-side settlements, as well as the perceived risk associated with such settlements.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the filing will have any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited by OCC with respect to the filing, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-

regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 24, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 24, 1986.

Jonathan G. Katz,
Secretary.

[FR Doc. 86-27122 Filed 12-2-86; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by 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 and Information Services, 450 Fifth Street, NW., Washington, DC 20549.

Extension

Rule 1(c) [17 CFR 250.1(c)], Form U5S [17 CFR 259.5s]

[File No. 270-166]

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 extension of OMB approval Rule 1(c) under the Public Utility Holding Company Act of 1935, and related form U5S, annual report.

Comments should be submitted to OMB Desk Officer: Sheri Fox, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503.

Jonathan G. Katz,
Secretary.

November 24, 1986.

[FR Doc. 86-27128 Filed 12-2-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23848; File No. SR-Amex-86-25]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change

The American Stock Exchange, Inc. ("Amex") submitted on September 24, 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 impose a \$500 processing fee payable by individuals applying for regular, options principal or associate membership, trading permit privileges and approval as authorized representatives.²

In its filing, the Amex indicates that the \$500 fee would allow it to recoup a portion of the costs it incurs in processing such applications. Under the proposal, an applicant that has previously been processed, approved, and is active in one of the listed categories during the preceding twelve months would not be required to pay another processing fee because the existing application would only need to be updated.

Notice of the proposal together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 23684, October 6, 1986) and by publication in the *Federal Register* (51 FR 36620, October 14, 1986). No comments were received regarding the proposal.

Section 6(b)(4) of the Act requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities. The Commission believes that it is reasonable for the Amex to impose a \$500 processing fee to recoup a portion of its administrative

costs incurred when it processes new applications for regular, options principal, or associate membership, trading permit privileges for approval as authorized representatives.³

Accordingly, 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 above-mentioned proposed rule change be, and is, hereby approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.⁴

Dated: November 25, 1986.

Jonathan G. Katz,
Secretary.

[FR Doc. 86-27130 Filed 12-2-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23839; File No. SR-Amex-86-22]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc., Relating to Amex Rule 114

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 24, 1986, the American Stock Exchange, Inc. ("Exchange" or "Amex") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. has amended Exchange Rule 114 to eliminate the stabilization requirement on liquidations applicable to Registered Equity Market Makers.

The text of the proposed rule change is available at the Office of the Secretary, American Stock Exchange, Inc., and at the Commission.

³ The National Association of Securities Dealers ("NASD") assesses a similar \$500 processing fee for each application for membership to the NASD. See Schedule A section 2(h) NASD By-Laws.

⁴ 17 CFR 200.30-3.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed rule change is to eliminate the stabilization requirement on liquidating transactions applicable to Registered Equity Market Makers ("REMMs") under Exchange Rule 114. Under the Rule, which exempt REMM transactions from the proprietary trading prohibition of section 11(a) of the Securities Exchange Act of 1934, REMMs are permitted to effect on-floor trades for their own accounts subject to a number of affirmative and negative market making obligations. In addition to these restrictions and obligations, a REMM is required to meet specified stabilization tests when he establishes and liquidates positions. Currently, 75% of acquisitions and liquidations must be stabilizing,¹ except that liquidations effected at a loss are not included in computing the stabilizing percentage.

The REMM trading program has attracted little interest from the Exchange membership, apparently because the aggregate burden of the restrictions on on-floor proprietary trading activity is far more weighty than the benefit of being able to trade listed stocks free of section 11(a)'s restrictions. The Exchange believes that one modification in the restrictions in particular would make the program significantly more attractive without impinging on the aspects of the program on which the exemption from section 11(a) is based. Specifically, it is proposed that the 75% stabilization requirement on liquidations imposed by Rule 114 be eliminated. Because of the current

¹ A transaction is considered to be stabilizing if it is a purchase at a price which is lower than the last preceding different price or a sale at a price which is higher than the last preceding different price.

¹ 15 U.S.C. 78s(b)(1).

² The fee would also apply to the processing of applications for memberships or permits which are held subject to special transfer agreements

restriction, a REMM may be unable at time to liquidate his positions. Rather than being put in an unfavorable situation, a REMM may not establish positions in the first place.

In the Exchange's view, the requirement, to which Registered Options Traders and Exchange specialists are not subject, does not serve any material regulatory purpose.² Further, the Exchange believes that its elimination would attract more market makers to the floor. An increase in on-floor equity trading would in turn create a more competitive trading environment, and thus generally enhance the Exchange's equity markets.

(2) Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange also believes that the proposed rule change furthers the purposes of section 11A(a)(1)(C)(ii) of the Act in that it will stimulate fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets. Further, it will result in no material diminution of REMM obligations on which the exemption from section 11(a)—SEC Rule 11a1-5—is based.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to

90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the Amex. All submissions should refer to the file number in the caption above and should be submitted by December 24, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 24, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-27131 Filed 12-2-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23837; File No. SR-PSE-86-23]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange Inc. Relating to the Establishment of a Rule Allowing for the Utilization of the SCOREX System for the Transmittal (Routing Only) of Market and Limit Orders in Local Issues Traded on the Pacific Stock Exchange Equity Trading Floors

Pursuant to section 19(b)(1), of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. Section 78s(b)(1), notice is hereby given that on October 14, 1986, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the

Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange, Inc., is proposing to amend its rules relating to the SCOREX automatic execution system¹ for the purpose of allowing market and limit orders in exclusive securities, *i.e.*, locally issued stocks, to be transmitted to the PSE specialist for execution. This would be for routing purposes only and would not involve the automatic execution which is a usual feature of SCOREX. It would also be limited to market and limit orders in an amount to be determined and established by the Board of Governors. After six (6) months it will be analyzed and reviewed to measure the effectiveness of this amendment.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

Since its implementation as an automatic execution system, SCOREX has been utilized and limited to dually traded issues which are either ITS eligible or are non-ITS securities which have been selected by a PSE Exchange Specialist. Under its terms SCOREX was not eligible for local issues.

Under the proposed rule amendment the PSE is seeking to allow the routing facilities of SCOREX to be utilized for the transmittal of market and limit

² Substantial stabilizing obligations would remain in place for REMMs, however, as well as an overall obligation to the market. REMMs would still not be permitted to sell at a profit more than 50% of the stock bid for in the market on a "zero minus" tick at the bid, to buy more than 50% of the stock offered on a "zero plus" tick at the offer at or below the previous day's closing price, nor to purchase more than 50% of the stock offered on a "zero plus" tick at the offer to cover a short position.

¹ See PSE Rule III, section 12(a). SCOREX is a communication, order routing, and execution system for securities that is made available to PSE members. SCOREX allows for automatic execution on the PSE equity floor of specifically described orders meeting certain conditions. *Id.*

orders, in an amount of shares to be determined and established by the Board of Governors, in locally traded issues. The automatic execution aspects of SCOREX would not be utilized for these orders. After six months the amendment to the system will be evaluated and analyzed to measure its effectiveness.

The intention of this proposal is to further the development of markets in these locally traded issues, and thereby comply with the requirements of section 6(b)(5) and section 11(b) of the Securities Exchange Act of 1934 by facilitating transaction in securities, helping to provide a fair and orderly market and perfect a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the *Federal Register* or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in

accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth St., NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 25, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 21, 1986.

Jonathan G. Katz,
Secretary.

[FR Doc. 86-27129 Filed 12-2-86; 8:45 am]
BILLING CODE 8010-01-M

[File No. 81-743]

Application and Opportunity for Hearing; Home Savings of America, F.A.

November 26, 1986.

Notice is hereby given that Home Savings of America, F.A. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from certain reporting requirements under section 13 and the operation of section 16 of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person not later than December 22, 1986, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the

application may be issued upon request or upon the Commission's motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 86-27190 Filed 12-2-86; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recording requirements to OMB for review and approval, and to publish a notice in the *Federal Register* notifying the public that the agency has made such a submission.

DATE: Comments should be submitted within 21 days of this publication in the *Federal Register*. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:
Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653-6623

OMB Reviewer: Patricia Aronsson, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC, 20503, Telephone: (202) 395-7231

Title: SEDC Onsite Review and Recordkeeping Requirements Form nos. SBA 1496

Frequency: Biennially

Description of Respondents: The collection of this information involves small businesses or other small entities to a limited degree. During the course of the information collection, five to ten small business people will be interviewed by review team members regarding services received from an individual SBDC.

Annual Responses 50

Annual Burden Hours 14,350

Type of Request: Extension

Elizabeth M. Zaic,

Deputy Director, Office of Administrative Services, Small Business Administration.

[FR Doc. 86-27135 Filed 12-2-86; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #6473]

Declaration of Disaster Loan Area; Arkansas

Logan and Sebastian Counties in the State of Arkansas constitute a disaster area because of flooding of the Arkansas River which began on or about September 29 and ended on or about October 25, 1986. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on August 25, 1987, at the address listed below: Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051, or other locally announced locations. The interest rate for eligible small business concerns without credit available elsewhere is 4 percent and 9.5 percent for eligible small agricultural cooperatives without credit available elsewhere.

(Catalog of Federal Domestic Assistance Programs No. 59002)

Dated: November 25, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86-27136 Filed 12-2-86; 8:45 am]

BILLING CODE 8025-01-M

SUSQUEHANNA RIVER BASIN COMMISSION

Adoption of the Revised Comprehensive Plan; Public Hearing

The Susquehanna River Basin Commission (SRBC) will hold a series of public hearings to receive comments from citizens, government agencies and others on the adoption of the revised Comprehensive Plan for the Management & Development of the Water Resources of the Susquehanna River Basin. The first of these hearings has been scheduled for January 7, 1987 at the Holiday Inn-Chesapeake House (5-Story White Building), I-95 Exit 5 & Rt. 22 JFK Hwy., 1007 Beards Hill Rd., Aberdeen, Maryland at 7:30 p.m. The dates, places and times of subsequent hearings will be forthcoming as arrangements are completed.

The Susquehanna River Basin Compact, Pub. L. 91-575, 84 Stat. 1509 et seq., requires the Commission to maintain a Comprehensive Plan for the immediate and long-range use, management and development of the water and related resources of the basin. Initially adopted in December 1973, the Plan provides a basinwide strategy to guide the Commission and others in the management, use and conservation of the basin's resources. The Plan is also used to evaluate proposed water resource developments that the Commission must, by law, approve. Signatory agencies must exercise their powers in a manner that does not substantially conflict with the Comprehensive Plan.

In the thirteen years since it was originally adopted, the Comprehensive Plan has been amended numerous times by the addition of new projects, goals, objectives and guidelines. These amendments, coupled with evolving concepts in the field of water resources management and changing conditions, led the Commission to authorize the publication of a new Plan document consolidating all previous amendments and, where necessary, updating existing goals, objectives, guidelines and background information. A first draft of this document was produced by staff in July 1986 and reviewed by the Commission and signatory agencies. Signatory comments were incorporated in a second draft which was approved by the Commission for public hearing on November 13, 1986.

The January 7, 1987 hearing will be informal in nature. Interested parties are invited to attend the hearing and to participate by making oral or written statements presenting their data, views and comments on the proposed adoption of the revised Plan. Those wishing to personally appear to present their views are urged to notify the Commission in advance that they desire to do so. However, any person who wishes will be given an opportunity to be heard whether or not they have given such notice. After the hearing the Commission will evaluate all relevant material. Following the completion of all revised Plan hearings the Commission will decide whether to adopt as proposed, modify or not adopt the revised Plan.

Copies of the revised Comprehensive Plan and a Brief Summary of Major Revisions can be obtained by contacting the Secretary, Richard A. Cairo, Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, Pa. 17102-2391, (717) 238-0423. The revised Plan

may also be reviewed at the Havre de Grace Branch of the Harford County Library, 408 Pennington Ave., Havre de Grace, Maryland and at the Aberdeen Branch of the Harford County Library, 21 Franklin Street, Aberdeen, Maryland.

Dated: November 24, 1986.

Robert J. Bielo,

Executive Director.

[FR Doc. 86-27104 Filed 12-2-86; 8:45 am]

BILLING CODE 7040-01-M

TENNESSEE VALLEY AUTHORITY

Information Collection Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Information collection under review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2524

Type of Request: Regular submission

Title of Information Collection:

Navigation Resources Information System

Frequency of Use: On occasion

Type of Affected Public: State or local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations.

Small Businesses or Organizations

Affected: Yes

Federal Budget Functional Category

Code: 452

Estimated Number of Annual

Responses: 230

Estimated Total Annual Burden Hours:

173

Need For and Use of Information: This

information collection will update existing information and provide new data on Tennessee River terminal operations and potential terminal sites. The data collected from barge terminal operators and port authorities will be used for program planning, to provide technical assistance, and to develop the navigation resources of the Tennessee River.

Dated: November 21, 1986.

John W. Thompson,

Manager of Corporate Services, Senior Agency Official.

[FR Doc. 86-27107 Filed 12-2-86; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings: Agreements Filed During the Week Ending November 21, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of the date of filing.

Docket No. 44498

Parties: American Airlines, Inc. and AirCal, Inc.

Date Filed: November 17, 1986.

Subject: Application of American Airlines, Inc. pursuant to section 408 of the Act requests expedited approval of the voting trust agreement and of American's purchase of up to 100 percent of the common shares of ACI Holdings, Inc., the parent company of AirCal, Inc., for deposit in the trust.

Docket No. 44506

Parties: Alaska Air Group, Inc., AAG Acquisition Corp., Alaska Airlines, Inc., Jet America Airlines, Inc. and Horizon Air Industries, Inc.

Date Filed: November 20, 1986.

Subject: Application of Alaska Air Group, Inc. and AAG Acquisition Corp., pursuant to section 408 of the Act, requests an exemption or, in the alternative, approval of an acquisition of control of all outstanding common stock of Horizon Air Industries, Inc., owned by its founder and principal shareholder, Mr. Milton Kuolt, and to further provide AAG with an option to purchase up to 2.5 million authorized but unissued shares of Horizon common stock.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-27188 Filed 12-2-86; 8:45 am]

BILLING CODE 4910-62-M

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended November 21, 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. 44499

Date Filed: November 17, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 15, 1986.

Description: Application of Soundair Corporation pursuant to section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit to operate a class 9-2, International, Regular Specific Point, commercial air service, carrying on business under the firm name and style of Commuter Express, to transport persons, goods and mail, between Toronto, Ontario, Canada, and Fort Wayne, Indiana.

Docket No. 44500

Date Filed: November 17, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 15, 1986.

Description: Application of Soundair Corporation pursuant to Section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit to operate a class 9-2, International, Regular Specific Point, commercial air service carrying on business under the firm name and style of Commuter Express, to transport persons, goods and mail, using fixed wing aircraft as certified as capable of carrying no more than 60 passengers and having a maximum payload of no more than 18,000 pounds, between Toronto, Ontario, Canada, and Grand Rapids/Lansing, Michigan.

Docket No. 44502

Date Filed: November 18, 1986.

Due Date for Answers, Conforming Application, or Motions to Modify Scope: December 16, 1986.

Description: Application of Suncoast Airlines, Inc. pursuant to section 401(d)(1) of the Act and Subpart Q of the Regulations, requests the issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled foreign air transportation of persons, property and mail as follows:

(1) Between the United States, on the one hand, and intermediate and/or terminal points in Aruba, Curacao and St. Maarten, The Netherlands Antilles, on the other.

(2) Between the United States, on the one hand, and intermediate and/or terminal points in the Turks and Caicos Islands, on the other.

Docket No. 44505

Date Filed: November 19, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 17, 1986.

Description: Application of Haiti Air Freght International, S.A., pursuant to section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit to engage in scheduled, nonscheduled and charter air transportation of cargo. (United States-Haiti)

Docket No. 44383

Date Filed: November 20, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 18, 1986.

Description: Amended Application of Avair, Inc. to engage in scheduled interstate air transportation, in response to the order deferring processing of application issued by the Department on October 22, 1986.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-27189 Filed 12-2-86; 8:45 am]

BILLING CODE 4910-02-M

Office of the Secretary

Proposed Revocation of the Section 401 Certificate of Atlantic Gulf Airlines, Inc.

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of order to show cause. (Order 86-11-72) Docket 41790.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the certificate of Atlantic Gulf Airlines, Inc., issued under section 401 of the Federal Aviation Act.

DATE: Persons wishing to file objections should do so no later than December 19, 1986.

ADDRESSES: Responses should be filed in Docket 41790 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street, SW., Room 4107, Washington, DC 20590, and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Janet A. Davis, Special Authorities Division, P-47, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 366-2340.

Dated: November 28, 1986.

Vance Fort,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-27139 Filed 12-2-86; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: November 25, 1986.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0092

Form Number: IRS Form 1041 and Schedule K-1

Type of Review: Resubmission

Title: U.S. Fiduciary Income Tax Return-Capital Gains and Losses Trust Allocation of an Accumulation Distribution Beneficiary's Share of Income, Deductions, Credits, Etc.

OMB Number: 1545-0099

Form Number: IRS Form 1065, Schedules D, K and K-1

Type of Review: Resubmission

Title: U.S. Partnership Return on Income, Capital Gains and Losses, Partners' Shares of Income, Credit, Deductions, Etc., Partner's Share of Income, Credits, Deductions, Etc.

OMB Number: 1545-0747

Form Number: IRS Form 5498

Type of Review: Resubmission

Title: Individual Retirement Arrangement Information.

Clearance officer: Garrick Shear, (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Douglas J. Colley,

Departmental Reports, Management Office.

[FR Doc. 86-27145 Filed 12-2-86; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: November, 25, 1986.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under

the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New

Form Number: None

Type of Review: New

Title: Focus Group Interviews Concerning IRS Form W-4.

OMB Number: 1545-0020

Form Number: IRS Form 709

Type of Review: Revision

Title: United States Gift (and Generation-Skipping Transfer) Tax Return.

OMB Number: 1545-0023

Form Number: IRS Form 720

Type of Review: Revision.

Title: Quarterly Federal Excise Tax Return.

OMB Number: 1545-0236

Form Number: IRS Form 11-C

Type of Review: Extension

Title: Special Return and Application for Registry—Wagering.

Clearance Officer: Garrick Shear, (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Douglas J. Colley,

Departmental Reports, Management Office.

[FR Doc. 86-27146 Filed 12-2-86; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register

Vol. 51, No. 232

Wednesday, December 3, 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).

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Tuesday, December 2, 1986.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in Massachusetts Board of Registration in Optometry, Docket No. 9195.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Massachusetts Board of Registration in Optometry, Docket No. 9195.

CONTACT PERSON FOR MORE

INFORMATION: Susan B. Ticknor, Office

of Public Affairs: (202) 326-2179;
Recorded Message: (202) 326-2711.

Emily H. Rock,

Secretary.

[FR Doc. 86-27254 Filed 12-1-86; 2:38 pm]

BILLING CODE 6750-01-M

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 December 1, 1986:

A closed meeting will be held on Tuesday, December 2, 1986, at 2:30 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 exceptions 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 Cox, 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, December 2, 1986, at 2:30 p.m., will be:

- Formal orders of investigation.
- Settlement of injunctive actions.
- Institution of administrative proceedings of an enforcement nature.
- Settlement of administrative proceedings of an enforcement nature.
- Institution of injunctive actions.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kathryn Natale at (202) 272-3195.

Jonathan G. Katz,

Secretary.

November 28, 1986.

[FR Doc. 86-27233 Filed 12-1-86; 12:01 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register

Vol. 51, No. 232

Wednesday, December 3, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency-prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 86-09-NG]

Enron Gas Marketing Inc.; Order Approving Blanket Authorization to Import Natural Gas

Correction

In notice document 86-25697 beginning on page 41404 in the issue of Friday, November 14, 1986, make the following correction:

On the same page, in the third column, the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Support and Maintenance Assistance Based on Need

Correction

In rule document 86-24160 beginning on page 39520 in the issue of Wednesday, October 29, 1986, make the following corrections:

1. On page 39520, in the second column, in the third line "93" should read "98".

2. On page 39521, in the first column, in the first complete paragraph, in the third line from the bottom, insert "assistance" after "maintenance".

3. On the same page, in the same column, in the ninth line from the bottom, the first word "this" should read "the".

4. On the same page, in the third column, under **Regulatory Provisions**, in the seventh line of the first paragraph, "feed" should read "food".

5. On page 39523, in the first column, in the **AUTHORITY**, in the last line, "96" should read "98".

§ 416.1157 [Corrected]

6. On the same page, in the second column, in § 416.1157(b), in the definition for "Support and maintenance assistance"—

a. In the fourth line, "of" should read "or";

b. In the 11th line, "of" should read "for" and

c. In the 15th line, "to" should read "the".

7. On the same page, in the same column in amendment "5.", in the second line, "revision" should read "revising".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Domestic Licensing of Production and Utilization Facilities; Communications Procedures Amendments

Correction

In rule document 86-25132 beginning on page 40303 in the issue of Thursday, November 6, 1986, make the following corrections:

§ 50.49 [Corrected]

1. On page 40308, in the third column, in § 50.49, paragraph (i), in the third line, "1986" should read "1985".

§ 50.54 [Corrected]

2. On the same page, in the same column, in § 50.54, in paragraph (a)(3), in the 15th line, "Changed" should read "Changes".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWA-34]

Establishment of Airport Radar Service Area

Correction

In rule document 86-26021 beginning on page 41740 in the issue of Tuesday, November 18, 1986, make the following corrections:

1. On page 41740, in the second column, in the fourth paragraph, in the 17th line, "TRAS" should read "TRSA"; and in the 22nd line, "be" should read "the".

2. On the same page, in the third column, in the first complete paragraph, in the fifth line, "TRAS" should read "TRSA"; and in the second complete paragraph, in the fourth line, "clauses" should read "classes".

3. On page 41741, in the first column, in the third line from the bottom of the page, "where" should read "were".

4. On page 41743, in the first column, in the second complete paragraph, in the sixth line, "ASTC" should read "ATC".

BILLING CODE 1505-01-D

Environmental Protection Agency

Wednesday
December 3, 1986

Part II

**Environmental
Protection Agency**

40 CFR Part 261

Hazardous Waste; Polychlorinated
Biphenyls (PCBs); Response to Citizens'
Petitions; Final Decision

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 261**

[SW-FRL-3092-3]

Hazardous Waste; Polychlorinated Biphenyls (PCBs); Response to Citizens' Petitions**AGENCY:** Environmental Protection Agency.**ACTION:** Final decision regarding citizens' petitions.

SUMMARY: The Environmental Protection Agency (EPA) today is making final its decision to deny the petition submitted by Valley Watch, Inc. which requested that EPA control under Subtitle C of the Resource Conservation and Recovery Act (RCRA) the PCB separation facility located in Henderson, Kentucky and, if possible, halt construction and operation of the facility. The Henderson facility is not presently managing a waste that is identified or listed as hazardous under RCRA; thus, none of the hazardous waste regulations apply. Furthermore, to a large degree, the petition requests action which EPA is without jurisdiction to grant, since Kentucky is authorized to carry out the hazardous waste program in lieu of the Federal program. Nevertheless, the Henderson facility will still be regulated for the management of PCBs under the Toxic Substances Control Act (TSCA).

EFFECTIVE DATE: December 3, 1986.

ADDRESSES: The OSW docket is located in the sub-basement at the Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket is open from 9:30 to 3:30 p.m. Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials. Call Mia Zmud at (202) 475-9327 or Kate Blow at (202) 382-4675 for appointments to review docket #F-86-VWPDFFFF. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost; additional copies cost \$.20 per page. Copies of the official record for the petition are available for *viewing and copying only* in the OSW docket.

FOR FURTHER INFORMATION CONTACT:

The RCRA/Superfund Hotline at (800) 424-9346 or at (202) 382-3000. For technical information, contact Matthew A. Straus, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-8551.

SUPPLEMENTARY INFORMATION:**I. Background**

Unison, a wholly owned subsidiary of Union Carbide, is constructing a PCB separation facility in Henderson, Kentucky. This plant and its potential operation is being regulated under the authority of the Toxic Substances Control Act (TSCA). See 40 CFR Part 761. On December 9, 1985, EPA reviewed two petitions for additional regulation under TSCA and under the Resource Conservation and Recovery Act. This notice explains EPA's final determination on those petitions.

On February 24, 1986, EPA published its final decision in response to two rulemaking petitions submitted by the Citizens for Healthy Progress and Valley Watch, Inc. under section 21 of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2620). See 51 FR 6423-6429. Both petitioners requested that EPA exercise its authority under section 5(e) of TSCA to prevent the construction of a PCB separation facility in Henderson, Kentucky, pending the development of additional information regarding the health and environmental effects arising from the operation of the proposed facility. EPA denied these requests because: (1) The statute (TSCA) does not allow EPA to do what the Citizens for Healthy Progress requested, and (2) EPA does not have the authority under section 5(e) of TSCA to issue a proposed order to prevent construction of a facility when a proposed process does not involve either a "new chemical substance" or a "significant new use" of a substance. (See the preamble to the Notice of Response to Citizens' Petition at 51 FR 6424-6427 for a more detailed explanation of our basis for denying their requests.)

Although EPA denied the petitions, the Agency is still evaluating the Henderson facility under TSCA. In particular, the facility must obtain a permit under the regulations in 40 CFR Part 761 in order to operate as a PCB separation facility. As part of the evaluation of this TSCA permit, EPA conducted a comprehensive environmental study of the proposed facility and site. In addition, public meetings have been held to seek the views of interested parties. EPA believes that an adequate evaluation of the facility is being conducted, including the opportunity for public comment under TSCA.

There are a number of reasons why EPA cannot take action under RCRA as requested by the petitioner. First, the Henderson facility is not processing or generating a hazardous waste; this determination is explained fully in the

response to comment 1 below. Given that the Henderson facility does not process or generate a hazardous waste, the Agency is limited on the RCRA regulatory actions that it can take with respect to the Henderson facility.

The Agency is also limited in the actions it can take under RCRA because the facility is located in a state, Kentucky, that has final authorization for the RCRA hazardous waste program.¹ Kentucky was granted final authorization when EPA judged their state RCRA regulatory program to be equivalent in scope and stringency to the Federal RCRA regulatory program. Once a state receives final authorization, the state administers and enforces its hazardous waste program in lieu of the Federal program.² Thus, Kentucky's rules determine whether a facility requires a hazardous waste permit, and Kentucky would draft and issue any such permit.

One regulatory action that EPA can take under RCRA is to list as a hazardous waste spent TF-1,³ the proprietary solvent of Unison that is being reclaimed at the Henderson facility. Valley Watch has filed a separate rulemaking petition requesting that TF-1 be listed as hazardous waste; EPA is addressing that petition separately as explained in the response to comment 2 below.

Valley Watch's petition also urged the Agency to prevent construction and operation of the facility pending receipt of sufficient information to determine the health and environmental risks posed by the facility. Although it is unclear whether Valley Watch is requesting that this action be taken under RCRA, we note that EPA is limited in the RCRA enforcement actions that it can take in authorized states to enjoin construction or operation of a facility. More specifically, EPA can seek to enjoin operation of a facility under section 7003 of RCRA only

¹ Kentucky received final authorization for the base RCRA hazardous waste program on January 31, 1985.

² Under newly enacted section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in an authorized State at the same time that they take effect in nonauthorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including issuance of permits implementing such requirements, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA applies in authorized States in the interim. EPA has investigated and determined that none of its existing regulations implementing the provisions of HSWA apply to the Henderson facility at this time.

³ The composition of TF-1 is claimed to be confidential business information (CBI). (See 57 FR 6423.)

if the handling of solid or hazardous waste at the facility may present an imminent and substantial endangerment to health or the environment. However, as explained below and in other Federal Register notices, EPA has investigated the Henderson facility in the course of TSCA permitting and has found no evidence that would suggest that such a course of action is warranted.

EPA also has authority (under section 3008 of RCRA) to enjoin the construction of unpermitted new facilities regulated under an authorized state hazardous waste program. However, as discussed below in the response to comment 1, because the wastes managed by the Henderson facility are not regulated under Kentucky's authorized hazardous waste program, EPA would not be able to take such enforcement action to halt construction of the facility under this section.

II. Public Comments and EPA's Response

A. Summary of Comments

The Agency received six comments on its notice to deny Valley Watch's petition under RCRA. Four commenters supported EPA's tentative decision to deny the petition. In particular, these commenters indicated that the Henderson facility does not manage hazardous wastes (either wastes that are brought to the Henderson facility for processing or wastes that may be generated at the Henderson facility);⁴ thus, they argue that the RCRA hazardous waste rules do not apply. They also argue that the Henderson facility would be adequately regulated under TSCA. These same commenters, however, strongly objected to EPA's stated intention to eventually list wastes containing PCBs as hazardous under RCRA. They claim that the listing of PCBs under RCRA would constitute duplicative regulation, considering that the TSCA PCB regulations adequately protect human health and the environment.

⁴ Under Subtitle C of RCRA, a waste is defined as hazardous if it is specifically listed in Subpart D of Part 261 (*i.e.*, §§ 261.31, 261.32, or 261.33) or exhibits one or more of the hazardous waste characteristics in Subpart C of Part 261 (*i.e.*, ignitability, corrosivity, reactivity, or extraction procedure (EP) toxicity).

Wastes are listed by the Agency if the Administrator determines that: (1) The waste exhibits any of the hazardous waste characteristics, or (2) the waste, if improperly managed, would pose a substantial hazard to human health or the environment. Any waste not listed must be evaluated by the generator of the waste to determine whether or not it exhibits any of the hazardous waste characteristics; this may be done by testing the waste or evaluating the waste by applying the generator's knowledge of the hazardous characteristics of the waste in light of the materials or processes used.

The two remaining commenters objected to EPA's proposal to deny the RCRA petition (*i.e.*, not to regulate the Henderson facility under RCRA and not to halt construction at the Henderson facility). They generally believe that PCBs and TF-1 are hazardous wastes and should be regulated under the RCRA hazardous waste rules. These same commenters requested an informal public hearing on EPA's tentative denial of the RCRA petition.

B. EPA's Response to Comments

1. Whether the Henderson Facility is Subject to Regulation Under RCRA

EPA has carefully examined data on the wastes to be managed by the Henderson facility and has determined that they are not identified or listed hazardous wastes under Federal law. The waste consists of a spent solvent, TF-1, which comes in contact with and becomes impregnated with PCB-laden transformer oil. (A solvent is considered "spent" when it has been used and is no longer fit for use without being regenerated, reclaimed, or otherwise reprocessed.) The composition of TF-1 is designated as confidential business information, and so cannot be described in great detail in this notice. However, EPA has verified that the spent solvent is not listed in § 261.31 (EPA Hazardous Waste Nos. F001-F005) or in § 261.33 (this is a list of commercial chemical products that become hazardous wastes when discarded or intended for discard). In addition, based on our evaluation of the properties of TF-1 as well as data supplied by Unison (see letter dated February 10, 1986 from R. G. Baier to J. Alex Barber), we have concluded that TF-1 does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity). The Agency notes that Kentucky's hazardous waste listings are identical to the Federal hazardous waste listings; therefore, spent TF-1 is not a hazardous spent solvent waste under Kentucky law.

2. Petition to List TF-1 as a Hazardous Waste under RCRA

One of the commenters indicated that construction and operation of the Henderson facility should not be allowed until the Agency makes a final decision on the rulemaking petition submitted by Valley Watch, Inc. to list TF-1 (a spent solvent to be processed by Unison at the Henderson facility) as a hazardous waste under RCRA.

Under RCRA, EPA could stop construction and operation of the Henderson facility if the Agency

believed that operation of the facility would pose an imminent and substantial endangerment to human health and the environment. We do not believe such is the case with regard to the Henderson facility. In particular, under TSCA, EPA is required to find that the activities authorized do not present an unreasonable risk. The issues raised in the RCRA rulemaking petition that relate to whether the Henderson facility presents an unreasonable risk have been addressed in EPA's February 24, 1986, Federal Register response to Valley Watch's first petition and in EPA's draft Public Health and Environmental Exposure Assessment. Thus, the Agency believes that it has sufficient information and regulatory authority under TSCA to regulate the Henderson facility. Although the Agency still will act on Valley Watch's petition requesting that TF-1 be listed as a hazardous waste under RCRA, we will not delay our decision under TSCA (whether or not to issue a final permit under TSCA).

3. Construction of the Henderson Facility

One of the commenters argued that stringent environmental studies should be conducted before the plant is constructed.

EPA Region IV has conducted an exhaustive environmental study of the proposed facility and site prior to the issuance of the TSCA demonstration permit (see Draft Public Health and Environmental Exposure Assessment). This assessment concluded that the facility would not present an unreasonable risk (the decision standard used within TSCA) to public health and the environment.

Further, as noted previously, the RCRA hazardous waste regulations apply only to those facilities that treat, store, or dispose of wastes that are identified or listed as hazardous under Subtitle C of RCRA. Since none of the wastes to be handled at the Henderson facility are currently defined as hazardous under RCRA, the Agency is not required to conduct the environmental studies prior to construction of the facility.

4. Risk Due to Fire at the Henderson Facility

One of the commenters argued that an obvious unacceptable risk presented by the Henderson facility is that if PCBs and TF-1 catch fire and burn, they will release dioxins. Such an occurrence, the commenter argues, would devastate Henderson, Kentucky and Evansville, Indiana. The commenter further notes

that TF-1 may present more of a hazard since it catches fire at a lower temperature.

The Agency has addressed this concern (*i.e.*, the probability of such incidents and the potential exposure that would occur) in Chapter 5, section 2.1.3 (pp. 5-9 to 5-12) and Section 3.2.6 (pp. 5-96 to 5-97) of the draft Public Health and Environmental Exposure Assessment on the Unison PCB separation facility. Based on this assessment, it was concluded that the possibility of a fire or explosion incident involving PCB residues would be extremely remote due to the expected operating procedures at the Henderson facility and the nature of the materials in the facility. Therefore, we concluded that there was not an unreasonable risk to health or the environment posed by such incidents. (This exposure assessment is available in the OSW docket and can be reviewed at the address cited above.)

5. Listing PCB-Containing Wastes

A number of commenters voiced policy objections to EPA's plan to regulate PCB-containing wastes under RCRA rather than TSCA at some time in the future.

We note here that the Agency is pursuing rulemaking activity that will bring PCB disposal under the RCRA hazardous waste program. This action is consistent with expressed Congressional intent. In particular, the Conference Report to the Hazardous and Solid Waste Amendments of 1984 indicates a strong desire by Congress for EPA to regulate PCBs under RCRA. See Conference Report H.R. Rep. No. 1133, 98th Cong., 2d Sess. 105 where it states:

The omission by the Conference substitute of the requirement in the House bill that PCBs should be listed as a hazardous waste under Subtitle C should not be construed as a directive not to continue with the Agency's current plans to list PCBs as a hazardous waste. The Conferees recognize the grave dangers associated with PCBs, are aware of the Agency's regulatory proceeding regarding PCBs and urge the Administrator to bring PCBs under the regulatory structure of Subtitle C as expeditiously as possible to the extent such coverage is appropriate.

6. Status of Henderson Facility if PCB-Containing Wastes are Listed as Hazardous under RCRA

One commenter questioned our legal basis for assuming that the Henderson facility could continue to operate under RCRA if it were in operation prior to the date upon which EPA issues its final regulations listing certain PCB-containing wastes as hazardous under RCRA.

Under the hazardous waste rules, anytime a waste is identified or listed as hazardous (*i.e.*, brought into the RCRA hazardous waste system), the owner or operator of a facility can continue to manage the waste under Subtitle C of RCRA under the interim status provisions. In order to operate under interim status, such facilities must be in existence,⁵ get an identification number pursuant to 40 CFR 262.12, and submit a Part A permit application. See § 270.70. Thus, if the Henderson facility is in existence and PCBs are then listed as hazardous under RCRA, the Henderson facility can continue to operate their PCB separation process under interim status provided they get an identification number and submit a Part A permit application.

7. Request for an Informal Public Hearing

Several of the commenters requested that EPA hold an informal public hearing on EPA's tentative decision to deny Valley Watch's rulemaking petition under RCRA. One of the commenters specifically indicated that since the level of community involvement is high and since there are a number of actions underway that have not yet been completed (*i.e.*, Valley Watch's rulemaking petition under RCRA to list spent TF-1 as a hazardous waste and EPA's decision to require manufacturers and processors of 1,2,4-trichlorobenzene to do both chemical fate and environmental effects testing), it is important for "due process" to include oral remarks.

First, it should be noted that the Agency has continued to seek the views of the public on permitting the Henderson PCB separation facility under TSCA. We believe that the concerns that have been presented by the local residents primarily relate to the location of the facility, the adequacy of the PCB/TF-1 separation process, and whether the facility will present an unreasonable risk to public health and the environment. All of these issues will be assessed as part of the TSCA permit process (see 51 FR 6424-6427, February 24, 1986). To this end, the Agency held another public meeting in Henderson, Kentucky on November 10, 1986, to discuss the facility.

With respect to their specific request, after careful consideration, the Agency decided not to grant the request for an

informal public hearing on the RCRA rulemaking petition. (See letters, dated August 28, 1986, to Mr. Gardner Weber and Mr. John Blair for our rationale for denying the request; these letters are in the OSW docket to this rulemaking.) The Agency concluded that since the primary issue to be addressed under the RCRA petition is whether the Henderson facility will be managing RCRA hazardous wastes, and since, based on an analysis of the wastes being handled, the Henderson facility will not be managing RCRA hazardous wastes, we did not believe that a hearing would be necessary.

III. Response to RCRA Petition

For the reasons set forth above and in the tentative denial of the petitioners' request, the Agency is today making final its denial of the RCRA petition, and advising that the facility does not appear to be subject to RCRA Subtitle C jurisdiction.

IV. Official Record for the Petition

The following documents constitute the record for this action:

1. Citizens for Healthy Progress petition to Lee Thomas, Administrator of EPA, dated November 13, 1985.
2. Valley Watch petition to Lee Thomas, Administrator of EPA, dated December 1, 1985.
3. Valley Watch petition to Lee Thomas, Administrator of EPA, dated February 21, 1986.
4. Letter from Ronald R. Van Stockum, Jr. to Lee Thomas, Administrator of EPA, dated December 2, 1985.
5. Letter from R. G. Baier to J. Alex Barber, dated February 10, 1986.
6. CBI document regarding TF-1.
7. Notice of Response to Citizens' Petitions, 51 FR 6423-6429, February 24, 1986.
8. Letter from Robert A. Mitchell to Francine Jacoff, dated March 4, 1986.
9. Memorandum: Kenneth F. Gray to Record, dated March 17, 1986.
10. Letter from Francine Jacoff to John Blair, dated March 20, 1986 and enclosures.
11. Public comments on February 24, 1986 FR notice:
 - a. National Electrical Manufacturers Association, dated April 25, 1986.
 - b. Natural Gas Association of America, dated April 24, 1986.
 - c. American Natural Resources Company, dated April 23, 1986.
 - d. UNISON Transformer Services, Inc., dated April 25, 1986.
 - e. Valley Watch, Inc., dated April 21, 1986.
- f. Gardner Weber, dated April 1, 1986.

⁵ Under the Hazardous and Solid Waste Amendments of 1984, a facility is considered to be "in existence" if it was either in existence on November 19, 1980, or was in existence on the effective date of any statutory or regulatory change under RCRA that requires it to obtain a section 3005 permit. See RCRA amended section 3005(e).

12. Letter from Marcia Williams to Shannon Hurd, undated.

13. Letters from A. James Barnes, Acting Administrator of EPA, dated August 28, 1986 to Gardner Weber and John Blair.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

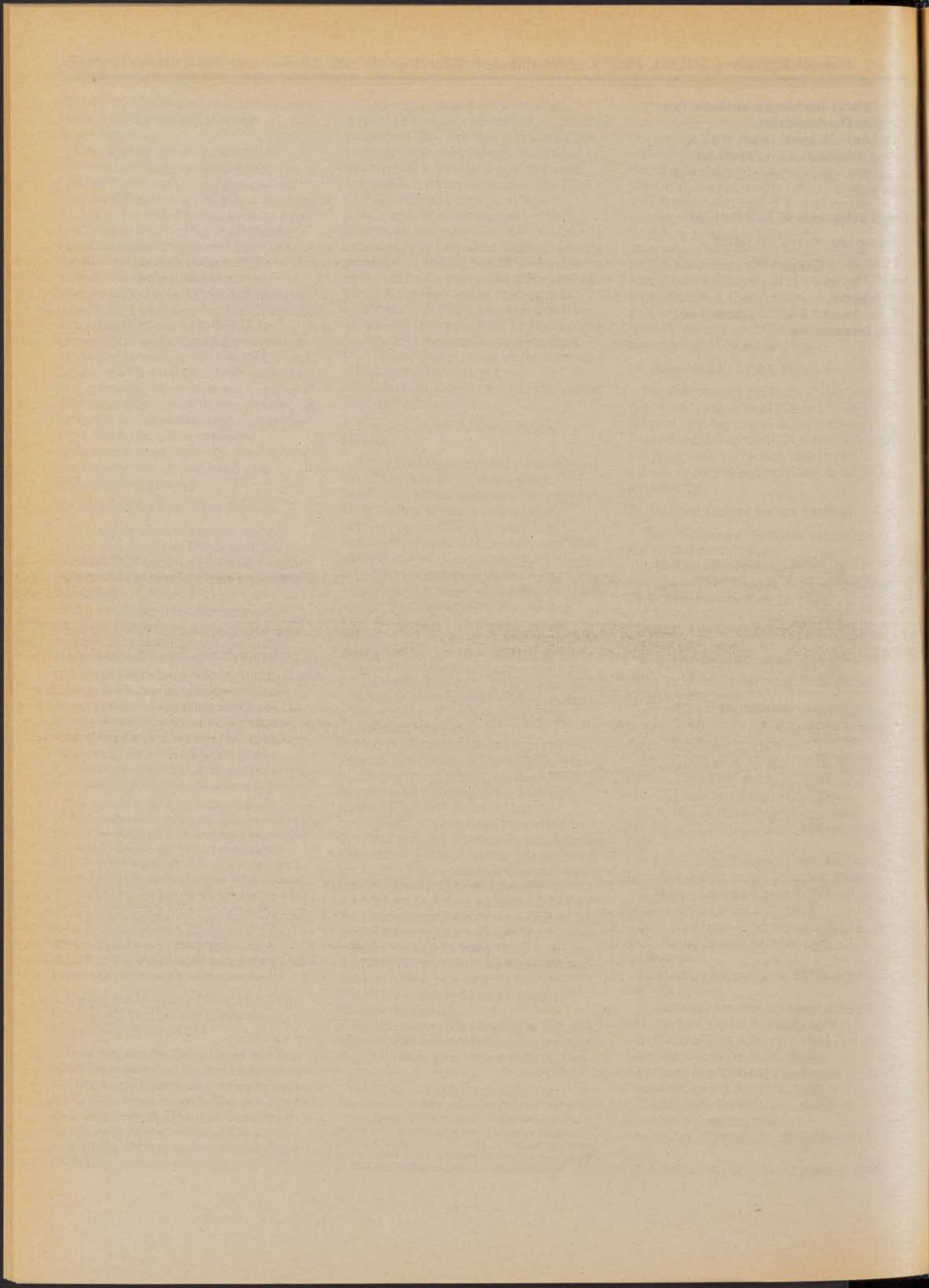
Dated: November 25, 1986.

Lee M. Thomas,

Administrator.

[FR Doc. 86-27151 Filed 12-2-86; 8:45 am]

BILLING CODE 6560-50-M



Wednesday
December 3, 1986

Executive Order

Part III

The President

Executive Order 12575—President's Special
Review Board

Presidential Documents

Title 3—

Executive Order 12575 of December 1, 1986

The President

President's Special Review Board

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), a Special Review Board to review activities of the National Security Council, it is hereby ordered as follows:

Section 1. Establishment. (a) There is established the President's Special Review Board on the future role of the National Security Council staff. The Board shall consist of three members appointed by the President from among persons with extensive experience in foreign policy and national security affairs.

(b) The President shall designate a Chairman from among the members of the Board.

Sec. 2. Functions. (a) The Board shall conduct a comprehensive study of the future role and procedures of the National Security Council (NSC) staff in the development, coordination, oversight, and conduct of foreign and national security policy; review the NSC staff's proper role in operational activities, especially extremely sensitive diplomatic, military, and intelligence missions; and provide recommendations to the President based upon its analysis of the manner in which foreign and national security policies established by the President have been implemented by the NSC staff.

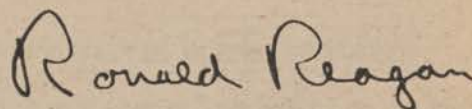
(b) The Board shall submit its findings and recommendations to the President within 60 days of the date of this Order.

Sec. 3. Administration. (a) The heads of Executive departments, agencies, and independent instrumentalities, to the extent permitted by law, shall provide the Board, upon request, with such information as it may require for purposes of carrying out its functions.

(b) Members of the Board shall receive compensation for their work on the Board at the daily rate specified for GS-18 of the General Schedule. While engaged in the work of the Board, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701-5707).

(c) To the extent permitted by law and subject to the availability of appropriations, the Office of Administration, Executive Office of the President, shall provide the Board with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

Sec. 4. *General Provision.* The Board shall terminate 30 days after submitting its report to the President.

A handwritten signature in dark ink that reads "Ronald Reagan". The signature is written in a cursive style with a large, prominent "R" at the beginning.

THE WHITE HOUSE,
December 1, 1986.

[FR Doc. 86-27328
Filed 12-2-86; 11:32 am]
Billing code 3195-01-M

Faint, illegible handwriting, possibly a signature or name.

Reader Aids

Federal Register

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Wednesday, December 3, 1986

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