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Presidential Documents

Title 3—

The President

Proclamation 5585 of December 5, 1986

Walt Disney Recognition Day, 1986

By the President of the United States of America

A Proclamation

December 5, 1986, marks the eighty-fifth anniversary of the birth of Walt Disney. "Uncle Walt," as he was affectionately known to his moviemaking colleagues in Hollywood, was just that to several generations of American families: a warm, generous uncle who sat us on his knee and told and retold us stories of comedy, imagination, and adventure. He was a superb animator, a technical wizard, an astute manager and businessman, but above all he was a man who never lost touch with his child's heart and sense of wonder.

Walt Disney's work and the countless characters he created or brought to the screen—Mickey Mouse, Donald Duck, and so many others—are known the world over. But if he is both legend and folk hero today, it wasn't always clear that he was destined to achieve so much. Walter Elias Disney was born in Chicago in 1901. His family soon moved to Missouri, and he worked at a variety of jobs. He returned to Chicago in 1917 and studied photography and art, but he never graduated from high school. After serving in World War I as a Red Cross ambulance driver, he joined an advertising firm in Kansas City as an apprentice cartoonist.

The real harbingers of his future success in this period, however, were the cartoons he produced in a makeshift studio he built for himself above his father's garage. In 1923 he went to Hollywood with $40 in savings and, with his brother Roy, converted another small garage into a studio and set to work. He put together two silent movies with a new cartoon character named Mickey Mouse, but he was unable to get them released commercially. With *Steamboat Willie* in 1928—a sound film with Disney's artwork and his own voice for the diminutive hero's—Mickey Mouse and Walt Disney had an instant hit, the first of many.

Achievements and awards followed in droves. Disney won 30 Academy Awards. He produced the first full-length animated film, *Snow White and the Seven Dwarfs,* in 1937; launched numerous technical innovations in sound and color; produced the first television series in color in 1961; found new and effective ways of combining live actors with cartoon characters in films like *Song of the South* and *Mary Poppins;* and everywhere, in classic movies from *Fantasia* to *The Jungle Book,* he celebrated the power of delight through music.

The standards of excellence Walt Disney upheld in animation extended to his later productions, from nature films to movie versions of ancient fables, tales of American heroes, and stories of youthful adventure. His love for technology and the future, his desire to entertain and educate, and his sense of childlike wonder led him to establish two popular amusement parks, Disneyland and Disney World, which today draw visitors from around the globe.

Walt Disney's true drawing table was the imagination, his themes were virtues like courage and hope, and his audience was composed of young people—in years or at heart—who, through the creations of this American genius, found new ways to laugh, to cry, and to just plain appreciate the "simple bare necessities of life."

The Congress, by Public Law 99–391, has designated December 5, 1986, as "Walt Disney Recognition Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim December 5, 1986, as Walt Disney Recognition Day. I call upon all Americans to recognize this very special day in the spirit in which Walt Disney entertained young and older Americans.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of December, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 86–27703
Filed 12–5–86; 2:08 pm]
Billing code 3195–01–M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Change in Minimum Size Requirement for Dancy Tangerines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule relaxes for the remainder of the 1986–87 season the minimum size requirement for Florida Dancy tangerines from size 176 (2$^{5}/_{16}$ inches in diameter) to size 210 (2$^{1}/_{16}$ inches in diameter) shipped from the production area to any point in the continental United States, Canada, or Mexico. The maturity level and size composition of the remaining available supply of Dancy tangerines and the current and prospective demand conditions for such fruit warrant such action.

EFFECTIVE DATE: December 3, 1986.

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

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

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601–674), and rules promulgated thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers of Florida citrus subject to regulation under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are approximately 15,000 producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers may be classified as small entities.

This final rule relaxes for the remainder of this season the minimum size requirement for Dancy tangerines which may be shipped from the production area from size 176 (2$^{5}/_{16}$ inches in diameter) to size 210 (2$^{1}/_{16}$ inches in diameter). Smaller tangerines generally mature and develop acceptable flavor as the season progresses. Restrictions on shipment of smaller tangerines early in the season are intended to keep these smaller tangerines on the trees to mature and develop full flavor. Dancy tangerines will be acceptably mature and flavorful by December 1, 1986, to be shipped to the fresh market and shipment of these tangerines will not adversely affect the market. Permitting size 210 Dancy tangerines to be shipped to the fresh market will make additional supplies of fresh tangerines available to consumers. The relaxation of the minimum size requirements is for the remainder of the 1986–87 season. The resumption of restrictions on size 210 Dancy tangerines for the 1987–88 season commencing August 24, 1987 is based upon the maturity, size and flavor characteristics of smaller tangerines. The minimum size requirement of size 176 was made effective by a final rule published at 51 FR 40781, November 10, 1986.

In 1986–87, fresh Dancy tangerines are expected to total 500,000 boxes, compared with 446,000 boxes in 1985–86, and 380,000 boxes in 1984–85. Only about 56 percent of the Dancy tangerine crop was shipped fresh in 1985–86; most of the balance was shipped for processing. This percentage is based on the portion of the crop that attained size 210 and larger during the marketing season. This action relieves restrictions on handlers thereby allowing them to ship smaller size Dancy tangerines to fresh market, and thus will benefit producers and handlers by maximizing producer returns and handler shipments into fresh markets.

This final rule is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), both as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Act. Relaxation of the minimum size requirement was recommended unanimously by the Citrus Administrative Committee at its November 4, 1986, meeting. The committee works with USDA in administering the marketing agreement and order program.

The handling regulation for all citrus, including Dancy tangerines, covered under this marketing order is included in Florida Citrus Regulation 6. Florida Citrus Regulation 6 (7 CFR 905.306) was issued on a continuing basis (46 FR 60170; December 8, 1981) subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. Florida Citrus Regulation 6 was last amended on November 4, 1986 (51 FR 40781; November 10, 1986) to prevent shipment of size 210 (2$^{1}/_{16}$ inches in diameter) Dancy tangerines. For Dancy tangerines shipped on or after November 4, 1986, the minimum grade was U.S. No. 1 and the minimum size was size 176 (2$^{5}/_{16}$ inches in diameter). Section 905.306(a) provides that no handler shall ship between the production area and any point outside that area in the continental United States, Canada, or Mexico, certain varieties of citrus unless the variety meets the applicable minimum grade and size requirements.

The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the

regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

This final rule relaxes the minimum size requirement for Florida Dancy tangerines reflecting the committee's and the Department's appraisal of the need to relax the size requirement applicable to domestic and certain export shipments of Dancy tangerines. This action recognizes the current supply and demand for such fruit and is necessary to permit smaller tangerines that have now developed acceptable levels of maturity and flavor to enter fresh markets.

The final rule permits shipment of size 210 Dancy tangerines for the remainder of 1986–87 season on and after December 3, 1986, to fresh markets in the continental United States, Canada, and Mexico. Shipment of 1986–87 season size 210 Dancy tangerines to such markets has not been permitted this season since November 4, so that such tangerines would be left on the trees longer to mature and develop acceptable flavor and size. The committee has determined that such tangerines will have reached an acceptable level of maturity by December 1 to be shipped to such markets, and it recommended that the current size requirements be relaxed to permit shipment of size 210's on and after that date for the remainder of this season.

Total Florida tangerine production is expected to increase over last season's level by 30 percent and fresh shipments, estimated at 2.45 million cartons, are expected to increase by nearly 14 percent. In addition, competing specialty citrus varieties from Florida, including Temples, tangelos, and K-early citrus are also expected to show an increase in production with fresh shipments estimated to increase about 13 percent. It is anticipated that there will be an increase in per capita consumption during the 1986–87 season primarily due to increased citrus production.

After consideration of the information and recommendation submitted by the committee, and other available information, it is found that amendment of § 905.306 will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and to engage in public rulemaking procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes restrictions on the handling of Florida Dancy tangerines by permitting shipment of smaller size Dancy tangerines to fresh market, and should become effective as soon as possible; (2) handlers of Florida Dancy tangerines are aware of this action which was recommended by the committee at a public meeting, and the handlers will need no additional time to comply with the rule; (3) shipment of the 1986–87 season Florida Dancy tangerine crop is currently underway; and (4) no useful purpose would be served by delaying the effective date of this action.

List of Subjects in 7 CFR Part 905

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

PART 905—[AMENDED]

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

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

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

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amendment 41.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Diameter (inches)
(1)	(2)	(3)	(4)
*	* * *	*	*
Tangerines: Dancy.	12/03/86-8/23/87	U.S. No. 1	2 1/16
	On or after 8/24/87	U.S. No. 1	2 5/16
*	* * *	*	*

* * * * *

Dated: December 3, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-27613 Filed 12-8-86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1011

Milk in the Tennessee Valley Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends provisions of the Tennessee Valley order relating to the Class I disposition requirements for a pool distributing plant. The suspension lowers the Class I disposition requirements from 60 percent in the months of November 1986 and January and February 1987 to 40 percent in such months. Dairymen, Inc., a cooperative that represents producers who supply milk to the market, requested the action. Comments in support of the cooperative's request were received from the operator of a supply plant that qualifies as a pool plant by shipments to the distributing plant that is directly affected by this suspension action. No comments in opposition to the proposed suspension were received.

EFFECTIVE DATE: December 9, 1986.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued October 29, 1986; published November 4, 1986 (51 FR 40030).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Tennessee Valley marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on November 4, 1986 (51 FR 40030) concerning a proposed suspension of

certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. The operator of a supply plant that qualifies as a pool plant by shipments to the distributing plant that is directly affected by this action supported the proposed suspension request. No comments were filed in opposition to the request.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of November 1986 and January and February 1987 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1011.7(a)(2), the provisions "60 percent in each of the months of August through November and January and February, and" and "in each of the other months,".

Statement of Consideration

The suspension lowers the total Class I disposition requirements for a pool distributing plant for the months of November 1986 and January and February 1987 from 60 percent to 40 percent of the plant's receipts of fluid milk products.

Suspension of the provisions was requested by Dairymen, Inc. (DI), pending a hearing on DI's request that the pool plant standards for a distributing plant be amended to provide for unit pooling of two or more plants operated by the same handler.

DI supplies the milk processed by Flav-O-Rich, Inc., at 3 pool distributing plants regulated under the Tennessee Valley milk order. The plants are located at Bristol, Virginia, London, Kentucky and Rossville, Georgia. The Class II processing operations of the three plants have been consolidated in the Bristol, Virginia, plant to increase efficiency in operations. As a consequence of this consolidation, the Bristol plant is unable to meet the 60-percent Class I disposition requirement for the months of November 1986 and January and February 1987 unless DI incurs the costs of additional milk movements to qualify the milk for pool participation.

Comments in support of the cooperative's request were received from the operator of a supply plant that qualifies as a pool plant by shipments to the Bristol plant. The supply plant operator indicated that pool plant status must be continued for the Bristol plant in order for the supply plant to qualify as a pool plant.

The suspension action will eliminate the need for the cooperative to incur the added costs in milk movements that would be required to pool the milk of its members who deliver to the Bristol, Virginia, plant. The suspension will also permit dairy farmers who have been supplying a pool supply plant to continue to share in the pool proceeds of the Tennessee Valley milk order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that without the suspension, costly and inefficient movements of milk would need to be made solely to qualify the milk for pool participation;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were filed in opposition to this action.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1011

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in § 1011.7 of the Tennessee Valley order are hereby suspended for the months of November 1986 and January and February 1987.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

1. The authority citation for 7 CFR Part 1011 continues to read as follows:

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

§ 1011.7 [Amended]

2. In § 1011.7(a)(2), the provisions "60 percent in each of the months of August through November and January and February, and" and "in each of the other months," are suspended.

Signed at Washington, DC, on December 2, 1986.

Kenneth A. Gilles,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 86–27612 Filed 12–8–86; 8:45 am]

BILLING CODE 3410–02–M

Office of International Cooperation and Development

7 CFR Part 2200

Freedom of Information Act; Availability of Information

AGENCY: Office of International Cooperation and Development, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This notice revises the regulations established by the Office of International Cooperation and Development, U.S. Department of Agriculture, on how to request records under the Freedom of Information Act, supplementing the Department's regulations at 7 CFR 1.1–1.19 and Appendix A, published in the **Federal Register** (51 FR 32189, September 10, 1986). Significant changes include identification of a new agency contact, mailing address and phone numbers.

EFFECTIVE DATE: December 9, 1986.

FOR FURTHER INFORMATION CONTACT: Tommye Cooper, Office of International Cooperation and Development, Information Staff, U.S. Department of Agriculture, Washington, DC, 20250; (202) 653–7440.

SUPPLEMENTARY INFORMATION: This rule is an interpretive rule. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that public notice and other procedures with respect thereto are impractical and contrary to the public interest and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** This rule does not constitute a "major rule" within the meaning of Executive Order No. 12291 (Improving Government Regulations) nor will this regulation cause a significant economic or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. do not apply.

List of Subjects in 7 CFR Part 2200

Freedom of Information.

7 CFR Part 2200 is revised to read as follows:

CHAPTER XXII—OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

PART 2200—AVAILABILITY OF INFORMATION TO THE PUBLIC

Sec.

Sec.
2200.5 Denials.
2200.6 Appeals.

Authority: 5 U.S.C. 301, 552; 7 CFR 1.1–1.19.

§ 2200.1 General.

This part is issued in accordance with the regulations of the Secretary of Agriculture in § 1.1–1.19 of this title and Appendix A thereto, implementing the Freedom of Information Act. The Secretary's regulations as implemented by the regulations in this part, govern the availability of records of the Office of International Cooperation and Development (OICD) to the public.

§ 2200.2 Public inspection and copying.

Records available for public inspection and copying may be obtained from the OICD Information Staff, 2121 K Street, Northwest, Washington, DC 20250, during the hours of 8:30 a.m. to 5:00 p.m. or may be obtained by mail. Copies will be provided upon payment of applicable fees, unless waived or reduced, in accordance with the Department of Agriculture fee schedule set forth in Appendix A to Part 1, Subpart A, of Subtitle A of this title.

§ 2200.3 Indexes.

OICD does not maintain records subject to the index or supplemental requirements of 5 U.S.C. 552(a)(2) or §1.5 of this title.

§ 2200.4 Requests for records.

The person authorized to receive FOIA requests and to determine whether to grant or deny such requests is the Director, Information Staff, Office of International Cooperation and Development, U.S. Department of Agriculture, Washington, DC 20250. Requests should be reasonably specific in identifying the record requested and should include the name, address, and telephone number of the requester.

§ 2200.5 Denials.

If the Director, Information Staff, determines that a requested record is exempt from mandatory disclosure and that discretionary release would be improper, he/she shall give written notice of the denial in accordance with § 1.7(a) of this title.

§ 2200.6 Appeals.

The official authorized to receive appeals from denials of FOIA requests and to determine whether to grant or deny such appeals is the Administrator, Office of International Cooperation and Development, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, DC this 1st day of December 1986.

Joan S. Wallace,

Administrator, Office of International Cooperation and Development.

[FR Doc. 86–27558 Filed 12–8–86; 8:45 am]
BILLING CODE 3410-DP-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule adds to 8 CFR 214.2, paragraph (b)(3) barring classification and admission as business visitors, aliens seeking to enter the United States to perform building or construction work. The purpose of the rule is to insure that United States construction workers will not be denied access to construction jobs if construction work is required for the installation, service, or repair of foreign-built equipment.

EFFECTIVE DATE: January 8, 1987.

FOR FURTHER INFORMATION CONTACT:
For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633–3048
For Specific Information: Michael L. Shaul, Senior Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633–3946

SUPPLEMENTARY INFORMATION:
Published decisions by the Board of Immigration Appeals have held that eligibility for the business visitor, or B–1, classification under section 101(a)(15)(B) of the Immigration and Nationality Act (the Act) is appropriate if work which may be performed in the United States is a necessary incident of international trade or commerce and the employer and principal employment site are located abroad. The Immigration and Naturalization Service (Service) has found that a frequently recurring, customary business practice to which this policy applies is the installation, service, and repair of foreign-built equipment by employees of the manufacturer. In its Operations Instructions at § 214.2(b)(5), the Service gives the following example of eligibility for the B–1 classification:

An alien coming to install, service, or repair commercial or industrial equipment or machinery purchased from a company outside the U.S. or to train U.S. workers to perform such service, provided: the contract of sale specifically requires the seller to perform such services or training, the alien possesses specialized knowledge essential to the seller's contractual obligation to provide services or training, the alien will receive no remuneration from a U.S. source, and the trip is to take place within the first year following the purchase.

On August 28, 1985 the District Court for the Northern District of California in *International Union* v. *Meese*, No. 85–2593, (N.D. Cal.), enjoined the Operations Instruction quoted above. Following the District Court's order, which precluded the admission of even the most highly specialized technicians, the Service and the Department of State received communications from U.S. industries and foreign governments which indicated a problem of crisis proportions. Industry predicted that equipment under warranty would not be repaired or serviced, with resultant losses of investment and lay-offs of American workers, and that access to state-of-the-art foreign technology would be limited with resultant losses of competitive position. Foreign governments generally viewed this new restriction as a constraint on trade and hinted at reciprocal actions.

The Government filed an appeal with the Ninth Circuit Court of Appeals and was subsequently joined by the plaintiffs in a joint motion for a stay of the District Court's order pending appeal.

Under the joint motion, B–1 visas could not be issued under Operations Instructions 214.2(b)(5) to alien nonimmigrants seeking to enter the country to perform building or construction work, whether on-site or in-plant, with the proviso that alien nonimmigrants otherwise qualified as B–1 nonimmigrants may enter for the purpose of supervision or training of others engaged in building or construction work, but not for the purpose of actually performing any such building or construction work themselves. This joint motion was granted by the court on December 19, 1985.

Subsequently, the parties to the joint agreement determined that it would be appropriate to incorporate the principles of the agreement into regulatory format and to forego any further litigation. Accordingly, on July 29, 1986, the Service published a proposed rule to amend 8 CFR 214.2(b) at 51 FR 27047. The Service was especially interested in receiving the views of individuals and

organizations who might be affected by the proposal. The period for submission of comments expired on September 29, 1986. The Service received a total of 72 comments during this period, the vast majority of which supported the proposal.

Numerous comments were received from Canadian companies engaged in non-construction work involving after-sale warranty work (and from U.S. clients of such Canadian companies) who experienced severe hardships during the initial phase of the injunction and who look upon any restraint in trade between the U.S. and Canada with disfavor. However, none of these writers had any objection to the proposed regulation, providing its impact was limited to building and construction work and not expanded to include after-sale installation and service personnel.

Several commenters stressed the need for facilitating international trade. The Service recognizes the desirability of encouraging such trade and does not see the regulation as inhibiting legitimate international commerce in any way.

The Service received a few comments from writers who misunderstood the rule, believing that it will prohibit the entry of service personnel coming to perform warranty work after installation of machinery purchased from a foreign company. The regulation does not affect such warranty work as long as the conditions set forth in the Operations Instructions are met.

Several commenters would like to see the one-year limitation on warranty work (contained in the Service's Operations Instructions at 214.2(b)(5)) lifted or relaxed. While this suggestion is beyond the scope of the present rulemaking dealing with the prohibition on contruction and building trades personnel entering the United States under the B–1 classification, the desire of many for reevaluation of the one-year limitation is noted and may be incorporated into future proposed rulemaking of a more general nature on the B–1 classification.

One comment was received from a French company which is building a scrap plastic processing plant in the United States. The company desires to send an individual to the United States to manage the construction of the plant. The writer states that several American construction workers will be hired for the project and wonders whether the manager would be allowed to enter the United States under the proposed regulation. The regulation would allow the entry of an otherwise qualified B–1 alien for the purpose of supervising and training American construction workers, but not for the purpose of performing any "hands-on" construction work of a skilled or unskilled nature.

One comment was received from a representative of a German-American organization writing on behalf of German industry. The commenter described the substantial disruption which resulted from the order of the District Court prior to the granting of the joint motion on December 19, 1985 and recognized the need for the proposed regulation. He also inquired as to whether the regulation was limited to unskilled and semi-skilled construction workers and whether it affected the availability of other visa categories for construction workers. The regulation pertains to all building and construction workers seeking entry under the B–1 category, regardless of their skill level, and only exempts those coming solely for the purpose of supervising and training others. However, the regulation does not affect the availability of other categories, such as H–1, H–2 or L–1, for aliens who are otherwise qualified.

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

This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign Officials, Reporting and recordkeeping requirements.

Accordingly, Chapter I of Title 8 Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for Part 214 continues to read as follows:

Authority: Sections 101(a)(15) (A), (B), (F), (G), (I), and (J); 103 and 214 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(15) (A), (B), (F), (G), (I), and (J), 1103 and 1134.

2. In § 214.2 a new paragraph (b)(3) is added to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(b) * * *

(3) *Construction workers not admissible.* Aliens seeking to enter the country to perform building or construction work, whether on-site or in-plant, are not eligible for classification or admission as B–1 nonimmigrants under section 101(a)(15)(B) of the Act. However, alien nonimmigrants otherwise qualified as B–1 nonimmigrants may be issued visas and may enter for the purpose of supervision or training of others engaged in building or construction work, but not for the purpose of actually performing any such building or construction work themselves.

* * * * *

Dated: December 3, 1986.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86–27593 Filed 12–08–86; 8:45 am]

BILLING CODE 4410–10–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200 and 240

[Release No. 34–23847; IC–15435; File No. S7–12–86]

Shareholder Communications Facilitation

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission ("Commission") today is adopting new Rule 14b–2 under the Securities Exchange Act of 1934 ("Exchange Act") and related amendments to Rules 14a–1, 14a–13, 14c–1 and 14c–7, which implement provisions of the Shareholder Communications Act of 1985. New Rule 14b–2 and the related rule amendments will govern: (1) The process by which registrants communicate with the beneficial owners of securities registered in the name of a bank, association or other entity that exercises fiduciary powers (hereinafter collectively referred to as "banks"); and (2) the proxy processing activities of banks. In addition, the Commission is adopting certain other amendments to Rule 14a–3 regarding the circumstances under which registrants are no longer obligated to deliver annual reports or proxy statements to security holders. This amendment also will apply to registrants' delivery obligations in connection with information statements under Rule 14c–2.

EFFECTIVE DATE: Sections 240.14b–2 (d) through (i), 240.14a–1, 240.14a–3, 240.14a–13, 240.14b–1, 240.14c–1, 240.14c–7, and 200.30–1 are effective December 28, 1986. Sections 240.14b–2 (a) through (c), is effective July 1, 1987. Sections 240.14a–13 and 240.14c–7 are temporary and will be superseded, on

July 1, 1987, by permanent rules, adopted herein.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date, contact Sarah A. Miller, (202) 272–2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. After the effective date, contact Cecilia D. Blye, (202) 272–2573, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of certain rule amendments to Rules 14a–1, 14a–3, 14a–13, 14b–1, 14c–1, and 14c–7 and the adoption of Rule 14b–2. The Commission is also amending 17 CFR 200.30–1.

I. Executive Summary

On May 29, 1986, the Commission proposed new Rule 14b–2 and certain related amendments to its shareholder communications rules.[1] These proposals were intended to implement provisions of the Shareholder Communications Act of 1985 ("the Act"), which grants the Commission authority to regulate the proxy processing activities of banks.[2] The Act is to become effective December 28, 1986, one year after the date of enactment.

The Commission is now adopting these proposals as modified to reflect commentators' views.[3] New Rule 14b–2 sets forth the obligations of a bank in connection with forwarding proxy materials to beneficial owners and registrants' communications with beneficial owners of securities registered in the bank's name. Rule 14b–2 parallels, to the extent possible, Rule 14b–1, which governs similar obligations of brokers and dealers (hereinafter collectively referred to as "brokers"). Related amendments to existing Commission rules also are being adopted to reflect the role of banks in the system of shareholder communications.[4]

Generally, the system for forwarding proxy materials to beneficial owners whose securities are held by banks will require registrants to ask each bank for the number of proxies and other proxy soliciting material or annual reports needed by the bank for forwarding to beneficial owners. After receiving such a request, a bank will be required to respond within seven business days, indicating the number of sets of proxy materials and/or annual reports needed.

Registrants will supply a bank with a sufficient number of sets of proxy materials and/or annual reports for forwarding to beneficial owners. The bank then will be required to forward those materials directly to beneficial owners on whose behalf it holds securities within five business days after the date the materials are received.

Under the direct communications system, a bank will be required to provide a registrant, on request, with the names, addresses and securities positions of certain beneficial owners of the registrant's securities on whose behalf the bank holds securities. For accounts opened on or before December 28, 1986, the beneficial owner must affirmatively consent to disclosure of its identity; for accounts opened after December 28, 1986, the beneficial owner will be deemed to have consented to such disclosure if the beneficial owner has not affirmatively objected to disclosure. Accordingly, it will be necessary that a bank solicit the consent of beneficial owners on whose behalf it holds securities to determine whether disclosure is appropriate. A bank need not forward proxy soliciting material to beneficial owners nor provide registrants with beneficial owner information, unless it receives assurances that the registrant will reimburse its reasonable expenses.

Finally, the Commission is adopting certain other amendments to: (1) Clarify when a registrant is no longer obligated to deliver an annual report or proxy statement to security holders; and (2) provide that a registrant's obligation to deliver an annual report or proxy statement is reinstated once a security holder delivers or causes to be delivered to the registrant written notice setting forth his then current address. This amendment also will apply to registrants' delivery obligations in connection with information statements.

II. Discussion

The shareholder communication rules, including those adopted today, are intended to ensure that the beneficial owners of securities held in street name are timely provided proxy material and other corporate communications. Rules 14b–1 (a) and (b)[5] and 14b–2 (a)–(d)[6] govern the proxy processing by banks and brokers; Rules 14b–1(c)[7] and 14b–2 (e) and (h)[8] govern the disclosure of beneficial ownership information to registrants by banks and brokers.

A. Proxy Processing System

The proxy processing rules are intended to ensure that proxy materials reach on a timely basis those persons entitled to determine how securities are voted—the beneficial owners. State law generally recognizes exercise of voting authority by record holders only.[9] Brokers, subject to self-regulatory organization rules governing the voting of nominee stock, generally transmit proxy material to their clients and solicit voting instructions, and, at the end of the solicitation period, execute a single or limited number of proxies covering all shares held of record by the broker.[10]

The proxy processing activities of banks, on the other hand, were largely unregulated until passage of the Act. Unless they specifically contracted otherwise, banks generally did not seek voting instructions or transmit proxy material or other corporate communications to beneficial owners. In addition, unlike brokers, banks have a common practice of using other banks to "piggyback" bank accounts. Currently, banks which do forward proxy materials to beneficial owners usually send only

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[1] Release No. 34–23276 (May 29, 1986) [51 FR 20504].

[2] Pub. L. 99–222, 99 Stat. 1737 (1985), amending 15 U.S.C. 78n(b) (1982).

[3] These proposals generated comment letters from 57 commentators. The letters of comment, as well as a copy of the summary of the comment letters prepared by the staff, are available for public inspection and copying at the Commission's Public Reference Room. (*See* File No. S7–12–86).

[4] As part of its comprehensive review of the proxy rules, the Commission recently adopted amendments to Rules 14a–1, 14a–3(e)(2), 14a–13, 14c–1 and 14c–7, effective January 19, 1987. Release No. 33–6676 (November 10, 1986) [51 FR 42048]. The Commission is withdrawing the amendments to those provisions adopted in Release No. 33–6676 and is incorporating those changes, which are technical and clarifying in nature, in the shareholder communications amendments to the rules adopted herein. Those amendments will be effective December 28, 1986.

[5] 17 CFR 240.14b–1 (a) and (b).

[6] 17 CFR 240.14b–2(a)—(d).

[7] 17 CFR 240.14b–1(c).

[8] 17 CFR 240.14b–2 (e) and (h).

[9] *See, e.g.*, 8 Del. Code Ann. § 213 (1983).

[10] The rules of the self-regulatory organizations provide that a broker may either request voting instructions from beneficial owners or forward signed proxies to beneficial owners. *See e.g.*, Rule 451 of the New York Stock Exchange ("NYSE"), Rule 575 of the American Stock Exchange ("Amex") and Art. III, section 1 of the Rules of Fair Practice of the National Association of Security Dealers ("NASD") (provides only for forwarding signed proxies to beneficial owners). Rules of the self-regulatory organizations also provide that should a broker request voting instructions it may, in certain uncontested matters, vote the proxy if instructions are not received from the beneficial owner by the tenth day before the meeting and the proxy material was transmitted to the beneficial owner at least 15 days before the meeting. If the proxy soliciting material was transmitted to the beneficial owner 25 days prior to the meeting, the broker may vote the proxy 15 days before the meeting if voting instructions are not received from the beneficial owner. *See, e.g.*, NYSE Rules 451 and 452 and Amex Rules 575 and 577.

one set of proxy materials with an executed proxy card to each bank on whose behalf the bank record holder holds securities ("respondent bank"), despite the fact that its respondent bank may hold securities on behalf of many beneficial owners or other respondent banks. Thus, devising proxy processing rules for banks has presented a need to anticipate new bank procedures that comply with state law requirements and permit voting or instruction by beneficial owners.

In the proposing release, the Commission, recognizing that a substantial change in bank practices would be required, solicited comment on what procedures record holder banks would have to institute to ensure that all ultimate beneficial owners receive proxy materials in a timely fashion.[11] Commentators overwhelmingly endorsed procedures that relied on an omnibus proxy approach. The Commission, therefore, has incorporated such a concept in the rules governing the forwarding of proxy materials to beneficial owners.[12] Based on public comment, particularly that of the banking community, the Commission believes that the omnibus proxy approach should provide a cost-effective and efficient system for ensuring that proxy materials are received by the beneficial owners and that proxies are executed by the appropriately authorized parties.

The Commission recognizes the need for banks to have sufficient time to establish workable procedures for the implementation of this system. Accordingly, the Commission is deferring effectiveness until July 1, 1987, of paragraphs (a) through (c) of Rule 14b–2, which set forth the obligations of a bank in connection with obtaining and forwarding proxy materials to beneficial owners (including the omnibus proxy approach). This additional six-month period should provide ample time for the banking community to adapt their in-house procedures to comply with these rules.

Given the July 1, 1987, effective date, the Commission invites persons that have concern with the specific language of these provisions to advise the Commission of such concern by comment letter no later than February 1, 1987. In the event that the Commission, after review of any such comments, believes the language of the rule should be revised it will do so. The Commission does not, however, anticipate a change in the rule's reliance on the omnibus proxy approach.[13]

1. Search Card

The first step in the proxy processing system is the issuance and response to the registrant's search card. Registrants are currently required to ask record holders to provide the number of sets of proxy materials and/or annual reports needed for forwarding to beneficial owners whose securities are directly held by the record holder.[14] Effective July 1, 1987, registrants will be required to make this same inquiry to respondent banks,[15] and both record holder and respondent banks will be required to respond to that inquiry within seven business days after the date the inquiry is received.[16]

A registrant will learn from the record holder the identity of its respondent banks. Within one business day after the date it receives a registrant's Rule 14a–13(a)[17] inquiry, a record holder bank will be required to forward directly to the registrant, by first class mail or other equally prompt means, a list of the identities and addresses of its respondent banks.[18] Within one business day after the date it learns of a respondent bank's identity, a registrant must forward a Rule 14a–13(a) inquiry directly to that respondent bank.[19] If the respondent bank holds securities on behalf of other banks, it also will be required to identify those respondent banks within one business day after the date it receives the registrant's inquiry.

2. Proxy Soliciting Materials

Registrants will continue to be required to supply record holders with the requisite number of sets of proxy materials and/or annual reports needed to forward to beneficial owners whose securities are directly held by the record holder.[20] Effective July 1, 1987, registrants also will be required to supply proxy materials and/or annual reports to respondent banks for forwarding to those persons whose securities are held directly by respondent banks.[21]

Effective July 1, 1987, both bank record holders and respondent banks will be required to forward proxy soliciting material and/or annual reports directly to beneficial owners within five business days after the date the material is received.[22] Banks also will be required to forward either an executed proxy or a request for voting instructions to those beneficial owners whose securities are directly held by the

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[11] The Commission solicited comment on four alternative proposals:

1. Bank record holders and respondent banks would receive proxy soliciting materials and annual reports directly from the registrant for forwarding to beneficial owners. Proxy cards, however, would be mailed to bank record holders for forwarding to respondent banks and, ultimately, to beneficial owners. To ensure that those beneficial owners whose securities are held through respondent banks would receive their proxy cards with the proxy soliciting materials, respondent banks would be required to wait until they receive the proxy cards before forwarding the complete sets to beneficial owners. To minimize delays in the forwarding of proxy cards, the proposal provided that record holder and respondent banks must forward the proxy cards to the next layer of respondent banks within one business day of receipt.

2. The registrant would send enough complete sets of the proxy material, including the proxy card, to each record holder bank to supply beneficial owners on whose behalf it holds securities as well as those of its respondent banks. The record holder bank, after executing the proxy, would then be required to forward the complete sets to the respondent bank.

3. The registrant would forward complete sets, including proxy cards, directly to respondent banks and have the beneficial owners provide voting instructions to the bank record holders, in a manner similar to the process currently used by brokers. Bank record holders would then execute the proxy cards and forward them to the registrant.

4. Bank record holders would execute, in favor of respondent banks, powers of attorney or omnibus proxies similar to those used by the Depository Trust Company. Under this system, registrants would send the annual report, the proxy soliciting material and the proxy card directly to the respondent banks for forwarding to beneficial owners. Pursuant to the omnibus proxy, the respondent bank would execute the proxy card and forward it to the beneficial owner.

[12] The omnibus proxy procedure incorporated in the rules reflects and is consistent with recommendations made by the American Bankers Association and the New York Stock Exchange Ad Hoc Committee on Identification of Beneficial Owners (the "Ad Hoc Committee"), which is composed of members of the securities and banking industries and the registrant community.

[13] Comments should be submitted by February 1, 1987 in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth St., NW., Washington, DC 20549. Comment letters should refer to File No. S7–12–86. All comment letters received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

[14] Rule 14a–13(a)(1), 17 CFR 240.14a–13(a)(1), currently requires, among other things, that a registrant "inquire of each . . . record holder . . . the number of copies of the proxy and other soliciting material necessary to supply such material to beneficial owners; [and] . . . the number of copies of the annual report to security holders necessary to supply . . . to beneficial owners . . . ."

[15] Rule 14a–13(a)(1) and (a)(2), 17 CFR 240.14a–13(a)(1) and (a)(2).

[16] Rule 14b–2(a)(2), 17 CFR 240.14b–2(a)(2).

[17] 17 CFR 240.14a–13(a).

[18] Rule 14b–2(a)(1), 17 CFR 240.14b–2(a)(1).

[19] Rule 14a–13(a)(2), 17 CFR 250.14a–13(a)(2).

[20] Rule 14a–13(a)(3), 17 CFR 240.14a–13(a)(3), currently requires registrants to "supply. . . . each record holder of whom the inquiry . . . is made with copies of the proxy, other proxy soliciting material, and/or the annual report to security holders, in such quantities, assembled in such form and at such a place, as the record holder may reasonably request in order to address and send one copy of each to each beneficial owner of securities . . . ."

[21] Rule 14a–13(a)(4), 17 CFR 240.14a–13(a)(4).

[22] Rule 14b–2(c)(2), 17 CFR 240.14b–2(c)(2).

banks within five business days after the date the proxy cards are received.[23]

If the bank chooses to forward executed proxies to beneficial owners, each such proxy must indicate the number of securities held for such beneficial owner and bear the beneficial owner's account number or other form of account identification, but need not include the beneficial owner's name.[24] The information regarding the number of securities held will permit the registrant or its tabulator to count and credit the number of securities voted to the total number of securities held of record by the record holder bank. The beneficial owner's account number will avoid counting duplicate proxies and will assist in the determination of which beneficial owner has not yet voted. If the bank chooses this method, it also must instruct the beneficial owner regarding the procedures for voting the securities and provide the beneficial owner with an envelope addressed to the registrant or its agent for mailing the executed proxy, if one is not provided by the registrant.

Alternatively, a bank may request voting instructions directly from beneficial owners.[25] Once it receives such instructions, the bank must vote the securities in accordance with the instructions received from the beneficial owner and forward the voted proxy to the registrant or its tabulator.

The omnibus proxy system should facilitate transmission of the proxy or voting instructions by providing for the mailing of proxy cards directly from registrants to respondent banks, rather than requiring proxy cards to be forwarded through the various layers of banks to the ultimate respondent bank. Pursuant to this system, which will become effective July 1, 1987, each record holder and respondent bank will be required to execute an omnibus proxy in the name of its respondent banks, forward that proxy to the registrant, and notify its respondent banks that an omnibus proxy has been executed, within three business days after the record date.[26] The omnibus proxies will be required to include a power of substitution to permit other layers of respondent banks to execute the proxy cards. Respondent banks, which will receive the proxy cards directly from the registrant, will thus be authorized to execute the proxy card. This will relieve bank record holders of the need to process large numbers of proxy cards for their respondent banks.

Finally, for a year following effectiveness of the omnibus proxy procedures, the rule permits banks to fashion alternatives to either the omnibus proxy execution procedure and/or the procedures for obtaining beneficial owner votes.[27] Paragraph (d) of Rule 14b–2 provides that a bank may apply to the Commission for a waiver from compliance with paragraphs (b) and/or (c). Such application must set forth alternative procedures that will reasonably assure that beneficial owners will receive proxy cards, other proxy soliciting material and/or annual reports in a timely fashion. The Commission, in its discretion, may grant such waiver, subject to any suitable terms or conditions, if it finds the waiver to be necessary or appropriate in the public interest and consistent with the protection of beneficial owners and the purposes of the Act.[28]

3. Time Periods

To alleviate the delays associated with the piggy-backing of bank accounts, the Commission specifically inquired whether Rule 14a–13(a) should be revised to require registrants to initiate the proxy processing procedure 30 calendar days before the record date instead of the 20 calendar days currently provided. Commentators overwhelmingly endorsed advancing the timetable. The Commission agrees with these commentators that advancing the inquiry process, particularly as applied to banks, will promote efficiency of the system and will reduce the burdens associated with compliance.

Amended Rule 14a–13(a)(3), which will become effective July 1, 1987, thus will require the inquiry process to commence 20 business, rather than calendar, days prior to the record date. This revision is effectively equivalent to the 30 calendar day time period endorsed by commentators, and use of a business day standard will bring this paragraph into accord with other time periods throughout the shareholder communications rules. The Commission notes that this revision will advance the timetable for the inquiry process as a whole, including the process as applied to brokers.

The Commission also solicited specific comment on whether the proposed seven business day time period for a bank's response to the registrant's search card and the five business day requirement for forwarding proxy materials needed to be shortened to accommodate the piggy-backed bank accounts. Commentators were divided on the issue of shortening the seven business day response time period, and no commentators supported shortening the five business day forwarding requirement. Given the lack of a consensus in favor of shortening the time periods and the Commission's desire to structure the requirements of new Rule 14b–2 to parallel those of Rule 14b–1, which have worked well, the Commission has not changed the time periods from that currently applicable for brokers.

As amended, paragraph (a)(3) of Rule 14a–13 makes clear that if the record holder or respondent bank has informed the registrant that a particular office or department should receive Rule 14a–13(a) inquiries, the time period commences from receipt of the inquiry by that designated office or department. If such an office is not so designated, the time period runs from receipt by the broker or bank. This revision will reduce confusion in calculating the time periods, which may occur when a record holder's mailroom receives the Rule 14a–13(a) inquiry several days before the office previously designated as responsible for responding to the inquiry. Other similar revisions have been made to Rules 14b–1, 14b–2, and 14c–7, where clarification of the term "receipt" is helpful. These revisions are effective December 28, 1986.

B. Disclosure of Beneficial Owners—Direct Communications System

Paragraphs (b) and (c) of Rule 14a–13[29] set forth a registrant's obligations when it wishes to communicate directly with its security holders. Under this system, as amended, registrants will request access to the names, addresses and securities positions of non-objecting and affirmatively consenting beneficial owners (hereinafter collectively referred to as "acquiescing" beneficial owners).

1. Search Card

Registrants may request beneficial owner lists at any time, and not solely in conjunction with an annual or special meeting.[30] Accordingly, it is necessary to provide a separate mechanism permitting registrants to ascertain the identity of respondent banks, in addition to that provided in the proxy processing system.

[23] Rule 14b–2(c)(1), 17 CFR 240.14b–2(c)(1).

[24] Rule 14b–2(c)(1)(i), 17 CFR 240.14b–2(c)(1)(i).

[25] Rule 14b–2(c)(1)(ii), 17 CFR 240.14b–2(c)(1)(ii).

[26] Rule 14b–2(b), 17 CFR 240.14b–2(b). Banks will learn the record date when they receive the registrant's Rule 14a–13(a)(1) inquiry. *See* Rule 14a–13(a)(1).

[27] Rule 14b–2(d), 17 CFR 240.14b–2(d).

[28] The Commission is delegating authority to grant such waivers to the Director of the Division of Corporation Finance. *See* 17 CFR 200.30–1(f)(13).

[29] 17 CFR 240.14a–13 (b) and (c).

[30] Rule 14a–13(b).

Effective December 28, 1986, a registrant making such an inquiry must, pursuant to Rule 14a–13(b)(1),[31] direct its inquiry to all record holder banks and respondent banks who hold the registrant's securities on behalf of beneficial owners. A record holder bank is required to respond within one business day after the date it receives a request for the identities and addresses of its respondent banks.[32] The registrant then will make a Rule 14a–13(b)(1) request directly to any respondent banks identified by the record holders and each respondent bank would have one business day after the date it receives the inquiry to respond. If other layers of banks exist, the procedure will be repeated. A registrant wishing to obtain a beneficial owner list in connection with a proxy solicitation need not make a Rule 14a–13(b)(1) search, since the identity of the respondent banks will be supplied in connection with the Rule 14a–13(a) inquiry.

2. Obtaining Beneficial Owner Lists

While registrants may request the beneficial owner list whenever and as frequently as they wish, banks are not obligated to provide a list as of a date earlier than five business days following the bank's receipt of the registrant's request.[33] If a bank receives a request for a beneficial owner list less than five business days before the requested compilation date and the bank cannot reasonably comply with the request, the bank must provide the registrant with a list compiled as of a date that is no more than five business days following the receipt.[34] Banks are required to transmit the beneficial owner list within five business days of the compilation date.[35]

Under the current rules, a registrant that requests beneficial owner lists of one broker must request the list of all brokers holding the registrant's securities. This requirement was imposed to ensure that brokers were properly reimbursed for the expenses of complying with the beneficial ownership disclosure rules. The requirements prevented registrants from requesting the lists only from brokers holding substantial positions and thereby avoiding reimbursement of the other brokers' costs.

The Commission believes it appropriate to extend this requirement to banks as well. However, to ensure that banks have sufficient opportunity both to solicit beneficial owners' acquiescence in disclosure and to employ an intermediary to perform their obligations in connection with the direct communications system should they so desire, registrants will be permitted, until July 1, 1987, to request broker-only beneficial owner lists, as well as bank-only lists.[36] On or after July 1, 1987, however, registrants must request the information of all brokers and all banks.

The direct communications rules are not limited to beneficial owners of equity securities but may apply, in certain circumstances, to debt security holders. For example, a section 12(b) [37] registrant may be required to solicit consents of debt holders if the registrant wishes to amend the terms of the governing indenture in a manner affecting the debt holders' right to receive payment of the principal and interest.[38] In such circumstances, the registrant may request a list of beneficial owners of its debt securities.[39]

3. Affirmative/Non-Objection Acquiescence Standard

The standard for disclosure of beneficial owner identifying information under proposed Rule 14b–2 has been revised. As adopted, the rule provides that the name, address and securities position of a beneficial owner whose account was opened on or before December 28, 1986, must be disclosed to a requesting registrant only if the beneficial owner affirmatively consents to disclosure of the information.[40] For a beneficial owner whose account is opened after December 28, 1986, the information must be disclosed if the beneficial owner does not object to disclosure.[41]

The Commission understands that many banks have incorporated into their customer account opening forms and procedures neutral language which explains the purposes of the direct shareholder communications system and is consistent with the non-objection standard for disclosure of beneficial owner information. However, some banks may choose not to incorporate such language into their customer account opening forms and instead may choose to poll beneficial owners separately at a subsequent time. Beneficial owner information will have to be disclosed prior to an objection being received, and the bank therefore should disclose this fact at the time the account is opened. This procedure is consistent with that currently in effect for brokers. In contrast, if the new account was opened under the affirmative consent standard, beneficial owner information should not be disclosed unless and until the beneficial owner actually gives consent to disclosure.

4. Good Faith Standard

For those accounts opened on or before December 28, 1986, Rule 14b–2(h)[42] provides that, if banks fail to make a good faith effort to obtain affirmative consent to disclosure of beneficial owner information, the disclosure must be made on a non-objection basis. This provision effects the directive of Congress that the affirmative consent standard adopted for existing bank accounts for privacy reasons [43] should not be used to frustrate the purposes of the direct communications system and hamper shareholder communications.

Rule 14b–2(h) also contains a safe-harbor delineation of specific steps that will be deemed to be a good faith effort to obtain affirmative consent. Banks shall be deemed to have made a good faith effort to obtain affirmative consent to disclosure of beneficial owner information if: (1) The inquiry is phrased in neutral language, explaining the purpose of the disclosure and the limitations on the registrant's use thereof; (2) the inquiry is made either in at least one mailing separate from other account mailings or at least twice in repeated mailings; and (3) the mailing includes a return card, postage paid enclosure. Rule 14b–2(h) specifies that the safe harbor provision is non-exclusive.

The Commission is cognizant that some banks may have deferred soliciting beneficial owner consent until adoption of final rules. Given the short time period between adoption and effectiveness and the rule's recognition

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[31] 17 CFR 240.14a–13(b)(1).

[32] Rule 14b–2(e)(1), 17 CFR 240.14b–2(e)(1).

[33] Rule 14b–2(e)(2), 17 CFR 240.14b–2(e)(2).

[34] For example, if a registrant wishes a list to be compiled as of February 2, 1987 but the request is received by the bank on January 28, 1987, then the bank shall provide the registrant with a list compiled as of a date no later than February 4, 1987.

[35] Rule 14b–3(e)(3), 17 CFR 240.14b–3(e)(3).

[36] Rule 14a–13(b)(3), 17 CFR 240.14a–13(b)(3). During this temporary period, a registrant choosing to request a beneficial owner list of a bank must make such a request of all banks.

[37] Section 12(b) of the Exchange Act, 15 U.S.C. 78*l*(b).

[38] Section 316(b) of the Trust Indenture Act of 1939, 15 U.S.C. 77ppp(b).

[39] The Commission understands that IECA, upon request, will provide a registrant with a list of beneficial owners of its debt securities.

[40] Rule 14b–2(e)(2)(i), 17 CFR 240.14b–2(e)(2)(i).

[41] Rule 14b–2(e)(2)(ii), 17 CFR 240.14b–2(e)(2)(ii).

[42] 17 CFR 240.14b–2(h).

[43] In adopting an affirmative consent standard for existing bank accounts, Congress was cognizant of the special issues of privacy raised under state law with respect to existing bank accounts. *See* H.R. Rep. No. 181, 99th Cong., 1st Sess. 3–4 (1985).

of the use of mailings such as account statements for the solicitation of consent, the Commission recognizes that such solicitations may not in all cases be completed until March 1, 1987.

5. Direct Mailing of Annual Reports

Similar to the system currently applicable to brokers, the amendments provide that if the registrant chooses, it may mail annual reports directly to beneficial owners.[44] At the time it submits a search card requesting the number of proxy sets required for distribution to beneficial owners, the registrant will notify the bank that it intends to mail the annual report directly to its acquiescing beneficial owners.[45] If so notified, a bank will not be required to forward the annual report to acquiescing beneficial owners in connection with that mailing but must forward annual reports to those beneficial owners who have not acquiesced in disclosure of their identities.[46]

6. Corporate Communications.

Rule 14a–13(b)(4)[47] requires registrants requesting lists of beneficial owners to use the list exclusively for purposes of corporate communications. Thus, beneficial owner lists are to be used only for matters that are of concern to the beneficial owner as a security holder. Use of beneficial owner lists for product sales is not permitted.

7. Intermediary

Rule 14b–2(e) provides that, like brokers, banks may designate an agent or intermediary to act on their behalf in providing registrants with beneficial owner lists. In such cases, registrants would make the request for beneficial owner lists to the intermediary identified to the registrant during the Rule 14a–13(a) proxy processing inquiry. Should a bank later designate a new intermediary, it should so advise the registrant.

Experience under Rule 14b–1 has indicated that the most effective and efficient implementation of the shareholder communications system by brokers involves the use of an intermediary to compile and to supply beneficial owner lists. The intermediary acts as a central processing agent between brokers and registrants in the transmission of lists of beneficial owners. In addition, the intermediary performs the administrative functions required in providing beneficial owner information, including receiving requests for beneficial owner information from registrants; advising brokers of the record date for a registrant's request; receiving beneficial owner lists from brokers; preparing, in a standardized format, lists of non-objecting beneficial owners; and billing registrants for fees associated with providing the beneficial owner information. The intermediary assures standardized delivery format and client confidentiality. Further, economies of scale have been realized, maximizing cost savings while minimizing burdens on brokers, through delegation of this function to an intermediary. Virtually all brokers have contracted with an intermediary to perform these functions.[48] The Commission anticipates use of an intermediary will likewise prove valuable to the banks.

Employing an intermediary, however, is not a condition to complying with the shareholder communications rules. Accordingly, new Rule 14b–2 and the revisions to Rule 14a–13 recognize that a bank may not wish to employ an intermediary to act on its behalf and that in such cases the registrant must make the request for a beneficial owner list directly to the bank.

C. Costs

Rule 14b–2(f)[49] makes clear that, without assurance that the registrant will reimburse expenses (direct and indirect) incurred by a bank in connection with performing its obligations under the rule, the bank need not carry out its obligations under paragraphs (b), (c), (e) and (h). A bank is obligated, however, to supply the information regarding the number of sets of proxy materials required for forwarding to beneficial owners, as required by Rule 14b–2(a), without regard to reimbursement. Rule 14a–13 (a)(4)[50] and (b)(5)[51] impose a corollary obligation on registrants to reimburse banks for the costs associated with performing their obligations under Rule 14b–2 (b), (c), (e) and (h).

Paragraph (g) to Rule 14b–2[52] addresses the calculation of banks' "reasonable expenses" for forwarding proxy soliciting material and annual reports and providing beneficial owner lists. In the rules applicable to brokers, the Commission left to the self-regulatory organizations the determination of what constitutes "reasonable expenses" and, therefore, what fees brokers appropriately may charge for forwarding proxy soliciting material. The Commission took the same approach as to the "reasonable expenses" of providing beneficial owner lists, because the self-regulatory organizations represent the interests of both registrants and brokers and thus were in the best position to make a fair allocation of the costs associated with the rules.

In this regard, the Commission has approved rule changes by the NYSE, Amex and NASD, based on recommendations of the Ad Hoc Committee. These rule changes permit the start-up costs associated with the implementation of the beneficial owner identification rule to be funded by a surcharge of $.20 and $.185 respectively, per proxy for a registrant's first two annual meeting proxy solicitations subsequent to the approval of the surcharge.[53] In addition, the rule changes set a charge of $.065 per name for registrants requesting beneficial ownership lists. The $.065 rate of reimbursement to brokers does not include fees which may be charged by an intermediary used by the broker. The NYSE also noted that the Ad Hoc Committee had considered the fees IECA proposed to charge registrants for its services and determined the charges to be reasonable. With regard to forwarding proxy materials, the rules of the self-regulatory organizations permit brokers to charge $.60 per set of proxy material plus postage for forwarding proxy materials to beneficial owners.

Because comparable self-regulatory organizations do not exist for banks, the Commission has adopted a non-exclusive safe-harbor provision, which would allow banks to look to the fees charged by brokers for the same

[44] Rule 14a–13(c).

[45] Rule 14a–13(a)(1)(ii), 17 CFR 240.14a–13(a)(1)(ii).

[46] Rule 14b–2(f)(2), 17 CFR 240.14b–2(f)(2).

[47] 17 CFR 240.14a–13(b)(4).

[48] After requesting proposals, the Ad Hoc Committee selected IECA to serve as intermediary for the brokers.

[49] 17 CFR 240.14b–2(f).

[50] 17 CFR 240.14a–13(a)(4). Effective July 1, 1987, current paragraph (a)(4) will be redesignated paragraph (a)(5).

[51] 17 CFR 240.14a–13(b)(5).

[52] 17 CFR 240.14b–2(g).

[53] *See* Release Nos. 34–21900 (March 28, 1985) [50 FR 13297] (File No. SR–NYSE–85–2) and 34–21915 (April 1, 1985) [50 FR 14069] (File Nos. SR–NASD–85–7 and SR–AMEX–85–2) approving first surcharge; Release Nos. 34–22889 (February 11, 1986) [51 FR 5821] (File No. SR–NYSE–85–43), 34–23131 (April 15, 1986) [51 FR 15083] (File No. SR–AMEX–86–4) and 34–23159 (April 22, 1986) [51 FR 16125] (File No. SR–NASD–86–9) approving second surcharge and setting per name charge; and Release Nos. 34–22908 (February 14, 1986) [51 FR 6847] (File No. SR–NYSE–85–46), 34–23316 (June 11, 1986) [51 FR 22160] (File No. SR–AMEX–86–11) and 34–23283 (May 30, 1986) [51 FR 20570] (File No. SR–NASD–86–10) approving increases in charges for forwarding proxy materials and annual reports.

functions. If a bank charges no more than that which may be charged by a broker, its charge for reimbursement of expenses incurred in carrying out Rule 14b–2 functions shall be deemed reasonable. This safe harbor provision would cover fees charged for forwarding materials, the start-up surcharges, the per name fee for beneficial owner information and charges for intermediary services. For example, in order to fund the start-up costs associated with implementation of the direct communications system, banks can charge $.20 per proxy for the first year beginning in July, 1987, and $.185 per proxy for the second year beginning in July, 1988. Banks which incur greater expenses can seek additional reimbursement, subject to the "reasonable expenses" limitation in Rule 14b–2(f)(1).[54]

D. Definition of Beneficial Owner

Rule 14b–2(i) [55] defines the term beneficial owner to include any person who has or shares the power to vote, or to direct the voting of, the security. If more than one person shares voting power, the provisions of the instrument governing voting on corporate issues will determine whether beneficial owner information will be disclosed. For example, if three people share voting authority, two consent to disclosure and one objects, and the instrument states or state law provides that majority vote governs regarding voting of corporate issues, all three names will be disclosed to the registrant.

The phrase "pursuant to an instrument, agreement or otherwise" has been added to make clear that beneficial ownership can be determined by looking to a contractual relationship or customary bank practice. For example, if a bank acting as trustee of a revocable trust votes the securities held in trust, pursuant to the trust agreement or its customary practice, the bank is the beneficial owner for purposes of the shareholder communications rules despite the fact that the principal may revoke the trust at any time. Similarly, in an irrevocable trust situation, the bank, acting as trustee, is the beneficial owner of the securities despite the fact that the principal has an unlimited right to withdraw the corpus of the trust.

Note 2 has been added to Rule 14b–2(i) to clarify that if voting power is shared or shifts depending on the nature of the corporate action involved, all persons entitled to exercise voting power are to be deemed beneficial owners. Only one such beneficial owner need be designated, however, to receive proxy material, if that designated person assumes the obligation to distribute the proxy materials to the other beneficial owners in a timely manner. The phrase "in a timely manner" is intended to ensure that the proxy voting materials are distributed to the other beneficial owners sufficiently in advance of the voting of the proxy to permit an informed voting decision.

E. Employee Benefit Plans

The Commission proposed to include an amendment to Rule 14a–13(b) to allow a registrant to exclude from its request for a beneficial owner list those owners who purchased securities through an employee benefit plan (such as an Employee Stock Ownership Plan, a Tax Reduction Act Stock Ownership Plan or a Payroll Stock Ownership Plan) if the registrant has access, by some other means, to the beneficial owner's name and address. This proposed amendment would have applied only where the plan conferred voting authority on its participants. If voting authority rested with the plan trustee, the trustee would have been considered the beneficial owner for purposes of the shareholder communications rules.

This proposal was intended to reduce registrants' costs in obtaining beneficial owner lists which are calculated on a per name basis. It did not, however, permit a registrant which requested a list of beneficial owners excluding those owners who purchased through an employee benefit plan to realize cost savings associated with direct mailing of annual reports to these beneficial owners. Instead, such a registrant would have been required to forward annual reports together with proxy cards and other proxy soliciting material to record holders and respondent banks for distribution to beneficial owners and to pay the costs of record holders and respondent banks associated with such a mailing.

Commentators generally favored the concept of excluding from requests for beneficial owner lists those beneficial owners who have purchased securities through an employee benefit plan. Some commentators stated that the employee benefit plan exclusion should be mandatory rather than optional. These commentators reasoned that the optional nature of the exclusion required record holders to maintain information concerning employee benefit plan participants despite the fact that it was unlikely that the information would ever be requested. Other commentators opposed the employee benefit plan exclusion for a variety of reasons.

The Commission agrees that the optional nature of the exclusion would impose significant recordkeeping burdens on record holders. For example, record holders would have been required to survey their entire beneficial owner data base to determine whether or not securities of the registrant were purchased through an employee benefit plan. In addition, because the exclusion was predicated on a registrant having access to the participants names and addresses by some other means, such as payroll deductions, record holders would have been obligated to monitor whether or not certain plan participants are still employees of the requesting registrant. Accordingly, the Commission has deleted the proposed provision from paragraph (b) of Rule 14a–13.

The Commission also has considered whether to make the exclusion mandatory, as some commentators suggested. Because some plan documents contain a procedure or mechanism for disseminating proxy information to voting plan participants, proxy materials could have been distributed to the plan participants by the plan sponsor, the plan administrator, or the trustee. Failure to comply with the terms of the plan document, if the plan is subject to the Employee Retirement Income Security Act, could lead to liability under that Act's general fiduciary responsibility rules.[56]

All plans, however, do not provide such a mechanism for forwarding proxy materials to plan participants. Those plan participants who are not covered by a plan procedure for distributing proxy material might not be able to obtain proxy materials. Moreover, a mandatory exclusion would not assure that a registrant would have the obligation to make a sufficient quantity of proxy soliciting material available to the record holder or respondent bank for forwarding to plan participants.

The Commission has determined, at this time, not to exclude voting plan participants from the coverage of the shareholder communications rules. Instead, the Commission will further consider application of the shareholder communications rules to employee plans in a separate rulemaking proceeding. In the interim, both the proxy processing and direct communications rules will apply in their entirety to voting employee benefit plan participants.

F. Definitions

Provisions have been added to Rules 14a–1 and 14c–1 defining the term "entity that exercises fiduciary powers'

[54] 17 CFR 240.14b–2(f)(1).

[55] 17 CFR 240.14b–2(i).

[56] 29 U.S.C. 1000, *et seq.*

to mean any entity that holds securities in nominee name or otherwise on behalf of a beneficial owner.[57] In response to commentators' suggestions, the term "otherwise" has been added to make clear that the shareholder communications rules apply not only to banks that hold securities in nominee name but also to banks that hold securities on behalf of beneficial owners in their own name as fiduciary. Rules 14a–1(b) and 14c–1(b) clarify that the term does not include a clearing agency registered under Section 17A of the Exchange Act [58] or a broker.

Rules 14a–1 and 14c–1 also define the terms "record holder" and "respondent bank" for purposes of the shareholder communications rules. Paragraph (g) of Rules 14a–1 and 14c–1 [59] provides that record holder means any broker, dealer, voting trustee, bank, association or other entity that exercises fiduciary powers, which holds securities of record in its own or nominee name or as a participant in a clearing agency registered pursuant to section 17A of the Exchange Act. Rules 14a–1(i) and 14c–1(h)[60] provides that respondent bank means any bank, association or other entity that exercises fiduciary powers, which hold securities on behalf of beneficial owners and deposits such securities for safekeeping with another bank, association or other entity that exercises fiduciary powers.

G. Information to be furnished to security holders

Rule 14a–3(e)(2)[61] has been amended to excuse a registrant, unless state law requires otherwise, from delivering a proxy statement or annual report to any security holder of record if at least two "payments of," rather than "checks made in payment of," dividends or interest on securities sent to a security holder's address of record have been returned undeliverable. The revised language makes clear that dividend or interest payments made other than by check, such as dividends payable in securities, also are to be considered in determining whether a registrant is excused from delivering a proxy statement or annual report to security holders.

Moreover, paragraph (e)(2) previously provided that a registrant's obligation to deliver the proxy statement or annual report is reinstated once it has the security holder's address. As amended, this provision now will provide that a registrant's obligation will be reinstated once a security holder causes to be delivered to the registrant a written notice setting forth his then current address.[62] A registrant will not violate the rule if it has not resumed delivery of the annual report or proxy statement but has the security holder's current address as a result of dealings with the security holder in another context (for example, as the holder of a credit card issued by the registrant). These amendments also apply to registrants' obligations to deliver information statements to security holders.[63]

III. Cost-Benefit Analysis

To evaluate fully the benefits and costs associated with new Rule 14b–2 and the amendments to Rules 14a–1, 14a–13, 14c–1 and 14c–7, the Commission requested commentators to provide views and data as to the costs and benefits associated with the rules incorporating banks into the shareholder communications system. No comments were received regarding the costs and benefits associated with these rules.

The Commission notes, however, that new Rule 14b–2 and related amendments will improve the proxy distribution process between registrants and beneficial owners, thus helping to ensure that security holders will be able to make informed voting decisions. Further, by bringing banks into the direct communications system, registrants will be able to forward certain corporate communications directly to all their beneficial owners, which also will facilitate informed voting decisions. Registrants that mail corporate communications directly to beneficial owners whose securities are held of record by banks may realize increased cost savings.

The costs associated with new Rule 14b–2 and the related amendments will result from banks being required to: (1) Process proxy materials; (2) respond to requests for beneficial owner information; and (3) perform certain recordkeeping obligations. New Rule 14b–2 and the related amendments require, however, that registrants that choose to avail themselves of the benefits associated with the shareholder communications rules must reimburse banks for their reasonable costs incurred in performing their obligations.

IV. Regulatory Flexibility Act Inquiry

Rule 14b–2 and the corresponding revisions to Rules 14a–1, 14a–13, 14b–1, 14c–1 and 14c–7 and amendments to Rule 14a–3 previously have been certified, pursuant to 5 USC 605(b), that, if promulgated, they will not have a significant economic impact on a substantial number of small entities. Nonetheless, because the Commission had not adopted a definition of small business or organization that would encompass banks for purposes of these Rules, the certification stated that the Commission intended to use the definition of small bank as contained in 17 CFR 240.0–10(f) (1) and (3), regarding a municipal securities dealer that is a bank. The Commission requested specific comment as to whether this definition was appropriate for purposes of these Rules. No comments were received on this point.

V. Statutory Basis and Text of Amendments

These amendments are being adopted pursuant to sections 12, 14 and 23(a) of the Securities Exchange Act of 1934 [64] and the Delegation of Functions Act, 15 U.S.C. 78d–1.

The Commission finds good cause under 5 U.S.C. 553(d), to make the amendments to Rules 14a–1, 14a–3, 14a–13, 14b–1, 14c–1 and 14c–7 and new Rule 14b–2(d)–(i) effective on December 28, 1986, less than thirty days after publication in the **Federal Register**. The Act provides an effective date of December 28, 1986, and the rules will permit its operation in accordance with Congress' intent. Moreover, certain of these amendments are technical in nature and the remainder of the amendments to be made effective December 28, 1986 either ease a proposed restriction or recognize an exemption.

List of Subjects in 17 CFR Parts 200 and 240

Reporting and recordkeeping requirements, Securities, Banks, Associations, Administrative Practice and Procedures, Freedom of Information, Privacy.

VI. Text of Amendments

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

PART 200—ORGANIZATION: CONDUCT AND ETHICS: INFORMATION AND REQUESTS

1. The authority cite for Part 200 continues to read in part:

[57] Rules 14a–1(b) and 14c–1(b), 17 CFR 240.14a–1(b) and 240.14c–1(b).

[58] 15 U S.C. 78q–1 (1982).

[59] 17 CFR 240.14a–1(g) and 240. 14c–1(g).

[60] 17 CFR 240.14a–1(i) and 240.14c–1(h).

[61] 17 CFR 240.14a–3(e)(2).

[62] A similar provision is contained in 8 Del. Code section 230 Ann. (1983).

[63] Rule 14c–2(a), 17 CFR 240.14c–2(a).

[64] 15 U.S.C. 781, 78n and 78w(a).

Authority: Secs. 19, 23, 48 Stat. 85, 901, as amended. Sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11 * * *

2. By adding paragraph (f)(13) to § 200.30-1 to read as follows:

§ 200.30-1 Delegation of authority to Director of Division of Corporation Finance.

* * * * *

(f) * * *

(13) To grant exemptions from Rule 14b-2 (b) and/or (c) (§ 240.14b-2 (b) and/or (c) of this Chapter) pursuant to Rule 14b-2(d) (§ 240.14b-2(d) of this Chapter).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for Part 240 is amended by adding the following citations: (Citations before * * * indicate general rulemaking authority).

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C. 78w. * * * Sections 240.14a-1, 240.14a-3, 240.14a-13, 240.14b-1, 240.14b-2, 240.14c-1, and 240.14c-7 also issued under sections 12, 15 U.S.C. 781, and 14, Pub. L. 99-222, 99 Stat. 1737, 15 U.S.C. 78n.

4. By withdrawing amendments to § 240.14a-1 specified in Release No. 33-6676 (November 10, 1986) [51 FR 42048] and revising § 240.14a-1 to read as follows:

§ 240.14a-1 Definitions.

Unless the context otherwise requires, all terms used in this regulation have the same meanings as in the Act or elsewhere in the general rules and regulations thereunder. In addition, the following definitions apply unless the context otherwise requires:

(a) *Associate.* The term "associate," used to indicate a relationship with any person, means (1) any corporation or organization (other than the registrant or a majority owned subsidiary of the registrant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities; (2) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and (3) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the registrant or any of its parents or subsidiaries.

(b) *Entity that exercises fiduciary powers.* The term "entity that exercises fiduciary powers" means any entity that holds securities in nominee name or otherwise on behalf of a beneficial owner but does not include a clearing agency registered pursuant to section 17A of the Act or a broker or a dealer.

(c) *Last fiscal year.* The term "last fiscal year" of the registrant means the last fiscal year of the registrant ending prior to the date of the meeting for which proxies are to be solicited or if the solicitation involves written authorizations or consents in lieu of a meeting, the earliest date they may be used to effect corporate action.

(d) *Proxy.* The term "proxy" includes every proxy, consent or authorization within the meaning of section 14(a) of the Act. The consent or authorization may take the form of failure to object or to dissent.

(e) *Proxy statement.* The term "proxy statement" means the statement required by § 240.14a-3(a) whether or not contained in a single document.

(f) *Record date.* The term "record date" means the date as of which the record holders of securities entitled to vote at a meeting or by written consent or authorization shall be determined.

(g) *Record holder.* For purposes of §§ 240.14a-13, 240.14b-1 and 240.1,4b-2, the term "record holder" means any broker, dealer, voting trustee, bank, association or other entity that exercises fiduciary powers which holds securities of record in nominee name or otherwise or as a participant in a clearing agency registered pursuant to section 17A of the Act.

(h) *Registrant.* The term "registrant" means the issuer of the securities in respect of which proxies are to be solicited.

(i) *Respondent bank.* For purposes of §§ 240.14a-13, 240.14b-1 and 240.14b-2, the term "respondent bank" means any bank, association or other entity that exercises fiduciary powers which holds securities on behalf of beneficial owners and deposits such securities for safekeeping with another bank, association or other entity that exercises fiduciary powers.

(j) *Solicitation.* (1) The terms "solicit" and "solicitation" include:

(i) Any request for a proxy whether or not accompanied by or included in a form of proxy:

(ii) Any request to execute or not to execute, or to revoke, a proxy; or

(iii) The furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

(2) The terms do not apply, however to the furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder, the performance by the registrant of acts required by § 240.14a-7, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

5. By withdrawing amendments to paragraph (e)(2) of § 240.14a-3 specified in Release No. 33-6676 (November 10, 1986) [51 FR 42048] and revising paragraph (e)(2) of § 240.14a-3 to read as follows:

§ 240.14a-3 Information to be furnished to security holders.

* * * * *

(e) * * *

(2) Unless state law requires otherwise, a registrant is not required to send an annual report or proxy statement to a security holder if: (i) an annual report and a proxy statement for two consecutive annual meetings; or (ii) all, and at least two, payments (if sent by first class mail) of dividends or interest on securities during a twelve month period have been mailed to such security holder's address and have been returned undeliverable. If any such security holder delivers or causes to be delivered to the registrant written notice setting forth his then current address for security holder communications purposes, the registrant's obligation to deliver an annual report or a proxy statement under this section is reinstated.

6. By withdrawing amendments to paragraphs (a)(1) and (2) of § 240.14a-13 specified in Release No. 33-6676 (November 10, 1986) [51 FR 42048] and revising § 240.14a-13 to read as follows:

Note.—This version of § 240.14a-13 is effective December 28, 1986 through June 30, 1987.

§ 240.14a-13 Obligations of registrants in communicating with beneficial owners.

(a) If the registrant knows that securities of any class entitled to vote at a meeting (or by written consents or authorizations if no meeting is held) with respect to which the registrant intends to solicit proxies, consent, or authorizations are held of record by a broker, dealer, voting trustee, or bank, association, or other entity that exercises fiduciary powers in nominee name or otherwise, the registrant shall:

(1) By first class mail or other equally prompt means: (i) inquire of each such record holder: (A) whether other persons are the beneficial owners of such securities and, if so, the number of copies of the proxy and other soliciting material necessary to supply such material to such beneficial owners; (B) in the case of an annual (or special meeting in lieu of the annual) meeting, or written consents in lieu of such meeting, at which directors are to be

elected, the number of copies of the annual report to security holders necessary to supply such report to beneficial owners to whom such reports are to be distributed by such record holder or its nominee not by the registrant; and (C) if the record holder has an obligation under § 240.14(b)–1(c) of § 240.14b–2(e) (2) and (3), whether an agent has been designated to act on its behalf in fulfilling such obligation and, if so, the name and address of such agent; and (ii) indicate to each such record holder: (A) whether the registrant, pursuant to paragraph (c) of this section, intends to distribute the annual report to security holders to beneficial owners of its securities whose names, addresses and securities positions are disclosed pursuant to § 240.14b–1(c) or § 240.14b–2(e) (2) and (3); and (B) the record date;

(2) Make the inquiry required by paragraph (a)(1) of this section at least 20 calendar days prior to the record date of the meeting of security holders, or (i) if such inquiry is impracticable 20 calendar days prior to the record date of a special meeting, as many days before the record date of such meeting as is practicable or, (ii) if consents or authorizations are solicited and such inquiry is impracticable 20 calendar days before the earliest date on which they may be used to effect corporate action, as many days before that date as is practicable, or (iii) at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown; *Provided, however,* that if a record holder has informed the registrant that a designated office(s) or department(s) is to receive such inquiries, the inquiry shall be made to such designated office(s) or department(s); and

(3) Supply, in a timely manner, each record holder of whom the inquiry required by paragraph (a)(1) of this section is made with copies of the proxy, other proxy soliciting material, and/or the annual report to security holders, in such quantities, assembled in such form and at such place(s), as the record holder may reasonably request in order to send such material to each beneficial owner of securities who is to be furnished with such material by the record holder; and

(4) Upon the request of any record holder that is supplied with proxy soliciting material and/or annual reports to security holders pursuant to paragraph (a)(3) of this section, pay its reasonable expenses for completing the mailing of such material to beneficial owners.

Note 1.—If the registrant's list of security holders indicates that some of its securities are registered in the name of a clearing agency registered pursuant to section 17A of the Act (*e.g.*, "Cede & Co.," nominee for the Depository Trust Company), the registrant shall make appropriate inquiry of the clearing agency and thereafter of the participants in such clearing agency who may hold on behalf of a beneficial owner, and shall comply with the above paragraph with respect to any such participant (*see* § 240.14a–1(g)).

Note 2.—The attention of registrants is called to the fact that each broker and dealer has an obligation pursuant to § 240.14b–1(b) and applicable self-regulatory organization requirements to obtain and forward, within the time periods prescribed therein, (a) proxies and proxy soliciting materials to all beneficial owners on whose behalf it holds securities, and (b) annual reports to security holders to all beneficial owners on whose behalf it holds securities, unless the registrant has notified the broker or dealer that it has assumed responsibility to mail such material to beneficial owners whose name, addresses and securities positions are disclosed pursuant to § 240.14b–1(c).

(b) Any registrant requesting pursuant to § 240.14b–1(c) or § 240.14b–2(e) (2) and (3) a list of names, addresses and securities positions of beneficial owners of its securities who either have consented or have not objected to disclosure of such information shall:

(1) By first class mail or other equally prompt means, inquire of each record holder and each respondent bank identified to the registrant pursuant to § 240.14b–2(e)(1) whether such record holder or respondent bank holds the registrant's securities on behalf of any respondent banks and, if so, the name and address of each such respondent bank;

(2) Request such list to be compiled as of a date no earlier than five business days after the date the registrant's request is received by the record holder or respondent bank; *Provided, however,* that if the record holder or respondent bank has informed the registrant that a designated office(s) or department(s) that is to receive such requests, the request shall be made to such designated office(s) or department(s);

(3) Make such request to all brokers and dealers and/or all banks, associations and other entities that exercise fiduciary powers;

(4) Use the information furnished in response to such request exclusively for purposes of corporate communications; and

(5) Upon the request of any record holder or respondent bank to whom such request is made, pay the reasonable expenses, both direct and indirect, of providing beneficial owner information.

Note.—A registrant will be deemed to have satisfied its obligations under paragraph (b) of this section by requesting consenting and non-objecting beneficial owner lists from a designated agent acting on behalf of the record holder or respondent bank and paying to that designated agent the reasonable expenses of providing the beneficial owner information.

(c) A registrant, at its option, may mail its annual report to security holders to the beneficial owners whose identifying information is provided by record holders and respondent banks, pursuant to § 240.14b–1(c) or § 240.14b–2(e) (2) and (3), provided that such registrant notifies the record holders and respondent banks, at the time it makes the inquiry required by paragraph (a) of this section, is sent that the registrant will mail the annual report to security holders to the beneficial owners so identified.

Note.—This version of § 240.14a–13 is effective July 1, 1987.

§ 240.14a–13 Obligations of registrants in communicating with beneficial owners.

(a) If the registrant knows that securities of any class entitled to vote at a meeting (or by written consents or authorizations if no meeting is held) with respect to which the registrant intends to solicit proxies, consents or authorizations are held of record by a broker, dealer, voting trustee, bank, association, or other entity that exercises fiduciary powers in nominee name or otherwise, the registrant shall:

(1) By first class mail or other equally prompt means: (i) inquire of each such record holder: (A) whether other persons are the beneficial owners of such securities and if so, the number of copies of the proxy and other soliciting material necessary to supply such material to such beneficial owners; (B) in the case of an annual (or special meeting in lieu of the annual) meeting, or written consents in lieu of such meeting, at which directors are to be elected, the number of copies of the annual report to security holders necessary to supply such report to beneficial owners to whom such reports are to be distributed by such record holder or its nominee and not by the registrant; and (C) if the record holder has an obligation under § 240.14b–1(c) or § 240.14b–2(e) (2) and (3), whether an agent has been designated to act on its behalf in fulfilling such obligation and, if so, the name and address of such agent; and (ii) indicate to each such record holder: (A) whether the registrant, pursuant to paragraph (c) of this section, intends to distribute the annual report to security holders to beneficial owners of

its securities whose names, addresses and securities positions and disclosed pursuant to § 240.14b–1(c) and § 240.14b–2(e) (2) and (3); and (B) the record date;

(2) Upon receipt of a record holder's or respondent bank's response indicating, pursuant § 240.14b–2(a)(1), the names and addresses of its respondent banks, within one business day after the date such response it received, make an inquiry of and give notification to each such respondent bank in the same manner required by paragraph (a)(1) of this section;

(3) Make the inquiry required by paragraph (a)(1) of this section at least 20 business days prior to the record date of the meeting of security holders, or (i) if such inquiry is impracticable 20 business days prior to the record date of a special meeting, as many days before the record date of such meeting as is practicable or, (ii) if consents or authorizations are solicited, and such inquiry is impracticable 20 business days before the earliest date on which they may be used to effect corporate action, as many days before that date as is practicable, or (iii) at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown; *Provided, however,* that if a record holder or respondent bank has informed the registrant that a designated office(s) or department(s) is to receive such inquiries, the inquiry shall be made to such designated office(s) or department(s); and

(4) Supply, in a timely manner, each record holder and respondent bank of whom the inquiries required by paragraphs (a)(1) and (a)(2) of this section are made with copies of the proxy, other proxy soliciting material, and/or the annual report to security holders, in such quantities, assembled in such form and at such place(s), as the record holder or respondent bank may reasonably request in order to send such material to each beneficial owner of securities who is to be furnished with such material by the record holder or respondent bank; and

(5) Upon the request of any record holder or respondent bank that is supplied with proxy soliciting material and/or annual reports to security holders pursuant to paragraph (a)(4) of this section, pay its reasonable expenses for completing the mailing of such material to beneficial owners.

Note 1.—If the registrant's list of security holders indicates that some of its securities are registered in the name of a clearing agency registered pursuant to a section 17A of the Act (*e.g.*, "Cede & Co.," nominee for the Depository Trust Company), the registrant shall make appropriate inquiry of the clearing agency and thereafter of the participants in such clearing agency who may hold on behalf of a beneficial owner or respondent bank, and shall comply with the above paragraph with respect to any such participant (*see* § 240.14a–1(g)).

Note 2.—The attention of registrants is called to the fact that each broker, dealer, bank, association and other entity that exercises fiduciary powers has an obligation pursuant to § 240.14b–1(b), § 240.14b–2(b) and, with respect to brokers and dealers, applicable self-regulatory organization requirements to obtain and forward, within the time periods prescribed therein, (a) proxies (or in lieu thereof requests for voting instructions) and proxy soliciting materials to all beneficial owners on whose behalf it holds securities, and (b) annual reports to security holders to all beneficial owners on whose behalf it holds securities, unless the registrant has notified the record holder or respondent bank that it has assumed responsibility to mail such material to beneficial owners whose names, addresses and securities positions are disclosed pursuant to § 240.14b–1(c) and § 240.14b–2(e) (2) and (3).

(b) Any registrant requesting pursuant to § 240.14b–1(c) and § 240.14b–2(e) (2) and (3) a list of names, addresses and securities positions of beneficial owners of its securities who either have consented or have not objected to disclosure of such information shall:

(1) By first class mail or other equally prompt means, inquire of each record holder and each respondent bank identified to the registrant pursuant to § 240.14b–2(e)(1) whether such record holder or respondent bank holds the registrant's securities on behalf of any respondent banks and, if so, the name and address of each such respondent bank;

(2) Request such list to be compiled as of a date no earlier than five business days after the date the registrant's request is received by th record holder or respondent bank; *Provided, however,* that if the record holder or respondent bank has informed the registrant that a designated office(s) or department(s) is to receive such requests, the request shall be made to such designated office(s) or department(s);

(3) Make such request to all brokers, dealers, banks, associations and other entities that exercise fiduciary powers;

(4) Use the information furnished in response to such request exclusively for purposes of corporate communications; and

(5) Upon the request of any record holder or respondent bank to whom such request is made, pay the reasonable expenses, both direct and indirect, of providing beneficial owner information.

Note.—A registrant will be deemed to have satisfied its obligations under paragraph (b) of this section by requesting consenting and non-objecting beneficial owner lists from a designated agent acting on behalf of the record holder or respondent bank and paying to that designated agent the reasonable expenses of providing the beneficial owner information.

(c) A registrant, at its option, may mail its annual report to security holders to the beneficial owners whose identifying information is provided by record holders and respondent banks, pursuant to § 240.14b–1(c) and § 240.14b–2(e) (2) and (3), provided that such registrant notifies the record holders and respondent banks, at the time it makes the inquiry required by paragraph (a) of this section, that the registrant will mail the annual report to security holders to the beneficial owners so identified.

7. By revising the introductory text to the section, paragraphs (a), (c) and (d)(1) and designating the note as note 1 and adding a note 2 to paragraph (c) to § 240.14b–1 to read as follows:

§ 240.14b–1 Obligation of registered brokers and dealers in connection with the prompt forwarding of certain communications to beneficial owners.

A broker or dealer registered under section 15 of the Act shall:

(a) Respond, by first class mail or other equally prompt means, directly to the registrant no later than seven business days after the date it receives an inquiry made in accordance with § 240.14n–13(a) by indicating, by means of a search card or otherwise: (1) The approximate number of its customers who are beneficial owners of the registrant's securities that are held of record by the broker, dealer or its nominee;

(2) The number of its customers who are beneficial owners of the registrant's securities who have objected to disclosure of their names, addresses and securities positions if the registrant has indicated, pursuant to § 240.14a–13(a)(1)(ii)(A), that it will distribute the annual report to security holders to beneficial owners of its securities whose names, addresses and securities positions are disclosed pursuant to paragraph (c) of this section; and

(3) the identity of its designated agent, if any, acting on its behalf in fulfilling its obligations under paragraph (c) of this section;

Provided, however, that if the broker or dealer has informed the registrant that a designated office(s) or department(s) is to receive such inquiries, receipt for purposes of paragraph (a) of this section

shall mean receipt by such designated office(s) or department(s);

* * * * *

(c) Through its agent or directly: (1) Provide the registrant, upon the registrant's request, with the names, addresses and securities positions, compiled as of a date specified in the registrant's request which is no earlier than five business days after the date the registrant's request is received, of its customers who are beneficial owners of the registrant's securities and who have not objected to disclosure of such information; *Provided, however,* that if the broker or dealer has informed the registrant that a designated office(s) or department(s) is to receive such requests, receipt shall mean receipt by such designated office(s) or department(s); and (2) transmit the data specified in paragraph (c)(1) of this section to the registrant no later than five business days after the record date or other date specified by the registrant.

Note 1.—Where a broker or dealer employs a designated agent to act on its behalf in performing the obligations imposed on the broker or dealer by paragraph (c) of this section, the five business day time period for determining the date as of which the beneficial owner information is to be compiled is calculated from the date the designated agent receives the registrant's request. In complying with the registrant's request for beneficial owner information under paragraph (c) of this section, a broker or dealer need only supply the registrant with the names, addresses and securities positions of non-objecting beneficial owners.

Note 2.—If a broker or dealer receives a registrant's request less than five business days before the requested compilation date, it must provide a list compiled as of a date that is no more than five business days after receipt and transmit the list within five business days after the compilation date.

(d) A broker or dealer need not satisfy (1) its obligations under paragraphs (b) and (c) of this section if a registrant does not provide assurance of reimbursement of the broker's or dealer's reasonable expenses, both direct and indirect, incurred in connection with performing the obligations imposed by paragraphs (b) and (c) of this section; * * *.

* * * * *

8. By adding § 240.14b–2 to read as follows:

Note.—In 3240.146–2, paragraphs (a) through (c) are effective July 1, 1987 and paragraphs (d) through (i) are effective December 28, 1986.

§ 240.14b–2 Obligation of banks, associations and other entities that exercise fiduciary powers in connection with the prompt forwarding of certain communications to beneficial owners.

A bank, association or other entity that exercises fiduciary powers:

(a)(1) Shall respond, by first class mail or other equally prompt means, directly to the registrant no later than one business day after the date it receives an inquiry made in accordance with § 240.14a–13(a) by indicating the name and address of each of its respondent banks, if any; and

(2) Shall respond, by first class mail or other equally prompt means, directly to the registrant no later than seven business days after the date it receives an inquiry made in accordance with § 240.14a–13(a) by indicating, by means of a search card or otherwise: (i) the approximate number of beneficial owners of the registrant's securities;

(ii) If the registrant has indicated, pursuant to § 240.14a–13(a)(1)(ii)(A), that it will distribute the annual report to security holders to beneficial owners of its securities whose names, addresses and securities positions are disclosed pursuant to § 240.14b–2(e)(2) and (3): (A) with respect to customer accounts opened on or before December 28, 1986, the number of beneficial owners of the registrant's securities who have affirmatively consented to disclosue of their names, addresses and securities positions; and (B) with respect to customer accounts opened after December 28, 1986, the number of beneficial owners of the registrant's securities who have not objected to disclosure of their names, addresses and securities postions; and (iii) the identity of its designated agent, if any, acting on its behalf in fulfilling its obligations under paragraph (e)(2) and (3) of this section;

Provided, however, that if the record holder or respondent bank has informed the registrant that a designated office(s) or department(s) is to receive such inquiries, receipt for purposes of paragraph (a)(1) and (2) of this section shall mean receipt by such designated office(s) or department(s);

(b) Within three business days after the record date, shall: (1) Execute an omnibus proxy, including a power of substitution, in favor of its respondent banks and forward such proxy to the registrant; and (2) furnish a notice to each respondent bank in whose favor an omnibus proxy has been executed that it has executed such a proxy, including a power of substitution, in its favor pursuant to paragraph (b)(1) of this section;

(c) Upon receipt of the proxy, other proxy soliciting material, and/or annual reports to security holders shall forward to each beneficial owner on whose behalf it holds securities, no later than five business days after the date it receives such material: (1) Either: (i) A properly executed proxy: (A) indicating the number of securities held for such beneficial owner; (b) bearing the beneficial owner's account number or other form of identification, together with instructions as to the procedures to vote the securities; (C) briefly stating which other proxies, if any, are required to permit securities to be voted under the terms of the instrument creating that voting power or applicable state law; and (D) being accompanied by an envelope addressed to the registrant or its agent, if not provided by the registrant; or (ii) a request for voting instructions (for which registrant's form of proxy may be used and which shall be voted by the record holder or respondent bank in accordance with instructions received), together with an envelope addressed to the record holder or respondent bank; and (2) other proxy soliciting material and/or annual report to security holders;

(d) Need not comply with the requirements of paragraphs (b) and/or (c) of this section if: (1) On or before July 1, 1988, it makes a written application to the Commission for a waiver from either or both paragraphs, which application sets forth alternative procedures that will reasonably assure that beneficial owners will receive proxies, other proxy soliciting material and/or annual reports to security holders in a timely fashion; (2) the Commission finds such waiver, subject to any suitable terms or conditions, necessary or appropriate in the public interest and consistent with the protection of beneficial owners and the purposes of the Act and, in its discretion, approves such application; and (3) the record holder or respondent bank, in satisfaction of its obligations under paragraphs (b) and/or (c) of this section, complies with any terms or conditions specified by the Commission in approving such application;

(e) Shall: (1) Respond, by first class mail or other equally prompt means, directly to the registrant no later than one business day after the date it receives an inquiry made in accordance with § 240.14a–13(b)(1) by indicating the name and address of each of its respondent banks, if any; (2) through its agent or directly, provide the registrant, upon the registrant's request and within the time specified in paragraph (e)(3) of this section, with the names, addresses and securities position, compiled as of a

date specified in the registrant's request which is no earlier than five business days after the date the registrant's request is received, of: (i) with respect to customer accounts opened on or before December 28, 1986, beneficial owners of the registrant's securities on whose behalf it holds securities who have affirmatively consented to disclosure of such information, subject to paragraph (h) of this section; and (ii) with respect to customer accounts opened after December 28, 1986, beneficial owners of the registrant's securities on whose behalf it holds securities who have not objected to disclosure of such information; *Provided, however,* that if the record holder or respondent bank has informed the registrant that a designated office(s) or department(s) is to receive such requests, receipt for purposes of paragraphs (e)(1) and (2) of this section shall mean receipt by such designated office(s) or department(s); and (3) through its agent or directly, transmit the data specified in paragraph (e)(2) of this section to the registrant no later than five business days after the date specified by the registrant.

Note 1.—Where a record holder bank or respondent bank employs a designated agent to act on its behalf in performing the obligations imposed on it by paragraph (e)(2) and (3) of this section, the five business day time period for determining the date as of which the beneficial owner information is to be compiled is calculated from the date the designated agent receives the registrant's request. In complying with the registrant's request for beneficial owner information under paragraph (e)(2) and (3) of this section, a record holder bank or respondent bank need only supply the registrant with the names, addresses and securities positions of affirmatively consenting and non-objecting beneficial owners.

Note 2.— If a record holder bank or respondent bank receives a registrant's request less than five business days before the requested compilation date, it must provide a list compiled as of a date that is no more than five business days after receipt and transmit the list within five business days after the compilation date.

(f) Need not satisfy: (1) Its obligations under paragraphs (b), (c), (e) and (h) of this section if a registrant does not provide assurance of reimbursement of its reasonable expenses, both direct and indirect, incurred in connection with performing the obligations imposed by paragraphs (b), (c), (e) and (h) of this section; or (2) its obligation under paragraph (c) of this section to forward annual reports to consenting and non-objecting beneficial owners identified pursuant to paragraph (e)(2) of this section if the registrant notifies the record holder or respondent bank pursuant to § 240.14a–13(c) that the registrant will mail the annual report to beneficial owners whose names, addresses and securities positions are disclosed pursuant to § 240.14b–2(e)(2) and (3).

(g) For purposes of determining the fees which may be charged to registrants pursuant to § 240.14a–13(b)(5) and paragraph (f)(1) of this section for performing obligations under paragraphs (b), (c), (e) and (h) of this section, an amount no greater than that permitted to be charged by brokers or dealers for reimbursement of their reasonable expenses, both direct and indirect, incurred in connection with performing the obligations imposed by paragraphs (b) and (c) of § 240.14b–1 shall be deemed to be reasonable. 9

(h) For customer accounts opened on or before December 28, 1986, unless it has made a good faith effort to obtain affirmative consent to disclosure of beneficial owner information pursuant to paragraph (e)(2) of this section, such information as to beneficial owners who do not object to disclosure of such information. A good faith effort to obtain affirmative consent to disclosure of beneficial owner information shall include, but shall not be limited to, making an inquiry: (1) Phrased in neutral language, explaining the purpose of the disclosure and the limitations on the registrant's use thereof; (2) either in at least one mailing separate from other account mailings or in repeated mailings; and (3) in a mailing that includes a return card, postage paid enclosure.

(i) For purposes of this section, the term "beneficial owner" includes any person who has or shares, pursuant to an instrument, agreement or otherwise, the power to vote, or to direct the voting of a security.

Note 1. If more than one person shares voting power, the provisions of the instrument creating that voting power shall govern with respect to whether consent to disclosure of beneficial owner information has been given.

Note 2. If more than one person shares voting power or if the instrument creating that voting power provides that such power shall be exercised by different persons depending on the nature of the corporate action involved, all person entitled to exercise such power shall be deemed beneficial owners; *Provided, however,* that only one such beneficial owner need be designated among the beneficial owners to receive proxies, other proxy soliciting material and/or annual reports to security holders, if the person so designated assumes the obligation to disseminate, in a timely manner, such materials to the other beneficial owners.

9. By withdrawing amendments to § 240.14c–1 specified in Release No. 33–6676 (November 10, 1986) [51 FR 42048] and revising § 240.14c–1 to read as follows:

§ 240.14c–1 Definitions.

Unless the context otherwise requires, all terms used in this regulation have the same meanings as in the Act or elsewhere in the general rules and regulations thereunder. In addition, the following definitions apply unless the context otherwise requires:

(a) *Associate.* The term "associate," used to indicate a relationship with any person, means (1) any corporation or organization (other than the registrant or a majority owned subsidiary of the registrant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities; (2) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fidiciary capacity; and (3) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the registrant or any of its parents or subsidiaries.

(b) *Entity that exercises fiduciary powers.* The term "entity that exercises fiduciary powers" means any entity that holds securities in nominee name or otherwise on behalf of a beneficial owner but does not include a clearing agency registered pursuant to section 17A of the Act, or a broker or a dealer.

(c) *Information statement.* The term "information statement" means the statement required by § 240.14c–2, whether or not contained in a single document.

(d) *Last fiscal year.* The term "last fiscal year" of the registrant means the last fiscal year of the registrant ending prior to the date of the meeting with respect to which an information statement is required to be distributed, or if the information statement involves consents or authorizations in lieu of a meeting, the earliest date on which they may be used to effect corporate action.

(e) *Proxy.* The term "proxy" includes every proxy, consent or authorization within the meaning of section 14(a) of the Act. The consent or authorization may take the form of failure to object or to dissent.

(f) *Record date.* The term "record date" means the date as of which the record holders of securities entitled to vote at a meeting or by written consent or authorization shall be determined.

(g) *Record holder.* For purposes of § 240.14c–7, the term "record holder" means any broker, dealer, voting trustee,

bank, association or other entity that exercises fiduciary powers which holds securities of record in nominee name or otherwise or as a participant in a clearing agency registered pursuant to section 17A of the Act.

(h) *Registrant.* The term "registrant" means the issuer of a class of securities registered pursuant to section 12 of the Act.

(i) *Respondent bank.* For purposes of § 240.14c–7, the term "respondent bank" means any bank, association or other entity that exercises fiduciary powers which holds securities on behalf of beneficial owners and deposits such securities for safekeeping with another bank, association or other entity that exercises fiduciary powers.

10. By withdrawing amendments to paragraph (a) of § 240.14c–7 specified in Release No. 33–6676 (November 10, 1986) [51 FR 42098] and revising § 240.14c–7 to read as follows:

Note.—This version of § 240.14c–7 is effective December 28, 1986 through June 30, 1987.

§ 240.14c–7 Providing Copies of material for certain beneficial owners.

(a) If the registrant knows that securities of any class entitled to vote at a meeting, or by written authoritizations or consents if no meeting is held, are held of record by a broker, dealer, voting trustee, bank, association, or other entity that exercise fiduciary powers in nominee, name or otherwise, the registrant shall:

(1) By firist class mail or other equally prompt means: (i) Inquire of each such record holder: (A) Whether other persons are the beneficial owners of such securities and, if so, the number of copies of the information statement necessary to supply such material to such beneficial owners, and (B) in the case of an annual (or special meeting in lieu of the annual) meeting, or written consents in lieu of such meeting, at which directors are to be elected, the number of copies of the annual report to security holders, necessary to supply such report to such beneficial owners for whom proxy material has not been and is not to be made available and to whom such reports are to be distributed by such record holder or its nominee and not by the registrant; and

(ii) Indicate to each such record holder: (A) whether the registrant pursuant to paragraph (c) of this section intends to distribute the annual report to security holders to beneficial owners of its securities whose names, addresses and securities positions are disclosed pursuant to § 240.14b–(c) or § 240.14b–2(e)(2) and (3); and (B) the record date; and

(2) Supply, in a timely manner, each record holder of whom the inquiry requires by paragraph (a)(1) of this section is made with copies of the information statement and/or the amended report to security holders, in such quantities, assembled in such form and at such place(s), as the record holder may reasonably request in order to send such material to each beneficial owner of securities who is to be furnished with such material by the record holder; and

(3) Upon the request of any record holder that is supplied with information statements and/or annual reports to security holders pursuant to paragraph (a)(2) of this section, pay its reasonable expenses for completing the mailing of such material to beneficial owners.

Note 1.—If the registrant's list of security holders indicates that some of its securities are registered in the name of a clearing agency registered pursuant to section 17A of the Act (*e.g.*, "Cede & Co.," nominee for the Depository Trust Company), the registrant shall make appropriate inquiry of the clearing agency and thereafter of the participants in such a clearing agency who may hold on behalf of a beneficial owner, and shall comply with the above paragraph with respect to any such participant (*see* § 240.14c–1(g)).

Note 2.—The requirement for sending an annual report to security holders of record having the same address will be satisfied by sending at least one report to a holder of record at that address provided that those holders of record to whom a report is not sent agree thereto in writing. This procedure is not available to registrants, however, where banks, associations, other entities that exercise fiduciary powers, brokers, dealers and other persons hold securities in nominee accounts or "street names" on behalf of beneficial owners, and such persons are not relieved of any obligation to obtain or send such annual report to the benefical owners.

Note 3.—The attention of registrants is called to the fact that each broker and dealer has an obligation pursuant to applicable self-regulatory organization requirements to obtain and forward, in a timely manner, (a) information statements to all beneficial owners on whose behalf it holds securities, and (b) annual reports to security holders to all beneficial owners on whose behalf it holds securities, unless the registrant has notified the broker or dealer that it has assumed responsibility to mail such material to beneficial owners whose names, addresses and securities positions are disclosed pursuant to § 240.14b–1(c).

(b) Any registrant requesting pursuant to § 240.14b–1(c) or § 240.14b–2(e)(2) and (3) a list of names, address and securities positions of beneficial owners of its securities who either have consented or not objected to disclosure of such information shall:

(1) By first class mail or other equally prompt means, inquire of each holder and each respondent bank identified to the registrant pursuant to § 240.14b–2(e)(1) whether such record holder or respondent bank holds the registrant's securities on behalf of any respondent banks and, if so, the name and address of each such respondent bank;

(2) Request such list to be compiled as of a date no earlier than five business days after the date the registrant's request is received by the record holder or respondent bank; *Provided, however,* that if the record holder or respondent bank has informed the registrant that a designated office(s) or department(s) is to receive such requests, the request shall be made to such designated office(s) or department(s);

(3) Make such request to all brokers and dealers and/or all banks, associations and other entities that exercise fiduciary powers;

(4) Use the information furnished in response to such request exclusively for purposes of corporate communications; and

(5) Upon the request of any record holder or respondent bank to whom such request is made, pay the reasonable expenses, both direct and indirect, of providing beneficial owner information.

Note.—A registrant will be deemed to have satisfied its obligations under paragraph (b) of this section by requesting consenting and non-objecting beneficial owner lists from a designated agent acting on behalf of the record holder or respondent bank and paying to that designated agent the reasonable expenses of providing the beneficial owner information.

(c) A registrant, at its option, may mail its annual report to security holders to the beneficial owners whose identifying information is provided by record holders and respondent banks, pursuant to § 240.14b–1(c) or § 240.14b–2(e) (2) and (3), provided that such registrant notifies that record holders and respondent banks, at the time it makes the inquiry required by paragraph (a) of this section, that the registrant will mail the annual report to security holders to the beneficial owners so identified.

Note.—This version of § 240.14c–7 is effective July 1, 1987.

§ 240.14c–7 Providing copies of material for certain beneficial owners.

(a) If the registrant knows that securities of any class entitled to vote at a meeting, or by written authorizations or consents if no meeting is held, are held of record by a broker, dealer, voting trustee, or bank, association, or other entity that exercises fiduciary powers in nominee name or otherwise, the registrant shall:

(1) By first class mail or other equally prompt means: (i) Inquire of each such record holder: (A) Whether other persons are the beneficial owners of such securities and, if so, the number of copies of the information statement necessary to supply such material to such beneficial owners; and (B) in the case of an annual (or special meeting in lieu of the annual) meeting, or written consents in lieu of such meeting, at which directors are to be elected, the number of copies of the annual report to security holders, necessary to supply such report to such beneficial owners for whom proxy material has not been and is not to be made available and to whom such reports are to be distributed by such record holder or its nominee and not by the registrant; and

(ii) indicate to each such record holder: (A) Whether the registrant, pursuant to paragraph (c) of this section, intends to distribute the annual report to security holders to beneficial owners of its securities whose names, addresses and securities positions are disclosed pursuant to § 240.14b–1(c) and §240.14b–2(e) (2) and (3); and (B) its record date;

(2) Upon receipt of a record holder's or respondent bank's response indicating, pursuant to § 240.14b–2(a)(1), the names and addresses of its respondent banks, within one business day after the date such response is received, make an inquiry of and give notification to each such respondent bank in the same manner required by paragraph (a)(1) of this section;

(3) Supply, in a timely manner, each record holder and respondent bank of whom the inquiries required by paragraphs (a)(1) and (a)(2) of this section are made with copies of the information statement and/or the annual report to security holders, in such quantities, assembled in such form and at such place(s), as the record holder or respondent bank may reasonably request in order to send such material to each beneficial owner of securities who is to be yfurnished with such material by the record holder or respondent bank; and

(4) Upon the request of any record holder or respondent bank that is supplied with information statements and/or annual reports to security holders pursuant to paragraph (a)(3) of this section, pay its reasonable expenses for completing the mailing of such material to beneficial owners.

Note 1.—If the registrant's list of security holders indicates that some of its securities are registered in the name of a clearing agency registered pursuant to section 17A of the Act (*e.g.*, "Cede & Co.," nominee for the Depository Trust Company), the registrant shall make appropriate inquiry of the clearing agency and thereafter of the participants in such a clearing agency who may hold on behalf of a beneficial owner or respondent bank, and shall comply with the above paragraph with respect to any such participant (*see* § 240.14c–1(g)).

Note 2.—The requirement for sending an annual report to security holders of record having the same address will be satisfied by sending at least one report to a holder of record at that address provided that those holders of record to whom a report is not sent agree thereto in writing. This procedure is not available to registrants, however, where banks, associations, other entities that exercise fiduciary powers, brokers, dealers and other persons hold securities in nominee accounts or "street names" on behalf of beneficial owners, and such persons are not relieved of any obligation to obtain or send such annual report to the beneficial owners.

Note 3.—The attention of registrants is called to the fact that each broker and dealer has an obligation pursuant to applicable self-regulatory organization requirements to obtain and forward, in a timely manner, (a) information statements to all beneficial owners on whose behalf it holds securities, and (b) annual reports to security holders to all beneficial owners on whose behalf it holds securities, unless the registrant has notified the broker or dealer that it has assumed responsibility to mail such material to beneficial owners whose names, addresses and securities positions are disclosed pursuant to § 240.14b–1(c).

(b) Any registrant requesting pursuant to § 240.14b–1(c) and § 240.14b–2(e) (2) and (3) a list of names, addresses and securities positions of beneficial owners of its securities who either have consented or have not objected to disclosure of such information shall:

(1) By first class mail or other equally prompt means, inquire of each record holder and each respondent bank identified to the registrant pursuant to § 240.14b–2(e)(1) whether such record holder or respondent bank holds the registrant's securities on behalf of any respondent banks and, if so, the name and address of each such respondent bank;

(2) Request such list be compiled as of a date no earlier than five business days after the date the registant's request is received by the record holder or respondent bank; *Provided, however,* that if the record holder or respondent bank has informed the registrant that a designated office(s) or department(s) is to receive such requests, the request shall be made to such designated office(s) or department(s);

(3) Make such request to all brokers, dealers, banks, associations and other entities that exercise fiduciary powers;

(4) Use the information furnished in response to such request exclusively for purposes of corporate communications; and

(5) Upon the request of any record holder or respondent bank to whom such request is made, pay the reasonable expenses, both direct and indirect, of providing beneficial owner information.

Note.—A registrant will be deemed to have satisfied its obligations under paragraph (b) of this section by requesting consenting and non-objecting beneficial owner lists from a designated agent acting on behalf of the record holder or respondent bank and paying to that designated agent the reasonable expenses of providing the beneficial owner information.

(c) A registrant, at its option, may mail its annual report to security holders to the beneficial owners whose identifying information is provided by record holders and respondent banks, respondent banks, pursuant to § 240.14b–1(c) and § 240.14b–2(e) (2) and (3), provided that such registrant notifies the record holders and respondent banks at the time it makes the inquiry required by paragraph (a) of this section that the registrant will mail the annual report to security holders to the beneficial owners so identified.

By the Commission.

Jonathan G. Katz,

Secretary.

November 25, 1986.

[FR Doc. 86–27127 Filed 12–8–86; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 141, 250, 260 and 284

[Docket No. RM86–17–000; Order No. 458]

Statements and Reports (Schedules); Form EIA–767, Steam-Electric Plant Operation and Design Report and FERC Form No. 549–ST, Form of Self-Implementing Transportation Reports

Issued December 3, 1986.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to make changes in two forms used by the Commission. First, the Commission is amending Part 141 of its regulations to make technical changes to Form EIA–767, Steam Electric Plant Operation and Design Report. Second, the Commission

is removing the text of FERC Format No. 549–ST (Form of Self-Implementing Transportation Reports) and replacing it with a statement on who, when, where and how one must file the information in the current form.

EFFECTIVE DATE: February 9, 1987.

FOR FURTHER INFORMATION CONTACT: Robert C. Fallon, Federal Energy Regulatory Commission, Office of the General Counsel, 825 Capitol Street, NE., Washington, DC 20426, (202) 357–8540.

SUPPLEMENTARY INFORMATION:

Federal Energy Regulatory Commission

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

I. Introduction

This final rule amends the Commission's regulations to update two forms. Although these forms are not related, the Commission is amending them in one rule because they do not involve substantive changes to the Commission's regulations. First, the final rule changes the name of Form EIA–767 and amends the form to reflect the current filing requirements. Also, it removes FERC Format No. 549–ST and replaces it with a statement on who, when, where and how one must file the information in the current form.

II. Background and Discussion

A. Form EIA–767

This final rule makes technical changes to Part 141 of the Commission's regulations relating to Form EIA–767, including changing the name to Steam-Electric Plant Operation and Design Report and lifting the suspension on future filings of that form. Through these changes the Commission conforms its regulations to the current status of the form.

Form EIA–767, Steam-Electric Plant Operating and Design Report is filed by electric utilities that operate or plan to operate plants in the United States where the total energy capacity of the existing or planned steam-electric units is 100 megawatts or more.[1] Form EIA–767 is not a Commission form. Form EIA–767 is a form which is jointly sponsored by the four agencies which utilize the data collected, *i.e.*, the Commission, the Environmental Protection Agency, the Bureau of Economic Analysis of the Department of Commerce and the Office of Environmental Analysis of the Department of Energy. The Energy Information Administration (EIA) coordinates the collection of information in this form under the authority in section 13(b) of the Federal Energy Administration Act (FEAA) of 1974.[2] EIA is responsible for designing the form to meet the needs of the agencies which sponsor the form. EIA also is coordinating the request for clearance of the Office of Management and Budget (OMB) to collect the data required under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 (1982).

The Commission includes Form EIA–767 in its regulations because of its policy of setting out in regulation, the data which it utilizes. The Commission utilizes the data collected on the form in rate cases where fuel costs, fuel acquisition practices or operating efficiency of power plants is in issue. The form is also a source of data for the Commission's biennial review of fuel adjustment clauses mandated by section 205 of the Federal Power Act.[3]

The present version of Form EIA–767 was preceded by FPC Form No. 67, Steam-Electric Plant Air and Water Quality Control Data. In Order No. 257,[4] the Commission eliminated FPC–67. In its place, the Commission substituted Form EIA–767, which had the same name as FPC–67 but eliminated certain data from the previous form. The Commission expected that EIA would revise the form by May 1, 1983, to collect data for the 1982 calendar year. However, since the revision was not completed, on April 27, 1983, the Commission suspended the May 1983 filing and future filings of Form EIA–767 until further notice.[5]

EIA revised the form in May 1984, but has collected the data for every calendar year since 1982, even though the Commission suspended the filing of Form EIA–767.

On May 19, 1986, the EIA proposed revisions to Form EIA–767. EIA received and responded to six comments on the proposed revisions to the form and is in the process of submitting a request for clearance from OMB to collect the data in the revised Form EIA–767 for three years.[6] However, any revisions by EIA to Form EIA–767 should have no affect on this rule since the information collection requirements will remain the same. The Commission in this rule is merely conforming its regulations to current practice. Therefore, the Commission is amending 18 CFR 141.59 (1986) to (1) lift the suspension on future filings currently provided in the regulations, (2) amend the title of that section to reflect the 1984 revisions to the form and (3) update the time periods in the regulation to reflect future filings of the form.

B. FERC Form No. 549–ST

This final rule also removes from the Commission's regulations FERC Format No. 549–ST, Form of Self-Implementing Transportation Reports, currently printed in 18 CFR 250.15 (1986).[7] Recent Commission actions in Order No. 436–A [8] and Order No. 451 [9] have amended the Commission's regulations regarding self-implementing natural gas transportation.[10] These amendments, and any future changes the Commission might make in this area, necessitate that the Commission revise FERC Format No. 549–ST by promulgating a rulemaking to amend § 250.15. In a new § 260.13, the Commission will continue to require the filing of the information contained in FERC Format No. 549–ST. The revision states who must file the new form, when the form must be filed and the procedure for filing. In Part 284, the Commission is

[1] The form provides the Commission with information on the type and amount of fuel used in boilers at steam-electric generating plants, the electricity generated by each boiler and the air quality control equipment at each plant.

[2] 15 U.S.C. 772(b) (1982).

[3] 16 U.S.C. 824d(f) (1982).

[4] "Final Rule to Eliminate Steam-Electric Plant Air and Water Quality Control Data," issued August 31, 1982, 47 FR 38869 (Sept. 3, 1982).

[5] 48 FR 19363 (Apr. 29, 1983).

[6] 51 FR 18356 (May 19, 1986).

[7] The information contained in FERC Format No. 549–ST is the Commission's primary source of data on self-implementing natural gas Transportation under Part 284 of the Commission's regulations. The report is specifically used to make initial and subsequent reports on the following types of transactions under Part 284:

1. Interstate pipelines transporting natural gas on behalf of other interstate pipelines, intrastate pipelines, or local distribution companies under either Subpart B or G;

2. Intrastate pipelines or persons holding blanket certificates transporting natural gas on behalf of interstate pipelines or local distribution companies served by an interstate pipeline under Subpart C or G; and

3. Interstate pipelines transporting natural gas for any person under a blanket certificate on behalf of any eligible shipper under blanket certificate authority under Subpart G.

[8] 50 FR 52217 (Dec. 23, 1985), FERC Statutes and Regulations ¶ 30,675 (1985).

[9] 50 FR 22168 (June 18, 1986), FERC Statutes and Regulations ¶ 30,701 (1986).

[10] Order No. 436–A added reporting requirements to the Commission's regulations at §§ 284.106(a)(4) and 284.126(a)(6) relating to the transportation of natural gas under section 311 of the Natural Gas Policy Act that may by-pass the service area of a local distribution company. Order No. 451 added reporting requirements to the Commission's regulations at § 284.225 regarding the transportation of gas released, under the good faith negotiation procedures in § 270.201, by interstate pipelines who are not subject to the nondiscriminatory access provisions of Order No. 436.

deleting references to "reporting format" and FERC Format No. 549–ST and replacing those terms with "reporting form" and FERC Format No. 549–ST. The Commission will continue to require all the information collected on the current FERC Format No. 549–ST but will no longer include it in its regulations. Instead, FERC Format No. 549–ST will be available from the Energy Information Administration, National Energy Information Center. By no longer including this form in its regulations, it will be easier to amend FERC Form No. 549–ST and ensure that entities completing the form are only filing the data required by current Commission regulations.

III. Paperwork Reduction Act

The Energy Information Administration (EIA) has submitted to the Office of Management and Budget (OMB), on behalf of the four sponsoring agencies, a request for approval to use Form EIA–767 under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982) and OMB regulations, 5 CFR 1320.13 (1986). The Commission has requested through EIA a three-year clearance from OMB to collect the information in Form EIA–767. The Commission will also request review of the information collection provision for Form EIA–767 contained in this rulemaking.

Interested persons can obtain information on the three-year clearance for Form EIA–767 or on the proposed changes to Form EIA–767 or FERC Format No. 549–ST in this rule by contracting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (Attention: Ellen Brown, (202) 357–8272). Comments on the three-year clearance for Form EIA–767, or on the proposed changes to Form EIA–767 or FERC Format No. 549–ST in this rule can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC. 20403 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

IV. Notice and Comment and Effective Date

The Commission finds that notice and comment is unnecessary in this rulemaking. Notice and comment procedures are not required under the Adminiatrative Procedure Act (APA) when the agency for good cause finds that notce and comment procedures are impractical, unnecessary or contrary to public interest.[11] The legislative history to the APA interpreted the term "unnecessary" to refer to rulemakings that are minor or merely technical amendments in which the public is not particularly interested.[12] Court decisions have found that notice and comment are unnecessary if an agency rule is a routine determination, insignificant in nature and impact, and unimportant to the industry and public.[13] However, notice and comment are necessary if the agency is engaging in substantial government action.[14] Based on these precedents and given the nature of this rule, the Commission believes that notice and comment is unnecessary in this instance. By this rulemaking, the Commission is not engaging in substantive action. The changes proposed to the regulations relating to Form EIA–767 and FERC Format No. 549–ST will not increase the burden on entities completing the forms and are technical in nature. The amendments to § 141.59 relating to Form EIA–767 conform the Commission's regulations to the revisions undertaken to Form EIA–767 by EIA since April 1983. The addition of the filing requirements for FERC Form No. 549–ST in Part 260 will not change the amount or nature of the data to be submitted. Since the proposed rulemaking does not change the amount or type of data to be submitted, the Commission believes that notice and comment is unnecessary under section 553(b)(B) of the APA.

This final rule will become effective February 9, 1987. If OMB clearance is not received by this date, the Commission will issue a notice suspending the effective date.

List of Subjects

18 CFR Part 141

Statements and reports.

18 CFR Part 250

Approved forms, Natural Gas Act

18 CFR Part 260

Statements and reports (schedules)

18 CFR Part 284

Certain sales and transportation of natural gas under the Natural Gas Policy Act of 1978 and related authorities.

In consideration of the foregoing, the Commission amends Parts 141, 250, 260 and 284, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 141—[AMENDED]

1. The authority section for Part 141 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12,009, 3 CFR Part 142 (1978); Federal Power Act, 16 U.S.C. 791a–828c (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982), unless otherwise noted.

2. Section 141.59 is revised to read as follows:

§ 141.59 Form No. EIA–767, Steam-Electric Plant Operation and Design Report.

(a) *Requirement to file.* Every electric utility described in paragraph (b) of this section must file form EIA–767, "Steam-Electric Plant Operation and Design Report," in conformance with this section on or before May 1st of each year for the previous calendar year.

(b) *Who must file.* Every electric utility company having plants that either presently have, or are projected to have, a steam-electric capacity of 100 megawatts or greater must prepare and file for each such plant an original and conformed copies of EIA–767 pursuant to the General Instructions set out in that form.

PART 250—[AMENDED]

3. The authority section for Part 250 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executvie Order 12,009, 3 CFR Part 142 (1978); Natural Gas Act, 15 U.S.C. 717–717w (1982); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982).

§ 250.15 [Removed]

4. Section 250.15 is removed in its entirety.

PART 260—[AMENDED]

5. The authority section for Part 260 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Natural Gas Policy Act of 1978, 15 U.S.C.

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[11] 5 U.S.C. 553(b)(B) (1982).

[12] S. Doc. No. 248, 79th Cong., 2nd Sess. at 200, 258 (1946).

[13] Jordan, *The Administrative Procedure Act's "Good Cause" Exemption*, Administrative Law Review, Spring 1984, Volume 36, p. 113, 129–130.

[14] Texaco, Inc. v. Federal Power Commission, 412 F.2d 740, 743 (3rd Cir. 1969), *citing to* National Motor Freight Traffic Ass'n v. United States, 268 F. Supp. 90, 95–96 (D.D.C. 1967). *See also* National Helium Corp. v. Federal Energy Administration, 569 F.2d 1137, 1146 (Temporary Emergency Court of Appeals, 1977).

3301–3432 (1982); Executive Order 12.009, 3 CFR Part 142 (1978).

6. Section 260.13 is added to read as follows:

§ 260.13 FERC Form No. 549–ST—Form of Self-Implementing Transportation Reports.

(a) *Prescription.* The Form of Self-Implementing Transportation Reports designed herein as FERC Form No. 549–ST, is prescribed.

(b) *Filing requirements*—(1) *Who must file.* Any interstate or intrastate pipeline, Hinshaw company or local distribution company undertaking a transportation transaction under 18 CFR Part 284, Subparts B, C, or G, must file FERC Form No. 549–ST. Copies of FERC Form No. 549–ST can be obtained at the:

Energy Information Administration, National Energy Information Center, EI–207, Forrestal Building, Room 1–F–048, Washington, DC 20585, Phone Number, 1–202–252–8800

(2) *When to file.* Initial reports are to be filed within 30 days after commencing a transportation transaction under Part 284. Subsequent reports are to be filed within 30 days of any material change in the transportation arrangement under Part 284.

(3) *What to file.* Each reporting company must submit an original and five copies of FERC Form No. 549–ST and the necessary suport for the required reporting elements. If a reporting company is unable to supply a data element, it should attach an explanation.

(4) *Where to file.* An original and five copies of FERC Form No. 549–ST should be submitted to:

Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426.

Hand deliveries of an original and five copies may be made to:

Office of the Secretary, Federal Energy Regulatory Commission, Room 3110, 825 North Capitol Street, NE., Washington, DC 20426.

PART 284—[AMENDED]

7. The authority section 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, 155 U.S.C. 3301–3432 (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12.009, 3 CFR Part 142 (1978).

8. Section 284.106 is amended by revising paragraph (f) to read as follows:

§ 284.106 Reporting requirements.

* * * * *

(f) *Reporting form.* Each initial report filed under paragraph (a) of this section and each subsequent report filed under paragraph (b) of this section must utilize FERC Form No. 549–ST.

9. Section § 284.126 is amended by revising paragraph (f) to read as follows:

§ 284.126 Reporting requirements.

* * * * *

(f) *Reporting form.* Each initial report filed under paragraph (a) of this section and each subsequent report filed under paragraph (b) of this section must utilize FERC Form No. 549–ST.

10. Section 284.223 is amended by revising paragraph (e) to read as follows:

§ 284.223 Transportation by interstate pipelines on behalf of shippers other than interstate pipelines.

* * * * *

(e) *Reporting form.* Each initial report filed under paragraph (f)(1) of this section and each subsequent report filed under paragraph (f)(2) of this section must utilize FERC Form No. 549–ST.

* * * * *

[FR Doc. 86–27615 Filed 12–8–86; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 15

[Docket No. R–86–1236; FR–2014]

Disclosure of Profit and Loss Information to Potential Purchasers of HUD-Held Mortgages

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises HUD regulations at 24 CFR Part 15 governing the disclosure of departmental records. This rule limits the types of records that may be withheld from inspection or copying under 24 CFR 15.21(a)(4) as "trade secrets and commercial or financial information", by providing for the disclosure of information on Form HUD–92410, Statement of Profit and Loss, to prospective eligible purchasers of multifamily mortgages offered for sale by the Department. This rule makes final the interim rule on this matter that was published in the **Federal Register** of June 5, 1986 (51 FR 20476). HUD has determined that the disclosure of information in the Profit and Loss Statement to potential purchasers is necessary for the successful conduct of these mortgage sales.

EFFECTIVE DATE: Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the date of the rule's publication. HUD will publish a notice of the effective date of this rule following expiration of the 30-session-day waiting period. Whether or not the statutory waiting period has expired, this rule will *not* become effective until HUD's separate notice is published announcing a specific effective date.

FOR FURTHER INFORMATION CONTACT: Marvin Hilman, Director, Multifamily Property Disposition Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Room 6272, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 755–7343. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background

HUD mortgage sales involve two types of mortgages:

(1) *Assigned mortgages.* These mortgages secure loans that were originally made by the lender and insured by HUD under the National Housing Act. Lenders have assigned these mortgages to HUD after a default. The Department pays insurance benefits to the lender and thus becomes the new mortgagee.

(2) *Purchase money mortgages.* These mortgages were taken back by the Department in conjuction with the sale of a HUD-owned property. HUD acquired the property by foreclosing on an assigned mortgage, taking a deed-in-lieu-of-foreclosure, or by accepting conveyance of title from the insured lender.

The Department has determined that the disclosure of information on From HUD–92410, Statement of Profit and Loss, to eligible prospective purchasers of mortgages offered by the Department is necessary for the successful conduct of future mortgage sales. (For purposes of this final rule, "mortgage sales" refer to various financial mechanisms, including but not limited to mortgage auctions, that could be used by the Department for its sale of HUD-held multifamily mortgages. The Department is contemplating various mechanisms for its offering of HUD-held multifamily mortgages for sale during Fiscal Year 1987.) Such disclosure is important because potential purchasers have advised HUD that they need access to profit and loss information in order to

make an informed investment decision concerning certain HUD-held mortgages. Disclosure of this type of financial information concerning the property securing the mortgage is vital to enhancing the level of participation in and the success of HUD's mortgage sales. The form includes specific income sources and amounts and project expense categories. (A listing of the data entry categories included in Form HUD–92410 was published as an appendix to the interim rule, which was published in the Federal Register of June 5, 1986 (51 FR 20476), so that commenters would be fully apprised of the kinds of data proposed to be made available in connection with mortgage sales. However, HUD has determined that this appendix to Part 15 is not necessary for purposes of codification of the final rule.)

The availability of this information to qualified purchasers is particularly important because of the reaction of bidders during recent HUD mortgage auctions. According to discussions held with representatives of several financial institutions, their potential purchases of HUD-held mortgages must depend on some indication of a project's financial status. Without HUD mortgage insurance to safeguard potential purchasers' investment decisions, these institutions are concerned that if the information contained in Form HUD–92410 is not disclosed, they could not make their investment decisions on these mortgages in a manner consistent with their fiduciary responsibilities to their investors.

In publishing the interim rule of June 5, 1986, HUD determined that to protect the concern of any affected mortgagor for the confidentiality of the data contained in the project's Form HUD–92410 in connection with any mortgage sales held before the effective date of the final rule, HUD would allow mortgagors to notify the Department, within 60 days after the publication of the interim rule, that the Form HUD–92410 for their project should not be released before the effective date of the final rule. HUD has not received any written requests from affected mortgagors to protect the confidentiality of the data contained in Form HUD–92410 for their projects.

HUD anticipates that one or more mortgage sales will be conducted during Fiscal Year 1987, and that the mortgages will be sold without FHA mortgage insurance.

II. Statutory Authority

The Department's authority to conduct sales of HUD-held mortgages is based on sections 207(k) and 207(*l*) of the National Housing Act, 12 U.S.C. 1713(k) and 1713(*l*), and on section 7(i)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(i)(3). Section 207(k) provides in part that pending acquisition by voluntary conveyance or by foreclosure, the Secretary is authorized, with respect to mortgages assigned to the Secretary under section 207, to sell such mortgages. Section 207(*l*) provides in part that the Secretary is authorized to expend from the General Insurance Fund necessary funds for the administration of such mortgage sales.

Section 7(i)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(i)(3), authorizes the Secretary to "sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix. . . ."

HUD has determined that the disclosure of information from Form HUD–92410 to potential purchasers of HUD-held mortgages is essential to the successful implementation of the above-mentioned statutory authorities. For this reason, the disclosure of information from Form HUD–92410 is authorized by law for disclosure under the Trade Secrets Act, 18 U.S.C. 1905, and, under the limited conditions described in this rule, information included on the form will be released to prospective eligible purchasers. In the preamble to the interim rule (see 51 FR 20477–20478), HUD has justified the disclosure of information from Form HUD–92410 as "authorized by law" in accordance with section 1905 of the Trade Secrets Act.

III. Revision to 24 CFR Part 15

This rule makes final the revision to 24 CFR Part 15 contained in the June 5, 1986 interim rule. (However, the interim rule is revised to reflect the Department's current interest in pursuing various financial mechanisms for its public offering of HUD-held multifamily mortgages. Hence, such terms as "auctions" and "bidders" have been replaced with other terms more appropriate to a wider variety of possible formats for HUD's offering of these mortgages.) The Department has received no public comments on the interim rule.

Section 15.21 provides a list of departmental records exempted from disclosure under the Freedom of Information Act, 5 U.S.C. 552, including "Trade secrets and commercial or financial information obtained from a person and privileged or confidential" (24 CFR 15.21(a)(4)). Section 15.21(c) of this rule authorizes the release of Form HUD–92410 to eligible potential purchasers and to potential investors in the mortgage (who receive Form HUD–92410 from a potential purchaser) in connection with a multifamily mortgage sale conducted by the Department.

Under § 15.21(c), eligible potential purchasers are required to keep the information confidential, to disclose the information only to potential investors in the mortgage, to use the information for the sole purpose of their evaluation of the mortgage in connection with the mortgage sale, and to follow disclosure procedures for that sale that have been established by the Secretary. The release of this information to potential purchasers is limited to the period specified in HUD's announcement for the mortgage sale. In addition, any potential purchaser is responsible for notifying potential investors in the mortgage who receive this information from that potential purchaser of the investors' obligations under § 15.21(c)(3). Similar requirements are stated in the rule for potential investors in the mortgage who receive this information from potential purchasers.

Disclosure of this information not in accordance with this rule will subject an eligible potential purchaser or a potential investor (who has received the information from a potential purchaser and has been notified by that potential purchaser of its obligations under § 15.21(c)(3)) to HUD administrative sanctions under 24 CFR Part 24, including debarment, suspension, or placement in ineligibility status for purposes of HUD contracts, grants, mortgage insurance, or other form of HUD assistance described in Part 24.

IV. Miscellaneous

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of one hundred million dollars or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) have significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. HUD has determined that a successful mortgage sales program (aided by increased demand from potential purchasers as a result of the disclosure of information contained in Form HUD–92410) will provide more competition as well as the assurance

that the Department will realize the best price for mortgages sold. In addition, since HUD will no longer need to perform accounting or servicing functions on the mortgages sold, HUD's mortgage sales program will reduce HUD's administrative workload and costs.

Consistent with the provisions of 5 U.S.C. 605 (the Regulatory Flexibility Act), the Secretary has determined that this rule will not have a significant economic impact on a substantial number of small entities, because the impact of this limited financial disclosure is not expected to be substantial, and because most mortgagors affected by the rule are not small firms.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), the collection of information under Form HUD–92410 has been approved by OMB, and assigned approval number 2502–0052. This rule will not provide any additional collection of information burdens on affected firms, but will permit the disclosure, by HUD, of information from Form HUD–92410 for HUD mortgage sales under limited conditions.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of Rules Docket Clerk at Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

This rule was listed as item number 846 in the Department's Semiannual Agenda of Regulations published on October 27, 1986 (51 FR 38424, 38448) under Executive Order 12291 and the Regulatory Agenda.

List of Subjects in 24 CFR Part 15

Classified information, Freedom of information.

Accordingly, 24 CFR Part 15 is amended as follows:

PART 15—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

1. The authority citation for 24 CFR Part 15 continues to read as follows:

Authority: Freedom of Information Act (5 U.S.C. 552); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 15.21, paragraphs (a)(4) and (c) are revised and the OMB Control Number is added to read as follows:

§ 15.21 Exemptions authorized by 5 U.S.C. 552.

* * * * *

(a) * * *

(4) Except as otherwise provided in paragraph (c) of this section, trade secrets and commercial or financial information obtained from a person and privileged or confidential;

* * * * *

(c) Subject to the following conditions, financial and related information submitted by a mortgagor and contained in Form HUD–92410 (Statement of Profit and Loss), or a HUD-approved substitute form that the mortgagor may have submitted, may be disclosed to eligible potential purchasers of HUD-held multifamily mortgages.

(1) Information from Form HUD–92410 concerning a project may be made available in conjunction with the sale of a HUD-held mortgage covering that project conducted under the authority of sections 207 (k) and (*l*) of the National Housing Act, 12 U.S.C. 1713 (k) and (*l*), or section 7(i)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(i)(3).

(2) The release of this information by HUD to eligible potential purchasers shall be limited to the period specified by HUD for the mortgage sale.

(3) Eligible potential purchasers who have received this information shall agree to keep the information confidential, to disclose the information only to potential investors in the mortgage, to use the information for the sole purpose of their evaluation of the mortgage in connection with the mortgage sale, and to follow disclosure procedures for that sale that have been established by the Secretary.

(4) Any disclosure by eligible potential purchasers to potential investors in the mortgage shall be limited to the period specified by HUD for the mortgage sale. Similar, potential investors in the mortgage shall agree to keep the information confidential and to use the information for the sole purpose of their evaluation of the mortgage in connection with their investment decision. In addition, potential investors in the mortgage may not disclose the information to other entities, unless the disclosure is necessary for the investor's evaluation of the mortgage, is in accordance with disclosure procedures for the specific sale that have been established by the Secretary, and is limited to the period specified by HUD for the mortgage sale. Any potential purchaser is responsible for notifying potential investors in the mortgage who receive this information from that entity of the investors' obligations under this section.

(5) Disclosure of information from Form HUD–92410 by an eligible potential purchaser or by a potential investor (who has received the information from a potential purchaser and has been notified by that entity of its obligations under paragraph (c)(3) of this section) that is not in accordance with this section is a violation of this regulation and may subject the entity making the unauthorized disclosure to administrative sanctions under 24 CFR Part 24.

(Approved by the Office of Management and Budget under control number 2502–0052)

Appendix to Part 15—List of Data Entries Included in Form HUD–92410, Statement of Profit and Loss—[Removed]

3. The appendix to Part 15 (List of Data Entries Included in Form HUD–92410, Statement of Proft and Loss) is removed

Dated: December 2, 1986.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 86–27602 Filed 12–8–86; 8:45 am]

BILLING CODE 4210–32–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R–86–1297; FR–2214]

Nonentitlement to Distributive Shares in the Event of Foreclosure

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

ACTION: Final rule.

SUMMARY: This final rule revises 24 CFR Part 203 to describe circumstances under which a mortgagor is not entitled to receive a share of the participating reserve account (§ 203.423). If the mortgage is foreclosed and title to the property is conveyed to a person or an entity other than the Federal Housing Commissioner, no distributive share is payable.

EFFECTIVE DATE: Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the date of the rule's

publication. HUD will publish a notice of the effective date of this rule following expiration of the 30-session-day waiting period. Whether or not the statutory waiting period has expired, this rule will *not* become effective until HUD's separate notice is published announcing a specific effective date.

FOR FURTHER INFORMATION CONTACT: Fred W. Pfaender, Director, Single Family Servicing Division, Room 9176, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000. Telephone (202) 755–6672. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 6, 1986, the Department published a proposed rule to revise 24 CFR Part 203 to describe circumstances under which a mortgagor would not be entitled to receive a share of the participating reserve account.

The Department believes that existing regulations unfairly allow a mortgagor who has defaulted on his or her mortgage obligation to receive a share of the participating reserve account, when the mortgage is foreclosed, simply because title is not conveyed to the Commissioner and a mortgage insurance claim is not filed. The Department believes that mutuality benefits should be linked to successful completion of the mortgagor's obligations as a debtor—not merely to whether an insurance claim is filed. Under this final rule, a mortgagor default leading to foreclosure would end the mortgagor's entitlement to a distributive share.

The Department's denial to a mortgagor of a distributive share of the participating reserve is consistent with section 205(d) of the National Housing Act, which states that no mortgagor or a mortgagee of any mortgage insured under section 203 shall have any vested right in a credit balance in any such account.

The restrictions contained in this rule will apply only to mortgage insurance contracts on which applications for conditional commitments were received on or after the effective date of the rule. (In the case of the Single Family Direct Endorsement program, the rule applies to applications for mortgage insurance endorsement where the property appraisal report is signed by the mortgagee's approved underwriter on or after the effective date of the rule.)

No public comments were received by the Department; therefore, the Department is publishing the proposed rule as final without any changes.

This proposed rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No. Significant Impact is available for public inspection and copying during regular business hours at the Office of the Rules Docket Clerk at Room 10276, 451 Seventh Street SW., Washington, DC 20410.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule denies a defaulting mortgagor a share of the participating reserve, thus appropriately distributing the costs of providing mortgage insurance.

This rule was listed as sequence number 815 (51 FR 38424, 38442), in the Department's Semiannual Agenda of Regulations published on October 27, 1986 under Executive Order 12291 of the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 203

Home improvement, Loan programs: Housing and community development, Mortgage insurance, Solar energy.

PART 203—[AMENDED]

Accordingly, the Department revises 24 CFR Part 203 as follows:

1. The authority citation for Part 203 continues to read as follows:

Authority: Secs. 203 and 211 of the National Housing Act (12 U.S.C. 1709, 1715b); sec. 7(b), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, Subpart C also is issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

2. Section 203.423(a) is revised to read as follows:

§ 203.423 Distribution of distributive shares.

(a) The Commissioner may provide for the distribution to the mortgagor of a share of the participating reserve account if the contract of insurance is terminated by conveyance to a person or an entity other than the Commissioner (§ 203.315), by prepayment of the mortgage (§ 203.316), or by voluntary agreement with approval of the Commissioner (§ 203.317). However, in the case of a mortgage insured pursuant to an application for a conditional commitment received on or after [insert effective date], (or, as appropriate, an application for mortgage insurance endorsement under the Single Family Direct Endorsement program, as provided in § 203.255, where the property appraisal report is signed by the mortgagee's approved underwriter on or after [insert effective date]), no distribution shall be made if, after foreclosure, title to the property is conveyed to a person or an entity other than the Commissioner.

* * * * *

Dated: November 26, 1986.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 86–27601 Filed 12–8–86; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 58

[Order No. 1160–86]

Delegation of Authority to the Executive Office for United States Trustees

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order delegates to the Director of the Executive Office for United States Trustees certain authority given to the Attorney General in Pub. L. No. 99–554. The order will permit efficient use of this new authority. The revisions are being added to the Code of Federal Regulations in order to reflect accurately the agency's internal management structure.

EFFECTIVE DATE: November 26, 1986.

FOR FURTHER INFORMATION CONTACT: Andrea J. Winkler, Deputy Director for Legal Services, Executive Office for United States Trustees (202–724–8391).

SUPPLEMENTARY INFORMATION: This order is being issued to increase efficiency within the Department and is a matter of internal Department management. It does not have a significant economic impact on a

substantial number of small entities. 5 U.S.C. 605(b). It is not a major rule within the meaning of Executive Order No. 12291.

List of Subjects in 28 CFR Part 58

Authority delegations (Government agencies).

By virtue of the authority vested in me by 28 U.S.C. 509, 510, 533 and 5 U.S.C. 301, Part 58 of Title 28 of the Code of Federal Regulations is amended as follows:

PART 58—[AMENDED]

1. The authority citation for Part 58 is revised to read as follows:

Authority: 28 U.S.C. 509, 510, 586(e), 588(d).

2. Section 58.2 is revised to read as follows:

§ 58.2 Authorization to appoint standing trustees.

Each United States Trustee is authorized, subject to the approval of the Deputy Attorney General, or his delegate, to appoint and remove one or more standing trustees to serve in cases under Chapters 12 and 13 of Title 11, United States Code.

Dated: November 26, 1986.

Edwin Meese III,

Attorney General.

[FR Doc. 86-27563 Filed 12-8-86; 8:45 am]

BILLING CODE 4410-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2616, 2617, and 2623

Terminating Single-Employer Plans Subject to Transition Rules in the Single-Employer Pension Plan Amendments Act of 1986; Distribution of Plan Assets

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Extension of deadline for distribution.

SUMMARY: This notice advises plan administrators of certain terminating plans covered by the Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") of the final deadline for distributing plan assets and filing a post-distribution certification with the Pension Benefit Guaranty Corporation ("PBGC"). Under SEPPAA, the termination of any sufficient plan for which a notice of intent to terminate had been filed with the PBGC on or after January 1, 1986 but before April 7, 1986 (the date of enactment of SEPPAA) was permitted to continue, at the plan's election, if SEPPAA's transition rules (section 11019(b)) were satisfied. The effect of this notice is to advise the plan administrators of such plans of the new deadline for satisfying the transition rules' distribution of assets requirement, the consequences if this deadline is not met, and a limited possibility of relief for plan administrators that are unable to meet this deadline.

FOR FURTHER INFORMATION CONTACT: Pension Benefit Guaranty Corporation, Case Operations and Assistance Division, Coverage and Inquiries Branch, IOD (Code 25420), 2020 K Street NW., Washington, DC 20006; or call 202-778-8800 or 202-778-8859 for TTY and TDD (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: Section 11019(b) of the Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") provides transition rules for terminating single-employer plans for which a notice of intent to terminate was filed on or after January 1, 1986 and before April 7, 1986 (the date of enactment of SEPPAA). Generally, at the election of the plan administrator, such terminations could continue if they satisfied the requirements of the transition rules. These requirements include the issuance of various notices and the completion of other actions within stated time limits, and with respect to "sufficient" plan terminations ("standard" terminations under SEPPAA), the requirement that a plan be able to discharge all of its obligations for benefit commitments under the plan. Failure to comply with the transition rules nullifies a proposed termination.

For plans with respect to which the Pension Benefit Guaranty Corporation ("PBGC") had issued a Notice of Sufficiency prior to April 7, 1986, SEPPAA section 11019(b)(3)(ii) requires that the plan administrator distribute plan assets in full satisfaction of all benefit commitments within the 90-day period beginning on the date of enactment of SEPPAA (April 7, 1986). For plans that had not received a Notice of Sufficiency before the date of enactment, the 90-day period for final distribution of plan assets runs from the date that the PBGC issues the sufficiency notice (section 11019(b)(3)(i)). In either event, the plan administrator must file with the PBGC a post-distribution certification within 30 days after completing the final distribution of assets. These rules are all described in the PBGC's notice of transition rules under SEPPAA published on April 10, 1986 (51 FR 12489).

Events to date have demonstrated that a significant number of plan administrators have been unable to satisfy the 90-day rule for distribution of plan assets. Delays in distributing plan assets have been caused both by the newness of SEPPAA and by the new requirements imposed on pension plans by the Retirement Equity Act of 1984. Because of these factors, the PBGC believes it would be unduly harsh to impose the statutory sanction, *i.e.* disallowance of the proposed termination, on those plans that have not met the 90-day requirement. Therefore, the PBGC has decided to grant all such plans a limited, one-time extension of the distribution deadline.

Accordingly, the PBGC hereby advises plan administrators of plans subject to the transition rules that have elected to pursue standard terminations, that they must complete the distribution of plan assets no later than the 135th day after the issuance by the PBGC of the plan's Notice of Sufficiency or the 30th day after the date of publication of this notice, whichever is later, and must thereafter, within 30 days after completing the distribution, submit to the PBGC a post-distribution certification as required under Part 2617 of the PBGC's regulations. Transition rule plans that have not yet received a Notice of Sufficiency will be required to complete distribution of plan assets within 135 days after issuance of the sufficiency notice, and to submit the post-distribution certification within 30 days thereafter. Failure to meet the extended distribution deadline will, except as noted below, nullify the proposed termination and the plan will be an ongoing plan for all purposes; the PBGC will grant no more general extensions of time to distribute.

The transition rules provide for an extension of the distribution deadline under limited circumstances: the PBGC may extend the distribution period until no later than April 7, 1987 if it is demonstrated to the satisfaction of the PBGC that the plan would not otherwise be able to terminate in a standard termination under the transition rules and that an extension would result in a greater likelihood that all benefit commitments under the plan would be paid in full (section 11019(b)(3)(E)). Any plan administrator that will be unable to meet the new distribution deadline set forth in this notice and who believes that the plan does qualify for a further extension pursuant to section 11019(b)(3)(E) should so notify the PBGC in writing before the expiration of the distribution period. This written notification must include an explanation of the bases on which the plan qualifies

for an extension pursuant to section 11019(b)(3)(E).

Plan administrators of plans that will not be able to distribute assets by the new deadline set forth in this notice and that do not qualify for a further extension pursuant to section 11019(b)(3)(E) should notify the PBGC in writing that the distribution will not be made within the requisite period and that, therefore, the plan will not be terminating. This notice shall be submitted to the PBGC on or before the deadline established above for submitting a post-distribution certification.

Notices filed with the PBGC pursuant to the foregoing shall be addressed to the Case Operations and Assistance Division, Coverage and Inquiries Branch, IOD (Code 25420), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006.

Issued at Washington, DC, this 3rd day of December 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86-27577 Filed 12-8-86; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

Amendment to the North Dakota Regulatory Program

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

ACTION: Final rule.

SUMMARY: The Director, OSMRE is announcing the approval of a proposed amendment submitted by the State of North Dakota to modify its permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment, submitted September 8, 1986, includes modifications to the State's regulations concerning the following subject area: minimum coverage requirements for public liability insurance.

After providing opportunity for public comment and conducting a thorough review of the proposed amendment, the Director has determined that the proposed modifications meet the requirements of SMCRA and the Federal regulations. He is, therefore, approving the proposed amendment as submitted on September 8, 1986. The Federal rules at 30 CFR Part 934 codifying decisions concerning the North Dakota program are being amended to implement this action.

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

EFFECTIVE DATE: December 9, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry R. Ennis, Director, Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Federal Building, 100 East B Street, Room 2128, Casper, Wyoming 82601-1918; Telephone: (307) 261-5776.

SUPPLEMENTARY INFORMATION:

I. Background

Information concerning the general background on the permanent program, general background on the State program approval process, general background on the North Dakota program submission, Secretary's findings, disposition of public comments, and Secretary's decision of conditional approval can be found in the December 15, 1980 **Federal Register** (45 FR 82214). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 934.11 and 934.15.

II. Submission of Amendments

On September 8, 1986, the State of North Dakota submitted a proposed amendment to its approved permanent regulatory program. The amendment consists of revisions to the approved North Dakota regulations. The amended section of the regulations, North Dakota Administrative Code (NDAC), and brief description of the amended subject area are as follows: section 69-05.2-12-20—revised regulations governing the minimum amount of public liability insurance coverage required.

The October 6, 1986 **Federal Register** announced receipt of the proposed amendment and invited public comment (51 FR 35534). The public comment period ended November 5, 1986. A public hearing scheduled for October 31, 1986 was not held since no person requested the hearing.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment submitted to OSMRE by the State of North Dakota on September 8, 1986. The Director finds that the amended provisions meet the requirements of SMCRA and 30 CFR Chapter VII. The Director may require further changes in the future as a result of the ongoing review of the North Dakota program in light of Federal regulatory revisions and court decisions.

1. NDAC 69-05.2-12-20

North Dakota has reviewed section 69-05.2-12-20 concerning public liability insurance requirements. The State's minimum coverage for bodily injury has been reduced from two million dollars aggregate to one million dollars aggregate. This new amount still exceeds the Federal standard at 30 CFR 800.60(a) which requires five hundred thousand dollars aggregate for bodily injury. The State's minimum coverage for property damage has been reduced from one million dollars to five hundred thousand dollars for each occurrence, and from two million dollars to one million dollars aggregate. These new amounts are also in excess of the Federal standards at 30 CFR 800.60(a) which require three hundred thousand dollars for each occurrence and five hundred thousand dollars aggregate for property damage. The Director, therefore, finds the revised State regulations at 69-05.2-12-20 no less effective than the Federal regulations at 30 CFR 800.60.

IV. Public Comments

The Director solicited public comment on the proposed amendment in the October 6, 1986 **Federal Register** (51 FR 35534). No comments were received.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were also solicited from various Federal agencies. No substantive comments were received from the respondents.

V. Director's Decision

The Director, based on the above findings, is approving the proposed amendment to the North Dakota program, as submitted on September 8, 1986. The Federal rules at 30 CFR Part 934 are being amended to implement this decision.

VI. Procedural Requirements

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, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

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

List of Subjects in 30 CFR Part 934

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

Dated: December 1, 1986.

Brent Wahlquist,

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

PART 934—NORTH DAKOTA

30 CFR Part 934 is amended as follows:

1. The authority citation for Part 934 continues to read as follows:

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

2. 30 CFR Part 934.15 is amended by adding a new paragraph (h) as follows:

§ 934.15 Approval of amendments to State regulatory program.

* * * * *

(h) The following amendment to the North Dakota permanent regulatory program, submitted to OSMRE September 8, 1986, is approved effective December 9, 1986: Modifications to NDAC 69–05.2–12–20 concerning the minimum amount of public liability insurance coverage required.

[FR Doc. 86–27546 Filed 12–8–86; 8:45 am]

BILLING CODE 4310–05–M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Permissible Interest Rates on Guaranteed Manufactured Home Loans, Home and Condominium Loans, and Home Improvement Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rates on guaranteed manafactured home unit loans, lot loans, and combination manufactured home unit and lot loans. In addition, the maximum interest rates applicable to fixed payment and graduated payment home and condominium loans, and to home improvement and energy conservation loans are also decreased. These decreases in interest rates are possible because of recent improvements in the availability of funds in various credit markets. The decrease in the interest rates will allow eligible veterans to obtain loans at a lower monthly cost.

EFFECTIVE DATE: November 24, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202–233–3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by section 1819(f), title 38, United States Code, to establish maximum interest rates for manufactured home loans guaranteed by the VA as he finds the manufactured home loan capital markets demand. Recent market indicators—including the prime rate, the general decrease in interest rates charged on conventional manufactured home loans, and the decrease of other short-term and long-term interest rates—have shown that the manufactured home capital markets have improved. It is now possible to decrease the interest rates on manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans while still assuring an adequate supply of funds from lenders and investors to make these types of VA loans.

The Administrator is also required by section 1803(c), title 38, United States Code, to establish maximum interest rates for home and condominium loans including graduated payment mortgage loans, and loans for home improvement purposes. Market indicators similarly favor reductions in the maximum interest rates for these types of loans. These lower interest rates should assist more veterans in the purchase of homes and condominiums or to obtain improvement loans because of the decrease in the monthly loan payments for principal and interest.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981 **Federal Register** (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Excutive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured or direct loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers, 64.113, 64.114, and 64.119).

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1), 1811(d)(1) and 1819(f) and (g) of title 38, United States Code.

These decreases are accomplished by amending §§ 36.4212(a)(1), (2), and (3), and 36.4311(a), (b), and (c) and 36.4503(a), title 38, Code of Federal Regulations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Manufactured Homes, Veterans.

Approved: November 21, 1986.

By direction of the Administrator:

James E. DeWire,

Chief of Staff.

PART 36—[AMENDED]

38 CFR Part 36, Loan Guaranty, is amended as follows:

1. In § 36.4212, paragraph (a) is revised as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the VA prior to the respective effective date: (38 U.S.C. 1819(f))

(1) Effective November 24, 1986, 11½ percent simple interest per annum for a loan which finances the purchases of a manufactured home unit only.

(2) Effective November 24, 1986, 11 percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective November 24, 1986, 11 percent simple interest per annum, for a loan which will finance the simultaneous acquisition of a manufactured home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the manufactured home.

* * * * *

2. In § 36.4311, paragraphs (a), (b), and (c) are revised as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the VA which specify an interest rate in excess of 9 per centum per annum, effective November 24, 1986, the interest rate on any home or condominium loan, other than a graduated payment mortgage loan, guaranteed or insured wholly or in part on or after such date may not exceed 9 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

(b) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the VA which specify an interest rate in excess of 9¼ per centum per annum, effective November 24, 1986, the interest rate on any graduated payment mortgage loan guaranteed or insured wholly or in part on or after such date may not exceed 9¼ per centum per annum. (38 U.S.C. 1803(c)(1))

(c) Effective November 24, 1986, the interest rate on any loan soley for energy conservation improvements or other alterations, improvements or repairs, which is guaranteed or insured wholly or in part on or after such date may not exceed 10½ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4503 paragraph (a) is revised as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans, made by the VA shall bear interest at the rate of 9 percent per annum. Loans solely for the purpose of energy conservation improvements or other alternations, improvements, or repairs shall bear interest at the rate of 10½ percent per annum. (38 U.S.C. 1811(d) (1) and (2)(A))

* * * * *

[FR Doc. 86-27548 Filed 12-8-86; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

A-3-[FRL-3124-9]

Designation of Areas for Air Quality Planning Purposes; Commonwealth of Pennsylvania; Section 107 Redesignation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today announcing the approval of a request submitted by the Commonwealth of Pennsylvania to reclassify the attainment status of two areas within Allegheny County with respect to the National Ambient Air Quality Standards (NAAQS) for Total Suspended Particulates (TSP).

One area classification is being changed to "Better Than National Standards" and the second to "Does Not Meet Secondary Standards." The revised classification are based upon eight (8) consecutive quarters of air quality monitoring data and consideration of the factors leading to the prior classifications.

EFFECTIVE DATE: January 8, 1987.

ADDRESSES: Copies of the documents relevant to these reclassifications are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Denis Lohman

Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, Attn: Gary Triplett

Allegheny County Health Department, Bureau of Air Pollution Control, 301 Thirty-ninth Street, Pittsburgh, PA 15201, Attn: Roger Westman

FOR FURTHER INFORMATION CONTACT: Denis Lohman (3AM11) at the EPA, Region III address above or call (215) 597-8375.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act, the Administrator of EPA has promulgated the NAAQS attainment status for all areas within each State (See 43 FR 8962 (March 3, 1978)). These area classifications are subject to revision whenever sufficient data become available to warrant a reclassification.

The Pennsylvania Department of Environmental Resources (DER) requested changes to the classification of two areas within Allegheny County for TSP under section 107 of the Clean Air Act and 40 CFR Part 81.

Area #1 is a three-mile wide strip within a perpendicular distance two miles north and east of the Ohio River center line, and one mile south and west of the Ohio River center line, terminating at the I-79 highway bridge and at the Beaver County line. Area #2 is defined as the circular area within a 0.5 mile radius of the Greater Pittsburgh Airport monitor. This monitor is on the roof of the main terminal building.

In 1981, Area #1 had been designated "Cannot Be Classified" because there were no TSP monitors in the area. The BAPC installed two TSP monitors in the area. The TSP NAAQS have never been exceeded at either monitor.

Area #2 was designated as "Does Not Meet Primary Standards" because of high annual value of TSP recorded in 1979 and 1980. At that time, the airport terminal was undergoing a major construction project. The construction project was completed in 1980. The average TSP values since then have been well below the primary standard. After 1980, only two exceedances of the secondary TSP NAAQS (150 micrograms per cubic meter—24-hour average) have been recorded. The two exceedances occurred in one year (1984) and, as such, constitute a violation of the secondary TSP NAAQS.

On October 21, 1981, the EPA approved, at 46 FR 51607, a control strategy for TSP in Allegheny County. The approval was conditioned upon additional studies of fugitive emissions in industrialized areas of the County. The approved plan demonstrated that the regulations, equivalent to Reasonably Available Control Technology, were adequate to attain and maintain the TSP NAAQS in Areas #1 and #2.

On March 7, 1986, EPA published a proposed rulemaking at 51 FR 7962 proposing to change the classification of Area #1 to "Better Than National Standards," and the classification of Area #2 to "Does Not Meet Secondary Standards. " The public was invited to submit comments on these requested classification changes. No comments for or against the proposed changes have been received.

Conclusion: No information has been provided to indicate that the proposed reclassifications of TSP Areas #1 and #2 are inappropriate. Therefore, for the reasons described herein, EPA is approving Pennsylvania's request to reclassify TSP Area #1 in Allegheny County to "Better Than National Standards" and to reclassify TSP Area #2 in Allegheny County to "Does Not Meet Secondary Standards." All other Section 107 designations for the Commonwealth of Pennsylvania remain intact.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 9, 1987. This action may not be challenged later in proceedings to enforce its requirement (See 307(b)(2)).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: November 28, 1986.

Lee M. Thomas,

Administrator.

PART 81—[AMENDED]

40 CFR Part 81 is amended as follows:

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. In § 81.339, Pennsylvania, the table entitled "Pennsylvania—TSP," is amended by revising "X" the entries for Allegheny County Air Basin (1)(a) and Allegheny County Air Basin (2) to read as follows.

§ 81.339 Pennsylvania—TSP

PENNSYLVANIA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
V. Southwest Pennsylvania AQCR				
Westmoreland County:				
B. Allegheny County Air Basin:				
(1) (a) The Beaver County line to the I-79 Bridge on the Ohio River	*	*	*	* X
(2) The area within a half mile radius of the Greater Pittsburgh Airport monitor			X	

* * * * *

[FR Doc. 86-27663 Filed 12-8-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Parts 301, 302, 303, 304, 305, 306, 307, 313, 314, 315, 316, 319, 322, 325, 330, 332, 353

Acquisition Regulation; Administrative and Procedural Amendments

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is amending its acquisition regulation (48 CFR Chapter 3) top make numerous administrative and procedural changes. The changes concern the realignment of internal approval levels, the clarification of existing regulatory coverage, or the implementation of recently issued Federal Acquisition Regulation amendments.

EFFECTIVE DATE: December 9, 1986.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, Procurement Analyst, Office of Procurement and Logistics Policy, telephone (202) 245–8901.

SUPPLEMENTARY INFORMATION: The Department is amending its acquisition regulation in the area of internal approval actions required by either the Federal Acquisition Regulation (FAR), 48 CFR Chapter 1, or the Health and Human Services Acquisition Regulation (HHSAR), 48 CFR Chapter 3, to simplify and expedite the acquisition process. This is being accomplished by establishing approval authorities with acquisition managers involved in the day-to-day operational aspects of contracting.

Other amendments include the addition of the definition of the term "Chief of the contracting office", procedures to be followed concerning exceptions to synopsizing, use of an OMB control number on acquisition documents, and the prohibition against redelegating below prescribed levels of authority specified by the FAR and HHSAR.

Amendments are also being made to correct or refine administrative, procedural details which have become evident since the initial publication of the HHSAR on April 9, 1987 (49 FR 13959–14051).

The Department of Health and Human Services certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.); therefore, no regulatory flexibility analysis has been prepared. This document does not contain information collection requirements which require the approval of the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

The provisions of this regulation are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 48 CFR Parts 301, 302, 303, 304, 305, 306, 307, 313, 314, 315, 316, 319, 322, 325, 330, 332, and 353

Government procurement.

Accordingly, the Department amends 48 CFR Chapter 3 as set forth below.

Date: November 25, 1986.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

As indicated in the preamble, Chapter 3 of Title 48, Code of Federal Regulations, is amended as shown:

1. The authority citation for Parts 301, 302, 303, 304, 305, 306, 307, 313, 314, 315, 316, 319, 322, 325, 330, 332, and 353 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

PART 301—[AMENDED]

301.105 [Amended]

2. Section 301.105 is amended by adding the following after the existing table:

* * * * *

The OMB control number "OMB No. 0990–0115" is to be included in the upper right corner of the first page of all solicitations, purchase orders, and contracts issued by departmental contracting activities. The number represents approval of the HHS acquisition process and covers recordkeeping and reporting requirements which are unique to individual acquisitions (e.g., requirements contained in specifications, statements of work, etc.).

301.670–3 [Amended]

3. Section 301.670–3 is amended by adding the following sentence between the two existing sentences in paragraph (a):

* * * However, HCA and other contracting approvals and authorities shall not be redelegated below the levels specified in the HHS Acquisition Regulation or, in the absence of coverage in the HHS Acquisition Regulation, the Federal Acquisition Regulation. * * *

PART 302—[AMENDED]

302.100 [Amended]

4. Section 302.100 is amended as follows:

a. The definition of the term "Chief of the contracting office" is added as the first entry after the section leading as follows:

"Chief of the contracting office" (CCO) is a mid-level management official in charge of a contracting office who controls and oversees the daily contracting operation of an Operating Division (OPDIV) or major component of an OPDIV. The CCO is subordinate to the principal official responsible for acquisition and is located at a management level above other contracting personnel, usually as a branch chief.

* * * * *

b. Under the definition "Principal official responsible for acquisition", the following changes are made:

* * * * *

OHDS—Director, Grants and Contracts Management Division, Office of Management Services

* * * * *

SSA—Director, Office of Acquisition and Grants, Office of Management, Budget and Personnel

* * * * *

In addition, under the *OASH* heading, the substitute word "Acquisitions" for the word "Materiel".

PART 303—[AMENDED]

5. Part 303 is amended by adding a new Subpart 303.7 to read as follows:

Subpart 303.7—Voiding and Rescinding Contracts

303.704 Policy.

For the purposes of implementing FAR Subpart 3.7, the authorities granted to the "agency head or designee" shall be exercised by the principal official responsible for acquisition.

PART 304—[AMENDED]

304.601 [Amended]

6. Section 304.601 is redesignated as section 304.602.

304.7101 [Amended]

7. Section 304.7101 is amended by making the following changes in the list of reviewing officials in paragraph (c):

* * * * *

Office of Human Development Services—
Director, Grants and Contracts Management Division
Social Security Administration—
Director, Office of Acquisition and Grants (may be redelegated to the appropriate division direction within the Office of Acquisition and Grants)

* * * * *

PART 305—[AMENDED]

8. A new Subpart 305.2, consisting of section 305.202, is added to read as follows:

Subpart 305.2—Synopsis of Proposed Contract Actions

305.202 Exceptions.

(b) When a contracting office believes that it has a situation where advance notice is not appropriate or reasonable, it shall prepare a memorandum citing all pertinent facts and details and send it, through normal acquisition channels, to the Deputy Assistant Secretary for Procurement, Assistance, and Logistics (DASPAL) requesting relief from synopsizing. The DASPAL shall review the request and decide whether an exception to synopsizing is appropriate or reasonable. If it is, the DASPAL shall take the necessary coordinating actions required by FAR 5.202(b). Whatever the decision is on the request, the DASPAL shall promptly notify the contracting office when a determination has been made.

PART 306—[AMENDED]

306.202 [Amended]

9. Section 306.202 is amended by revising paragraph (a) to read as follows:

(a) The reference to the agency head in FAR 6.202(a) shall mean the appropriate competition advocate cited in 306.501.

* * * * *

10. Section 306.202 is further amended by removing "Head of the OPDIV or ASMB." in paragraph (b) and replacing it with "competition advocate."

306.302–1 [Amended].

11. The heading of section 306.302–1 is revised to read "Only one responsible source and no other supplies or services will satisfy agency requirements."

12. Section 306.302–1 is amended by redesignating paragraph (b) *Application.* (2)" as paragraph (a) *Authority.* (2)(ii) and by redesignating existing paragraph (b)(6) as (b) *Application* (4).

PART 307—[AMENDED]

307.104 [Amended]

13. Section 307.104 is amended by revising paragraph (c) to read:

(c) If the plan proposes using other than full and open competition, the plan shall also be coordinated with the Chief of the contracting office, acting for the competition advocate.

PART 313—[AMENDED]

313.404 [Removed]

14. Section 313.404 is removed.

PART 314—[AMENDED]

15. Subpart 314.4 is amended by adding new sections 314.404 and 314.404–1 to read as follows:

314.404 Rejection of bids.

314.404-1 Cancellation of invitations after opening.

(c) The chief of the contracting office (CCO) shall make the determination required by FAR 14.404-1(c).

(e) The CCO shall make the referenced determination.

PART 315—[AMENDED]

16. Part 315 is amended by adding Subpart 315.1, consisting of section 315.103, as follows:

Subpart 315.1—General Requirements for Negotiation

315.103 Converting from sealed bidding to negotiation procedures.

The chief of the contracting office has the authority to make the determination referenced in FAR 15.103.

315.413-2 [Amended]

17. Section 315.413-2 is amended by changing the references to "315.608(e)" in paragraphs (e) and (f) to read "315.608-72".

315.608 [Amended]

18. Section 315.608 is amended by replacing the term "OPDIV head" with the term "chief of the contracting office" in paragraph (b).

315.8 [Amended]

19. Subpart 315.8 is amended by adding sections 315.804 and 315.804-3 to read as follows:

315.804 Cost or pricing data.

315.804-3 Exemptions from or waiver of submission of certified cost or pricing data

(i) *Waiver for exceptional cases.* The authority referenced in FAR 15.804-3(i) may be delegated to the principal official responsible for acquisition.

PART 316—[AMENDED]

316.301-3 [Amended]

20. Section 316.301-3 is amended by removing the colon in paragraph (c), and adding the phrase "and establishing the fee:".

21. Subpart 316.3 is amended by adding section 316.306 to read as follows:

316.306 Cost-plus-fixed-fee contracts.

(c)(2) The determination and findings (D&F) required by FAR 16.306(c)(2) has been combined with the D&F required by FAR 16.301-3(c) authorizing the use of cost-reimbursement contract, and is shown in 316.301-3(c). The contracting officer is responsible for executing the D&F and is authorized to make both determinations required by the FAR.

22. Subpart 316.4 is added to read as follows:

Subpart 316.4—Incentive Contracts

316.403 Fixed-price incentive contracts

(c) The determination and findings required by FAR 16.403(c) shall be executed by the chief of the contracting office after it is prepared by the contracting officer.

316.603-3 [Amended]

23. Section 316.603-3 is amended by removing, in the first sentence, the words "determination and findings", and substituting the words "written statement".

PART 319—[AMENDED]

319.870 [Amended]

24. Section 319.870 is amended by removing the first sentence, and the first word ("Additionally,") in the second sentence, in paragraph (a)(1). Paragraph (a)(6) is amended by removing the phrase beginning with the words "the policy expressed . . ." and ending with the words ". . . 8(a) program, and that" in the second sentence.

25. Part 322, consisting of Subpart 322.6, is added to read as follows:

PART 322—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 322.6—Walsh-Healey Public Contracts Act

Sec.
322.604 Exemptions.
322.604-2 Regulatory exemptions.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 322.6—Walsh-Healey Public Contracts Act

322.604 Exemptions.

(c)(1) The actions required by FAR 22.604-2(c)(1) shall be exercised by the Deputy Assistant Secretary for Procurement, Assistance, and Logistics (DASPAL). Contracting offices requiring exemptions shall forward requests through normal acquisition channels to the DASPAL.

PART 325—[AMENDED]

26. Section 325.102(b) is revised to read as follows:

325.102 Policy.

The head of the contracting activity shall make the determinations required by FAR 25.102(a)(1) through (5) and FAR 25.102(b).

PART 330—[AMENDED]

27. Part 330 is amended by adding a new Subpart 330.3, consisting of 330.304, to read as follows:

Subpart 330.3—CAS Contract Requirements

330.304 Waiver

(c) The requirements of FAR 30.304(c) shall be exercised by the Deputy Assistant Secretary for Procurement, Assistance, and Logistics (DASPAL). Requests for waivers shall be forwarded through normal acquisition channels to the DASPAL.

PART 332—[AMENDED]

332.402 [Amended]

28. Section 332.402 is revised to read: (e) The determination that the making of an advance payment is in the public interest (see FAR 32.402(c)(1)(iii)(A)) shall be made by the respective competition advocate listed in 306.501.

332.406 [Amended]

29. Paragraph (c)(2) of section 332.406 is amended by revising the reference to section 332.402(e) to read "306.501."

332.407 [Amended]

30. Section 332.407 is amended by adding the following as the first sentence in paragraph (d) and leaving the existing sentences unchanged: "The officials listed in 306.501 are authorized to make the determinations in FAR 32.407(d) and as follows."

332.409-1 [Amended]

31. Section 332.409-1 is amended by removing the phrase "332.402(e) or referenced in 332.406(c)(2)" and replacing it with "306.501."

32. Subpart 332.5 consisting of sections 332.501 and 332.501-2, is added to Part 332 as follows:

Subpart 332.5—Progress Payments Based on Costs

Sec.
332.501 General.
332.501-2 Unusual progress payments.

Subpart 332.5—Progress Payments Based on Costs

332.501 General.

332.501-2 Unusual progress payments.

(a)(3) The approval of an unusual progress payment shall be made by the appropriate official listed in 306.501.

PART 353—[AMENDED]

33. Subpart 353.3 is amended by adding section 353.370-393 as follows:

353.370-393 Form HHS 393, Purchase/Service/Stock Requisition.

DEPARTMENT OF
HEALTH AND HUMAN SERVICES
PURCHASE/SERVICE/STOCK REQUISITION

BPA and Call No. _____

REQUISITION NUMBER 511163

OFFICE CODE/SYMBOL

TO

REQUEST FOR
☐ PURCHASE ☐ SERVICE ☐ STOCK ISSUE ☐ RENTAL/LEASE

REQUESTING ORGANIZATION

CUSTODIAL AREA

DATE

OBJECT CLASS

FOR REFERENCE CALL

EXTENSION

APPROPRIATION

DELIVER TO

CAN

DATE REQUIRED

ITEM NO.	DESCRIPTION (INCLUDE STOCK NUMBER, MODEL/PART NO., ETC.)	QUANTITY REQUIRED	UNIT OF ISSUE	COST UNIT	COST TOTAL

I certify that the property/services requested are required for Government business, and are not available from excess or current assets.*

FUNDS AVAILABLE *(Signature/Title)*

DATE

TOTAL

REQUESTED BY *(Signature/Title)** | DATE

RECEIVING OFFICIAL - I certify that the quantities indicated in the "Quantity Required" column above have been received in total or as annotated.

RECOMMEND APPROVAL *(Signature/Title)** | DATE

RECEIVING OFFICIAL *(Signature/Title)* | DATE

APPROVED BY *(Signature/Title)** | DATE

ORDER NO. (PO, DO, FEDSTRIP, ETC.) | ORDER DATE

PROPERTY MANAGEMENT OFFICER *(Signature)** | DATE

VOUCHER NO. | VOUCHER DATE

HHS - 393 (Rev. 4/81)

[FR Doc. 86-27488 Filed 12-8-86; 8:45 am]

BILLING CODE 4150-04-C

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Ch. 17

Acquisition Regulation; Establishment

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is establishing regulations on general procurement requirements to supplement the Federal Acquisition Regulation. These rules explain the procedures to be followed when there is a contract dispute appeal between OPM and one of its prime contractors. The volume of contract dispute appeals at OPM does not justify an OPM Board of Contract Appeals.

EFFECTIVE DATE: December 9, 1986.

FOR FURTHER INFORMATION CONTACT: Deborah J. Wisoff, (202) 632-5476.

SUPPLEMENTARY INFORMATION: In accordance with the Contract Disputes Act of 1978, the Department of the Interior's Board of Contract Appeals will hear, consider, and decide all contract appeals between OPM and its prime contractors except for contracts entered into in support of the Federal Employees Health Benefits Program. The Armed Services Board of Contract Appeals will continue to hear disputes between OPM and contractors of Federal employee insurance plans as set forth or to be set forth in 48 CFR Chapter 16.

Pursuant to section 553(b)(3)(A) of title 5 of the United States Code, the Director finds that these are rules of agency organization, procedure, or practice and that a general notice of proposed rulemaking need not be published. In addition, § 1.301(b) of the Federal Acquisition Regulation explicitly provides that internal agency guidance in the form of designations, delegations, or establishment of work-flow procedures need not be publicized for public comment. The Director also has determined that these rules shall be effective in less than 30 days. These rules are being made effective immediately pursuant to section 553(d)(3) of title 5 of the United States Code because they merely designate another Government agency to hear contract disputes. This delegation improves agency operations by directing affected contract appeals to a highly qualified government entity for adjudication. It merely transfers the Director's existing responsibility to such entity and does not determine the rights and interests of any parties in dispute with OPM. No legal burden is imposed upon or lifted from any such party or any member of the public by this action.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it prescribes established procedures that have been proven Government-wide not to have significant economic impact on small entities.

List of Subjects in 48 CFR Part 1733

Administrative practice and procedures, Claims, Government procurement.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is amending Title 48 of the Code of Federal Regulations by establishing Chapter 17, consisting of Part 1733, to read as follows:

CHAPTER 17—OFFICE OF PERSONNEL MANAGEMENT

PART 1733—PROTESTS, DISPUTES, AND APPEALS

Subpart 1733.2—Disputes and Appeals

Sec.

Authority: 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 1733.2—Disputes and Appeals

1733.203 Applicability.

(a) The Office of Personnel Management's (OPM) procurement executive shall make the determination prescribed under FAR 33.203(b).

(b) Requests for determinations under paragraph (a) of this section shall be submitted by OPM's contracting officer through OPM's head of the contracting activity to the procurement executive for further action.

1733.203-70 Designation of the Interior Board of Contract Appeals to decide OPM appeals.

(a) The Interior Board of Contract Appeals (IBCA) has been designated by the Director of OPM to consider and determine appeals from decisions of a contracting officer arising under a contract or relating to a contract made by OPM. This delegation governs disputes between OPM and its prime contractors and does not encompass any claim made by a third party beneficiary of, or by a subscriber to, a Federal employee insurance program.

(b) The address of IBCA is 4015 Wilson Boulevard, Arlington, VA 22203.

(c) IBCA rules of procedure can be found in 43 CFR Part 4.

1733.209 Suspected fraudulent claims.

If the contractor is unable to support any part of the claim and there is evidence that the inability is attributable to misrepresentation of fact or to fraud on the part of the contractor, the contracting officer shall refer the matter through the head of the contracting activity to OPM's Offices of the Inspector General and the General Counsel.

1733.211 Contracting officer's decision.

The written decision required by FAR 33.211(a)(4) shall include, in the paragraph listed under FAR 33.211(a)(4)(v), specific reference to the Interior Board of Contract Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, and its procedures under 43 CFR Part 4. The IBCA optional small claims (expedited) procedures and accelerated procedures under 43 CFR 4.113 shall also be referenced as required by the FAR.

1733.212 Contracting officer's duties upon appeal.

(a) When a notice of appeal has been received, the contracting officer shall endorse on the appeal the date of mailing (or the date of receipt if the notice was not mailed) and forward it to IBCA by certified mail within 5 days of receipt. OPM's Office of the General Counsel and the Department of the Interior's (DOI) Office of the Solicitor shall also be notified of the appeal by the contracting officer. 43 CFR 4.103.

(b) The contracting officer shall prepare and transmit the documentation and information required by 43 CFR 4.104 in the form of an appeal file to IBCA, OPM's Office of the General Counsel, DOI's Office of the Solicitor, and appellant or appellant's counsel within 30 days after receipt of a notice of appeal or advice that an appeal has been docketed by IBCA.

1733.214 Contract clause.

The Disputes clause contained in FAR 52.233-1 shall be used with its Alternate I in all OPM solicitations and contracts.

[FR Doc. 86-27585 Filed 12-8-86; 8:45 am]

BILLING CODE 6325-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1001, 1002, 1003, 1008, 1011, 1041, 1049, 1080, 1083, 1084, 1090, 1105, 1132, 1160, 1181, 1220, 1312, 1320, 1330, 1331

[Ex Parte No. MC-184]

Regulation of Household Goods Freight Forwarders Under the Surface Freight Forwarder Deregulation Act of 1986

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: Final rules are adopted making numerous ministerial revisions to the regulations in the appendix. These changes are required by the Surface Freight Forwarder Deregulation Act of 1986, Pub. L. No. 99-521, Stat. , enacted October 22, 1986. This legislation substantially deregulates the non-household goods segment of the surface freight forwarding industry. The rule revisions contained in the appendix are technical in nature and remove non-household goods freight forwarders from the scope of the rules, as required by the legislation. Another rulemaking noticed concurrently with this one, Ex Parte No. MC-181, *Elimination of Cargo Liability Security Requirements for Freight Forwarders of Non-Household Goods*, proposes to exercise the Commission's only discretionary authority conferred by the legislation to remove non-household goods freight forwarders from the scope of the rules on cargo liability security filing requirements.

EFFECTIVE DATE: December 21, 1986.

FOR FURTHER INFORMATION CONTACT:
Paul W. Schach, (202) 275-7885
or
Mark Shaffer, (202) 275-7805

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll-free (800) 424-5403.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

We conclude that the rules we are adopting will have a significant, beneficial economic impact on a substantial number of small entities. Compliance by non-household goods freight forwarders with the numerous regulatory requirements in effect prior to deregulation (ranging from applications filing to tariff publishing to recordkeeping) has added to their cost of doing business. This, in turn, has added to the cost of services that they provide. The removal of non-household goods freight forwarders from the scope of the rules will result in substantial cost savings to them since they no longer will have to comply with these regulatory requirements. In addition, the persons who use their services should experience a beneficial economic impact as these forwarders pass on cost savings in the form of lower rates.

Authority: Public Law No. 99-521, 49 U.S.C. 10321, and 5 U.S.C. 553.

Decided: November 24, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley concurred in the result.

Noreta R. McGee,

Secretary.

Appendix

1. Title 49 of the Code of Federal Regulations is amended as follows: Parts 1001, 1002, 1003, 1008, 1011, 1041, 1049, 1080, 1083, 1084, 1090, 1105, 1132, 1160, 1181, 1220, 1312, 1320, 1330, and 1331 are amended by inserting the words "household goods" before the words "freight forwarded(s)" wherever they appear in the place listed below:

1. Section 1001.2
2. Section 1002.2(f), Part I, (1)(b) and (11)
3. Section 1003.2 heading and under form OP-1
4. Section 1008.1
5. Section 1008.2(a)
6. Section 1011.6(b)(4) and (k)(1)
7. Section 1041.11
8. Section 1041.20
9. Section 1041.21
10. Section 1049.1 heading and text
11. Section 1049.2 heading and text
12. Heading appearing before part 1080
13. Section 1080.1
14. Section 1080.2(c)
15. Section 1083.1 heading and text
16. Section 1084.2(b)
17. Section 1090.2(a)
18. Section 1105.6(c)(4)
19. Section 1132.1(a) and (d)
20. Section 1160.1(b)
21. Section 1160.6, under "Key for Regular Applications," item(3)
22. Section 1160.19(e)
23. Section 1160.22, heading and text
24. Section 1160.24
25. Part 1181, headings to Subparts C and E
26. Section 1181.20(a)(1) and (2)
27. Section 1181.21(g) and (i)
28. Section 1181.24(d)
29. Section 1181.25(a), (b), and (c)
30. Section 1220.0
31. Section 1312.1(b)(6) and (15)
32. Section 1312.4(b)(7)(i), (iii), and (iv)
33. Section 1312.4(e)(1)(ii)(B)
34. Section 1312.11, heading
35. Section 1312.14(j)
36. Section 1312.15, heading
37. Section 1312.32, introductory text
38. Section 1312.37(a)
39. Section 1312.39(h)
40. Part 1320 heading
41. Section 1320.1(a)
42. Section 1330.1
43. Section 1331.1(c)

PART 1080—CONTRACTS, HOUSEHOLD GOODS FREIGHT FORWARDERS—MOTOR COMMON AND CONTRACT CARRIERS

2. The heading for Part 1080 is revised to read as shown above.

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS

1312.4 [Amended]

3. Paragraph (b)(7)(v) of 1312.4 is amended by inserting the words "household goods" before the word "forwarder."

§ 1312.8 [Amended]

4. Paragraph (c)(2) of § 1312.8 is amended by removing the entry and address for freight forwarders, and by revising the heading preceding the address in the last entry to read "*All Other Modes.*"

[FR Doc. 86-27576 Filed 12-8-86; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 60229-6072]

Atlantic Surf Clam and Ocean Quahog Fisheries; Fishery Closure

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

ACTION: Notice of surf clam fishery closure.

SUMMARY: NOAA issues this notice to close the Mid-Atlantic Area surf clam fishery for the remainder of 1986. The action is required to prevent significant overharvest of surf clam allocations. The intended effect is to stop harvest from the resource.

EFFECTIVE DATES: From 2400 hours local time December 4, 1986, until 0001 hours local time January 4, 1987.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, 617-281-3600, ext. 263.

SUPPLEMENTARY INFORMATION:

Regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries contain at § 652.22(d) a provision to close any of the regulated fisheries if the Regional Director, upon review of available information and public comment, including current and expected levels of fishing effort, determines that the fishery quota will be exceeded.

Logbooks submitted by fishermen and processors show that as of December 4, 1986, surf clam harvests from the Mid-Atlantic Area during 1986 will reach or exceed the annual quota of 2,725,000 bushels. Once the quota is reached, closure of the fishery is mandatory. The fishery will, accordingly, be closed at the end of the fishing day on December 4, 1986.

NOAA recognizes that a closure of this length, coming at the end of the year and prior to the holiday season, may result in personal hardship. Unfortunately, delaying the closure by even a week would result in overharvest of the 1986 quota by 80,000 bushels or more. The 1986 quota was already 75,000 bushels higher than normal because of amounts carried forward from 1985. If current catch rates persist, the fishery may have to be closed as much as five months in 1987. NOAA cannot allow continued catch in 1986 to make the poor prospects for 1987 even worse.

One exception will be made to the closure. Vessels with a scheduled fishing period on December 4, 1986, which claim a make-up period for that day will be allowed to finish their trip during 1986. The make-up day will be Sunday, December 7, 1986.

The fishery will reopen on January 4, 1987. Since this closure cuts the two-week fishing cycle at its midpoint, vessels which fish the second half of the cycle will be the first to fish in 1987. After they complete their trips the week of January 4, 1987, the cycle will begin anew with the first-half boats on January 11, 1987. To avoid the possibility anyone might switch from first to second half to get an unfair extra trip, no changes in cycle position will be allowed until the entire cycle is complete. Any switch requests received between now and early January will be processed to be effective January 11, 1987.

Other Matters

This action is taken under the authority of 50 CFR Part 652 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Dated: December 4, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 86-27637 Filed 12-8-86; 4:41 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 236
Tuesday, December 9, 1986

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1102 and 1106

[Docket Nos. AO-237-A34 and AO-210-A45]

Milk in the Southwest Plains and Fort Smith, AR, Marketing Areas; Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends that the Southwest Plains marketing area be expanded to include 18 counties and the Fort Leonard Wood Military Reservation in southwest Missouri and 11 counties in northwest Arkansas. This added territory includes the current Fort Smith, Arkansas, marketing area. The expanded area would be included in three pricing zones to maintain the price levels currently existing in such areas under the Southwest Plains order. The decision also would provide lower delivery standards for regulated plants operated by cooperative associations. All other regulatory provisions of the current Southwest Plains order would be continued.

The changes are necessary to reflect structural changes in the market and to assure the orderly marketing of milk in the expanded Southwest Plains marketing area. The proposed changes, which were submitted and supported by cooperative associations that represent a substantial proportion of producers who supply the market, are based on the record of a public hearing held in Tulsa, Oklahoma, on November 6, 1985. Also, a reopened session of the hearing was held in Irving, Texas on March 4–7 1986, to consider proposals to change the location adjustment provisions of seven orders to conform with the Class I differentials mandated by the Food Security Act of 1985 that were implemented on May 1, 1986. The location adjustment provisions of the Southwest Plains order were amended on the basis of evidence presented at the reopened hearing. Such amendments are incorporated in the order for the merged and expanded Southwest Plains marketing area.

DATE: Comments are due on or before December 24, 1986.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, (202) 447–2089.

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

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small businesses. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

There are 21 regulated handlers that operate 28 plants under the orders that receive milk from approximately 3,700 dairy farmers. A substantial majority of the producers are members of four cooperative association. Most of there entities would be small businesses under the standards specified in 13 CFR Part 121.

The merged and expanded marketing area reflects the sales area of currently regulated plants. Consequently, the marketing area issue does not involve economic impact consideration. Likewise, the changes to the location adjustment provisions are only conforming changes that are necessary to accommodate the marketing area expansion. No price changes will occurs as a result of the location adjustment revisions contained herein. The reduction of the pooling standard for plants operated by cooperative associations will reduce the regulatory burden by not encouraging the cooperatives to make excessive, uneconomical shipments of milk to distributing plants.

Prior documents in this proceeding:

Notice of Hearing: Issued September 20, 1985, published September 26, 1985 (50 FR 39017).

Notice of Reopened Hearing: Issued February 14, 1986; published February 21, 1986 (51 FR 6254).

Temporary Revision: Issued February 20, 1986, published February 26, 1986 (51 FR 6730).

Suspension Order: Issued February 24, 1986; published March 3, 1986 (51 FR 7245).

Tentative Decision: Issued July 9, 1986; published July 15, 1986 (51 FR 25539).

Interim Amendments: Issued August 5, 1986; published August 11, 1986 (51 FR 28687).

Final Decision: Issued October 30, 1986; published November 5, 1986 (51 FR 40176).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and the orders regulating the handling of milk in the Southwest Plains and Fort Smith, Arkansas, marketing areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. This decision considers the issue to the extent that it was addressed by interested parties.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, DC, 20250, by the 15th day after publication of this decision in the **Federal Register**. Four copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the

Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Tulsa, Oklahoma, on November 6, 1985, pursuant to a notice of hearing issued September 20, 1985 (50 FR 39017) and reopened at Irving, Texas, on March 4–7, 1986, pursuant to a notice of hearing issued February 14, 1986 (51 FR 6254).

The material issues on the record of hearing relate to:

1. Expansion of the marketing area covered by the Southwest Plains order.
2. Location adjustments.
3. Delivery standards for plants operated by cooperative associations.
4. Miscellaneous and conforming changes.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Expansion of the Marketing Area Covered by the Southwest Plains Order.

The marketing area covered by the Southwest Plains order (Order 106) should be expanded to include 18 counties and the Fort Leonard Wood Military Reservation in southwest Missouri and 11 counties in northwest Arkansas. The expanded area would include the present Fort Smith, Arkansas, marketing area, the Ozarks-portion of the former St. Louis-Ozarks marketing area and certain other nearby unregulated territory. Such area constitutes the major sales area of handlers who are regulated under either the Southwest Plains or Fort Smith, Arkansas orders. Since the Fort Smith marketing area would be merged with the expanded marketing area for Southwest Plains, the Fort Smith, Arkansas order (Order 102) would cease to exist when the merged order becomes effective. These changes are warranted to reflect the structural changes in regulation under the Southwest Plains order, which resulted when the St. Louis-Ozarks order was terminated effective April 1, 1985.

There is considerable record evidence to indicate that interstate commerce exists in the area that would be added to the marketing area covered by the Southwest Plains order. The principal competitors in the expanded area are the Southwest Plains order distributing plants of Foremost Dairies, Inc., and Hiland Dairy located at Springfield, Missouri, the College Club Dairy at Fayetteville, Arkansas, and the Fort Smith order distributing plant of Acee Dairy, Inc., at Fort Smith, Arkansas.[1] The Springfield plants distribute fluid milk into Arkansas, Kansas and Oklahoma. The Fayetteville plant sells milk in Missouri and Oklahoma while the Fort Smith plant distributes fluid mik products in Oklahoma. Another Southwest Plains order distributing plant located in Oklahoma City sells fluid milk in the Arkansas portion of the expanded area. Similarly, one distributing plant regulated by the Southern Illinois order and located in Illinois sells fluid milk products in the Missouri portion of the expanded area.

The proposal to extend the Southwest Plains marketing area to include 19 counties in southwest Missouri and 11 counties in northwest Arkansas was made by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents about 50 percent of the dairy farmers who supply milk to the Southwest Plains market. The proposal was prompted by the termination of the nearby St. Louis-Ozarks order (Order 62). When that happened, considerable territory in southwest Missouri and northwest Arkansas that had been included in the St. Louis-Ozarks marketing area became unregulated. Two distributing plants located in the former St. Louis-Ozarks marketing area at Springfield, Missouri, became regulated under the Southwest Plains order. A third distributing plant located in the Arkansas portion of the Order 62 marketing area at Fayetteville initially became regulated under the Fort Smith order but later became regulated under the Southwest Plains order.

Mid-Am testified that the presently unregulated territory in southwest Missouri and northwest Arkansas constitutes a major sales area for the three distributing plants regulated under the former St. Louis-Ozarks order. Mid-Am contends that over the long term, the prevailing marketing situation could result in disorderly marketing under the Southwest Plains order. Mid-Am testified that the possiblity of this happening is enhanced because the handlers involved are multiple-plant operators, which gives them the flexibility to shift sales between the plants.

For example, the Foremost plant at Springfield is owned and operated by the Knudsen Corporation, as is the Meyer Dairy, which is located in Kansas City and regulated under the Greater Kansas City order. To the extent that the sales could be shifted between such plants, a handler might be able to avoid fully regulated status for a plant or shift its regulation to another order to gain a competitive advantage. Mid-Am indicated that similar practices could be used by the plants of Hiland, College Club, and Acee, since all three are owned and operated as joint ventures by Mid-Am and Prairie Farms Dairy.

Mid-Am claims that if any one of the distributing plants were able to avoid full regulation, disorderly marketing conditions would exist. In such cases, any plant that avoided pool status would have a competitive advantage in competing for fluid milk sales in a common area of distribution over other plants that are similarly located and fully regulated under the Southwest Plains order.

The proposal by Mid-Am to extend the marketing area was supported by Associated Milk Producers, Inc. (AMPI), the other major cooperative that furnishes 100 percent of producer milk for the Fort Smith market and about 45 percent of the milk supply for the Southwest Plains market. AMPI urged that the marketing area covered by the Southwest Plains order be expanded to incude the marketing area now covered by the Fort Smith, Arkansas order. AMPI further testified that all of the other provisions of the Southwest Plains order that are currently effective and not at issue in this proceeding should apply to handlers who will be regulated under the expanded order.

A handler who operates a fluid milk plant at Jefferson City, Missouri (Central Dairy), testified in opposition to the inclusion of Pulaski County, Missouri, in the Southwest Plains marketing area. Since a small proportion of the plant's total sales are made in Pulaski County, the handler testified that Central Dairy would be a partially regulated distributing plant under the order. As such, the handler would be subject to the order's reporting requirements to ascertain the plant's regulatory status, and its payment obligations, which are designed to provide a measure of price comparability among handlers who operate fully regulated plants and handlers who operate plants that have

[1] Official notice is taken of the commercial marketing fact that plants operated by the Knudsen Corporation at Springfield (Foremost) and Kansas City (Meyer Dairy) have ceased operations since the hearing was held. The findings and conclusions of this decision, nevertheless, are drafted in terms of the marketing conditions that were portrayed at the hearing since the decision must be based on the hearing record. As described later, the evidence presented at the hearing strongly supported a merger of the two orders and an expansion of the combined marketing area. Interested parties are invited to address in exceptions to this decision the issue of whether the closing of the Knudsen Corporation plants changes the marketing conditions to the extent that a decision on the proposed merger and marketing area expansion should not be made the bases of this record.

only a minor association with the market.

The handler's primary objection to the inclusion of Pulaski County in the marketing area is with the requirement that the plant's total monthly receipts and sales would have to be reported to the market administrator because of the plant's limited sales in the marketing area. The handler testified that the sales in Pulaski County do not extend into the Fort Leonard Wood Military Reservation, which represents a substantial proportion of the county's total population and which was included in the marketing area of the former St. Louis-Ozarks order. The handler testified that since sales were not made into Fort Leonard Wood in the past, the handler has no prior experience in reporting sales of fluid milk products in a portion of a county. Consequently, the handler suggested that only the Fort Leonard Wood Military Reservation in Pulaski County be included in the expanded Southwest Plains marketing area and that the rest of Pulaski County be excluded. As a result, Central Dairy would not be subject to any of the reporting requirements of the expanded Southwest Plains order.

In its post-hearing brief, Central Daily also contended that an expansion of the marketing area to include all of Pulaski County has the potential of placing Central Dairy at a disadvantage with regulated plants located in Springfield, Missouri since minimum prices under the Southwest Plains order are 14 cents per hundredweight higher at Jefferson City than at Springfield. (Since the November 6 hearing was held, the location adjustment provisions of the Southwest Plains order have been amended so that the Class I price at Springfield is 27 cents higher than at Jefferson City.) The handler also contended that the inclusion of the entire county within the marketing area is not necessary to achieve orderly marketing conditions.

No other testimony in opposition to the proposed expansion of the Southwest Plains marketing area was presented by any interested party.

The objective in defining a marketing area is to encompass that territory within which regulated handlers compete with each other for a major proportion of their sales of fluid milk products. Although it is not practical to include the entire sales area of all regulated plants, the bulk of the sales areas of regulated plants should be included. If a significant proportion of the major sales areas of regulated handlers is excluded from the marketing area definition, the possibility of one or more plants avoiding full regulation is enhanced. Any plant that avoided full regulation would have a significant advantage, in both the procurement of raw milk supplies and in the distribution of fluid milk products, in competition with other handlers who are subject to the classified pricing and pooling provisions of an order. The threat of such a possibility is not conducive to the maintenance of stable and orderly marketing conditions on a long term basis for either producers or handlers.

As previously stated, major structural changes occurred in the distribution sector as a result of the termination of the adjacent St. Louis-Ozarks order effective April 1, 1985. Two distributing plants located at Springfield, Missouri, became regulated under the Southwest Plains order on the basis of their sales in that marketing area. A third plant located at Fayetteville, Arkansas initially became regulated under the Fort Smith, Arkansas order for two months. Beginning in June, such plant became regulated under the Southwest Plains order.

Because of these structural changes, there are substantial overlaps in the sales areas among plants that are currently regulated under the Fort Smith and Southwest Plains orders. This is evident from a comparison of the market statistics for the Southwest Plains and Fort Smith orders before and after the termination of the St. Louis-Ozarks order.

During the first quarter of 1985, prior to the termination of the St. Louis-Ozarks order, pool plants regulated under the Southwest Plains order accounted for 77 percent of the fluid milk products distributed within the Southwest Plains marketing area. About 16 percent of the fluid milk sales within the marketing area were distributed by plants regulated under the St. Louis-Ozarks and Forth Smith orders. During the second and third quarters of 1985, sales by distributing plants regulated under the Southwest Plains order represented about 92 percent of the total sales of fluid milk products within the Southwest Plains marketing area. This significant increase in the proportion of sales by pool plants is attributable to the regulation of distributing plants under the Southwest Plains order that were formerly regulated under the St. Louis-Ozarks order.

During the first quarter of 1985, sales by the distributing plant regulated under the Fort Smith order represented about 45 percent of total fluid milk products distributed in the Fort Smith, Arkansas marketing area. During the same period, sales by distributing plants regulated under the St. Louis-Ozarks order represented about 35 percent of the fluid milk products distributed within the marketing area, while there were no sales in the Fort Smith marketing area by plants regulated under the Southwest Plains order. In the second quarter of 1985, the proportion of sales in the marketing area attributable to Fort Smith pool plants increased to 50 percent. This was a result of the regulation under the Fort Smith order of a plant that was formerly regulated under the St. Louis-Ozarks order. Also, in the second quarter, the proportion of sales in the Fort Smith marketing area attributable to Southwest Plains order pool plants increased to 33 percent as a result of the regulation under the Southwest Plains order of plants that were formerly regulated under the St. Louis-Ozarks order. By the third quarter of 1985, the proportion of sales in the Fort Smith marketing area attributable to Fort Smith order pool plants declined to 36 percent. This occurred because of a switch in regulation of a distributing plant from the Fort Smith order to the Southwest Plains order. Also, as a result of such shift in regulation, the proportion of sales within the Fort Smith marketing area attributable to Southwest Plains order pool plants increased to over 41 percent, surpassing the proportion of sales within the marketing area accounted for by the single distributing plant regulated under the Fort Smith order.

As previously indicated, the sales areas of the distributing plants that were formerly regulated under the St. Louis-Ozarks order overlap substantially with the sales areas of plants regulated under the Southwest Plains and Fort Smith orders. The regulation of these plants under the Southwest Plains order has resulted in a situation whereby plants regulated under such order now account for a greater proportion of the sales of fluid milk products in the Fort Smith marketing area than does the Fort Smith order distributing plant. Although sales of Fort Smith distributing plants do not account for a large proportion of the total sales in the Southwest Plains marketing area, plants regulated under the Fort Smith order distribute a large percentage of their sales in the Southwest Plains marketing area. During the first, second, and third quarters of 1985, plants regulated under the Fort Smith order distributed 26 percent, 18 percent and 26 percent, respectively, of their fluid milk products within the Southwest Plains marketing area. In view of the degree to which the sales areas overlap, the Southwest Plains marketing area should be expanded to include the present Fort Smith,

Arkansas marketing area. This will result in regulating the one remaining Fort Smith distributing plant under the Southwest Plains order with the same terms and provisions that are applicable to plants that have most of the sales in the Fort Smith marketing area.

A large proportion of the sales areas of the distributing plants that were formerly regulated under the St. Louis-Ozarks order is outside the current boundaries of the Southwest Plains and Fort Smith marketing areas in unregulated territory. This is also evident from a comparison of the market statistics for the Southwest Plains and Fort Smith orders before and after the termination of the St. Louis-Ozarks order.

During the first quarter of 1985, pool plants that were regulated under the Southwest Plains order distributed almost 69 percent of their fluid milk products within the Southwest Plains marketing area and only one-tenth of one percent outside the marketing area into unregulated territory. With the regulation of additional distributing plants under the Southwest Plains order after termination of the St. Louis-Ozarks order, the pool plants regulated under the Southwest Plains order during the second quarter of 1985 distributed only 69 percent of their fluid milk products within the marketing area while the proportion of their sales in unregulated areas increased to over 19 percent. By the third quarter, just under 68 percent of pool plant sales were within the marketing area while over 20 percent were distributed in unregulated areas.

During the first quarter of 1985, about 41 percent of the Fort Smith order distributing plant's sales were in the marketing area while over 33 percent were in unregulated territory. In the second quarter the proportion of sales in the marketing area declined to 30 percent while the proportion in unregulated territory increased to 51 percent. This change was a direct result of the regulation under the Fort Smith order of a plant formerly regulated under the St. Louis-Ozarks order. By the third quarter of 1985, when such plant became regulated under the Southwest Plains order, the proportion of the fluid milk sales of the remaining distributing plant in the marketing area increased to 38 percent while the proportion in unregulated territory decreased to 35 percent.

It is obvious from the foregoing that the Southwest Plains and Fort Smith, Arkansas marketing areas do not include a substantial proportion of the sales areas of distributing plants that were previously regulated under the St. Louis-Ozarks order. Consequently, the Southwest Plains marketing area should be expanded to include currently unregulated territory that constitutes the bulk of the sales areas of the former St. Louis-Ozarks plants to insure their continued regulation under the Southwest Plains order.

Most of the unregulated territory proposed to be included in an expanded Southwest Plains marketing area was included in the former St. Louis-Ozarks marketing area. Of the 30 counties (19 in southwest Missouri and 11 in northwest Arkansas) proposed to be included in the expanded marketing area, 16 counties (12 in southwest Missouri and four in northwest Arkansas) were formerly within the St. Louis-Ozarks marketing area. Also, part of Pulaski County, Missouri (The Fort Leonard Wood Military Reservation) was in the St. Louis-Ozarks marketing area. Of the remaining territory in Arkansas (seven counties) proposed to be included in the expanded marketing area, parts of three counties are presently included within the Fort Smith, Arkansas marketing area. Basically, the proposed expansion would include currently and formerly regulated territory with limited intervening and adjacent territory to form a contiguous and easily identifiable marketing area.

Plants that are currently regulated under the Southwest Plains and Fort Smith orders account for an overwhelming proportion of the total sales of fluid milk products in each of the counties proposed to be added to the Southwest Plains marketing area. It is estimated that handlers regulated under the Southwest Plains order account for 90 percent or more of the total sales of fluid milk products in each of the 19 counties in southwest Missouri proposed to be added to the marketing area. In each of the Arkansas counties, handlers regulated under the Fort Smith and Southwest Plains order account for 80 percent or more of the total sales of fluid milk products. In addition, sales within the 30-county area represent a substantial proportion of the total sales of the distributing plants involved. It is estimated that about 60 percent of the total sales of the three distributing plants that were formerly regulated under the St. Louis-Ozarks order are within the 30-county area and that one or more of such plants have sales in each of the 30 counties. Also, the Fort Smith regulated plant distributes in five of the Arkansas counties with such sales representing about 74 percent of the plant's total sales.

For reasons set forth hereafter, not all of Pulaski County, Missouri, should be included in the Southwest Plains marketing area. Only the Fort Leonard Wood Military Reservation, which was previously a part of the St. Louis-Ozarks marketing area, should be included in the expanded marketing area.

Mid-Am proposed that the entire county be included in the marketing area because regulated handlers account for about 96 percent of the total fluid milk sales in the county. It is estimated that a handler regulated under the Southern Illinois order and the handler who operates the unregulated plant at Jefferson City, Missouri each account for two percent of the sales in the county. Mid-Am contends that the unregulated handler (Central Dairy) has a potential advantage in competing for sales in the county with regulated handlers since such handler is not subject to the classified pricing and pooling provisions of a Federal order. In addition, Mid-Am contends that the inclusion of the entire county, rather than just a portion of the county, would simplify the recordkeeping and reporting requirements of regulated handlers.

Central Dairy distributes fluid milk products in Pulaski County but not in the Fort Leonard Wood Military Reservation. The handler has no sales in any of the other territory proposed to be added to the Southwest Plains marketing area. As previously stated, Central Dairy opposed the inclusion of Pulaski County in its entirety primarily on the basis that a full accounting and reporting of the plant's receipts and sales would be required even though the plant has only a limited involvement with the marketing area.

Central Dairy, which processes fluid milk, ice cream, and cottage cheese, is supplied totally by Mid-Am and purchases a majority of its milk on the basis of the Federal order blend price applicable at St. Louis, Missouri. In addition, Mid-Am testified that Central Dairy is charged in excess of the blend price in a manner similar to the application of over-order charges to regulated handlers on a Class-use basis. Central Dairy testified that prices paid for its milk supply exceed the Southwest Plains order Class I price on a portion of its supply, which exceeds its sales in Pulaski County, that is obtained from a Mid-Am supply plant pooled under the Southwest Plains order. In its brief, Central Dairy further contended that it could be placed at a competitive disadvantage since the Southwest Plains order Class I price at Jefferson City is 14 cents per hundredweight higher than at Springfield.

The appropriate location value of milk at Jefferson City, relative to prices applicable at Springfield, was not a matter that was explored on the record

of the November 6 hearing. In addition, the posture of the testimony concerning the pricing of milk to Central Dairy prevents a firm conclusion on whether there is a disparity of pricing between regulated and unregulated handlers. In addition, the price relationship between Jefferson City and Springfield has been reversed because of amendments to the location adjustment provisions of the Southwest Plains order that resulted from the record of the reopened hearing that was held to consider location adjustment changes necessary to conform with the mandated Class I differentials that were implemented on May 1, 1986. As a result of such amendments, the value of milk at Jefferson City is 27 cents less than at Springfield.

With respect to the recordkeeping and reporting issue, regulated handlers are already subject to these requirements as well as to the need to distinguish between sales that are made within the marketing area and sales that are made outside the marketing area. Even with a marketing area expansion to include all of Pulaski County, some sales by regulated handlers would be made outside the marketing area. Consequently, it would appear that the regulatory burden of an expansion to include all of Pulaski County would be relatively greater for Central Dairy than for handlers who are already subject to such recordkeeping and reporting requirements.

Pulaski County is a rural, fringe sales area with a substantial proportion of the total population represented by the Fort Leonard Wood Military Reservation. With a total population of about 42,000, sales in the county outside Fort Leonard Wood do not represent a significant proportion of the total fluid milk sales of regulated handlers. There is no evidence on the record of this proceeding that indicates that the small volume of sales outside Fort Leonard Wood requires the inclusion of all of Pulaski County in the marketing area to establish orderly marketing conditions. The primary objective of including the bulk of the sales areas of regulated plants in the marketing area to assure their continued regulation under the Southwest Plains order can be attained without including all of Pulaski County within the marketing area. At the same time, this will result in not subjecting to the regulatory provisions a plant that has a small proportion of its total sales in the proposed expansion area and thus has a minimal competitive association with plants that are currently regulated under the order. For this reason, only the Fort Leonard Wood Military Reservation portion of Pulaski County should be included in the Southwest Plains marketing area.

In addition to Central Dairy, one other handler who sells fluid milk products in the marketing area was identified on the record of the proceeding. It was estimated that Cotton Dairy, a producer-distributor at Paris, Arkansas, accounts for two percent of the fluid milk sales in Logan County, Arkansas. In the post-hearing brief filed by Mid-Am and AMPI, it is noted that the producer-distributor was incorrectly identified at Cotton Dairy and that the correct name is Rogerland Dairy. The brief also indicates that a second producer-distributor, Pride of the Country, Inc., at Siloam Springs, Arkansas, is still operating as a producer-distributor.

Generally, producer-distributors are persons who essentially sell milk produced on their own farms directly to consumers. The current provisions of the Southwest Plains order, which would be applicable to the merged and expanded marketing area, deal with such types of operations by providing for a "producer-handler" definition. A producer-handler is a person who provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for the own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person. Generally, such operations are not subject to the pricing and pooling provisions of the order so long as their sources of milk are limited to their own farm production and receipts of milk from pool plants and other order plants. Under the Southwest Plains order, there are no limits on the volume of receipts that a producer-handler may obtain from Southwest Plains order pool plants and plants that are fully subject to the pricing and pooling provisions of any other order issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended.

Producer-handlers are subject to certain recordkeeping and reporting requirements so that the market administrator is able to determine whether such operations meet, and continue to meet, the criteria for exemption from the pricing and pooling provisions of the order. Operations that do not meet the standards for producer-handler exemption, and sell fluid milk products in the marketing area, are subject to the provisions of the order in the same manner as other handlers who have sales in the marketing area.

The expansion of the Southwest Plains marketing area as herein adopted will result in regulating handlers that compete with each other for fluid milk sales in their primary sales areas under the same regulatory provisions. The new merged and expanded marketing area reflects to a much greater degree the sales areas of currently regulated plants and will assure the continued regulation under the order of distributing plants that were regulated under the former St. Louis-Ozarks and the current Fort Smith, Arkansas order.

The marketing area expansion proponents proposed and testified that the current Southwest Plains order provisions should apply to the expanded marketing area and, except as hereinafter set forth, no other proposed amendments to the Southwest Plains order were contained in the notice of hearing or testified to at the hearing. Consequently, the regulatory provisions of the order for the merged and expanded Southwest Plains marketing area are those of the current Southwest Plains order, except as modified hereafter in the other material issues identified in the proceeding.

The merged order adopted herein continues the use of the part number for the present Southwest Plains order, Part 1106. The amended Part 1106, upon issuance, would supersede Part 1102, the Fort Smith, Arkansas order.

Although the present two orders would no longer exist upon effectuation of the merged and expanded Southwest Plains order, this action is not intended to preclude the completion of those procedures that would otherwise have existed under the separate orders with respect to milk handled prior to the effective date of the merger. Such procedures, which would need to be carried out after the merger date, include the announcement of certain class prices and butterfat differentials, submission of reports, computation of uniform prices, payment of obligations, and verification activities. The provisions of the merged order would apply only to that milk handled after the effective date of the merger.

2. Location Adjustments

The location adjustment provisions should be amended to reflect the expansion of the Southwest Plains marketing area set forth under issue number one. No substantive pricing changes were proposed and none are necessary. Only conforming changes are needed to incorporate within the marketing area the location adjustments that currently apply under the Southwest Plains order to the territory being added to the marketing area.

At the November 6, 1985 hearing, Mid-Am proposed that three pricing zones be established to cover the territory that was proposed to be added to the Southwest Plains marketing area. The location adjustments proposed for each zone would have maintained the level of pricing that existed in the new territory at that time.

Following the initial hearing, an additional hearing was held at Irving, Texas, on March 4–7, 1986, to consider proposed changes to the location adjustment provisions of the Texas and six other Federal milk orders to conform with the Class I differentials mandated by the Food Security Act of 1985 that were implemented on May 1, 1986. Such hearing, with respect to the location adjustment issue, was a reopening of the hearing record for the Southwest Plains and Fort Smith, Arkansas orders.

As a result of evidence presented at the reopened hearing session, the location adjustment provisions of the Southwest Plains order were amended effective September 1, 1986. No amendments were made to the Fort Smith, Arkansas order since the location adjustment provisions of such order were not applicable to any plant. The Southwest Plains order, which recognizes the mandated Class I differential value at Fort Smith, establishes the location value of milk throughout the territory to be added to the marketing area. Consequently, the location adjustments applicable to the expansion area under the current Southwest Plains order should be incorporated in the merged and expanded Southwest Plains marketing area.

The current Southwest Plains marketing area is divided into five pricing zones (groups of counties) to reflect the different location values of milk within the marketing area. The order also utilizes a zone pricing system to specify location adjustments for the value of milk for territory outside the marketing area. Thus, since the marketing area is being expanded, conforming changes are necessary to incorporate the location adjustments for the new portion of the marketing area that are currently specified for out-of-area locations. This can be accomplished by adding a portion of the new territory to Zone I (the base zone) and by creating two new pricing zones that will maintain the price levels currently existing in the new territory under the Southwest Plains order.

The Southwest Plains order provides for no location adjustment at Fort Smith and across the central portion of the State of Arkansas to recognize the mandated $2.77 Class I differential value of milk in such area. Consequently, the five-county area around Fort Smith that is being added to the marketing area should be included in Zone I of the Southwest Plains marketing area. In northern Arkansas, the Southwest Plains order provides for a minus 22-cent location adjustment (a $2.55 Class I differential value). Thus, the six counties of northwest Arkansas that are being added to the marketing area should be included in a new Zone VI with a specified minus 22-cent location adjustment. The territory in southwest Missouri that is being added to the marketing area has a minus 58-cent location adjustment (a $2.19 Class I differential value) under the current Southwest Plains order. Thus, a new Zone VII should be established for this territory (18 counties and the Fort Leonard Wood Military Reservation) with a minus 58-cent location adjustment.

3. Delivery Standards for Plants Operated by Cooperative Associations

The percentage of milk marketed by a cooperative that must be delivered to and physically received at pool distributing plants during the month should be reduced by five percentage points, from 50 to 45 percent, for a cooperative association to qualify plants for pool status. A cooperative would have the option of meeting the delivery percentage on the basis of its milk marketings and deliveries during the current month or the immediately preceding 12-month period. These pooling standards apply to cooperative association plants that are located in the marketing area or in a county adjacent to the marketing area as is provided under the current Southwest Plains order. The expansion of marketing area as previously set forth extends the area within which cooperative association plants may be located and qualify for pool status on the basis of the cooperative's marketwide performance in supplying distributing plants.

The lower performance standards for cooperative plants were proposed by Mid-Am and supported by AMPI. There was no opposition to the proposed pooling standards.

Mid-Am proposed that the delivery percentage be lowered because of significant changes in the supply/demand relationship of the Southwest Plains market that occurred as a direct result of the termination of the adjacent St. Louis-Ozarks order. In addition, Mid-Am proposed that a cooperative be permitted to meet the lower delivery percentage on the basis of the cooperative's deliveries to distributing plants either during the current month or the 12-month period immediately preceding the current month. Mid-Am contended that the use of a 12-month moving average would provide additional pooling assurances for plants operated by cooperatives and greater flexibility to meet unanticipated short-term changes in marketing conditions that could make it difficult to qualify a plant for pooling on a current-month basis.

When the St. Louis-Ozarks order was terminated, distributing plants and the reserve milk supplies associated with such plants became regulated under the Southwest Plains order, altering the supply/demand relationship of the market. From March to April 1985, Class I sales increased by 58 percent while producer receipts more than doubled. As a result, the Class I utilization of producer milk declined from 57 percent in March to 44 percent in April. In addition, plants operated by Mid-Am that ship supplemental milk supplies to distributing plants and that serve as outlets for reserve supplies, are located outside the territory within which plants must be located to be pooled on the basis of the cooperative's total performance in supplying the fluid market.

As a result, Mid-Am requested a suspension of the requirement that cooperative association plants be located in the marketing area or in a county adjacent to the marketing area. Also, Mid-Am requested that the pooling standard for such plants be lowered temporarily by 10 percentage points (from 50 to 40 percent) in recognition of the supply/demand relationship that resulted under the Southwest Plains order. The requests for these temporary actions were granted by the Department to permit the efficient marketing of the milk supplies that had become associated with the Southwest Plains market, and both actions, based on further requests by Mid-Am, were subsequently extended through February 1986. Mid-Am testified that an extension of the actions would be necessary in the event that amendatory action could not be completed by March 1, 1986. Mid-Am contended that, under current order pooling standards, costly and inefficient movements of milk would have to be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the fluid milk needs of distributing plants that became regulated under the Southwest Plains order. Since amendatory action could not be completed by March 1, 1986, both of the actions requested by Mid-Am were granted to facilitate the efficient

disposition of milk supplies and are effective until such time as amendatory action can be completed on the basis of this record.

It is obvious from the foregoing that the current 50 percent pooling standard for plants operated by cooperative associations was adopted on the basis of marketing conditions that were significantly different than those that have resulted since the termination of the St. Louis-Ozarks order. For each of the months of April through September 1985, the Class I utilization of producer milk ranged from 6.9 to 10.8 percentage points below the Class I utilization for the same month of the previous year. For the combined April through September period, the 1985 Class I utilization was 46.4 percent, 8.6 percentage points below the 1984 Class I use during the same period. Consequently, a reduction of five percentage points in the pooling standard for cooperative association plants is reasonable in view of the supply/demand relationship that has resulted under the Southwest Plains order since the termination of the St. Louis-Ozarks order. A failure to recognize the change in the market's supply/demand relationship would result in costly and inefficient marketing practices as more milk than is needed for fluid use would have to be shipped to distributing plants to qualify cooperative association plants for pool status under the order.

In addition to lowering the pooling standard, the amended order provides that cooperatives have the opportunity to meet the pooling standard on the basis of their milk marketings and deliveries to distributing plants during the current month or the immediately preceding 12-month period. The use of a 12-month moving average will provide a reasonable alternative for a cooperative that has supplied the fluid milk needs of the market on a regular basis, but, for some unanticipated reason is unable to meet the minimum delivery percentage for the current month.

4. Miscellaneous and Conforming Changes

To accomplish the merger of the Southwest Plains and Fort Smith, Arkansas orders effectively and equitably, the reserves in the administrative expense funds that have been accumulated under the two separate orders should be combined. Similar procedures should be followed with respect to any marketing service fund reserves of the two individual orders. Any liabilities against such funds under the individual orders should be paid from the appropriate new combined fund for the merged order. Similarly, obligations that are due the separate funds under the individual orders should be paid to the appropriate combined fund under the merged order.

The money paid into the administrative expense fund is each handler's proportionate share of the cost of administering the order. It is anticipated that all handlers currently regulated under the two individual orders will continue to be regulated under the merged order. In view of this, it would be an unnecessary administrative and financial burden to allocate back to handlers the reserve funds under the two individual orders and then accumulate an adequate reserve for the merged order. It is more efficient to combine the administrative monies accumulated under the two separate orders and to pay any liabilities against such funds from the consolidated fund of the merged order.

Any money accumulated in the marketing service funds of the individual orders is that which has been paid by producers for whom the market administrator is performing services. The producers who have contributed to the marketing service fund of each order are expected to continue to supply milk for the expanded Southwest Plains market. The consolidation of the reserves in the individual marketing service funds is therefore appropriate in view of the continuation of the marketing service program for these producers under the merged and expanded order for Southwest Plains.

Since the Fort Smith order provides for individual handler pooling, there is no producer-settlement fund and no reserves to combine. Accordingly, the balance in the producer-settlement fund of the current Southwest Plains order would become the producer-settlement fund reserve for the merged and expanded order so that its operation may be continued without interruption.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

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

(a) The tentative marketing agreement and the order for the Southwest Plains marketing area, which amends and merges the Southwest Plains and Fort Smith, Arkansas, orders, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreement and the order for the expanded Southwest Plains marketing area will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreements upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the order for the expanded Southwest Plains marketing area are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, six cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1106.85 of the tentative marketing agreement and the order for the expanded Southwest Plains marketing area.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement for the expanded Southwest Plains marketing area is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order for such marketing area. The following order amending the order, as amended, regulating the handling of milk in the Southwest Plains marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

List of Subjects in 7 CFR Parts 1102 and 1106

Milk marketing orders, Milk, Dairy products.

1. The authority citation for 7 CFR Parts 1102 and 1106 continues to read as follows:

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

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

Note.—Upon issuance of the order amending the order regulating the handling of milk in the Southwest Plains marketing area, Part 1102 (which regulates the handling of milk in the Fort Smith, Arkansas marketing area) would be superseded and such vacated Part designation would be reserved for future assignment.

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. In § 1106.2, Zone I is revised and two new zones (Zones VI and VII) are added to read as follows:

§ 1106.2 Southwest Plains marketing area.

* * * * *

Zone I.—In the State of Oklahoma

Caddo	Lincoln
Canadian	McClain
Cleveland	McIntosh
Coal	Okfuskee
Garvin	Oklahoma
Grady	Pittsburg
Haskell	Pontotoc
Hughes	Pottawatomie
Latimer	Seminole
LeFlore	Sequoyah

In the State of Arkansas

Crawford	Scott
Franklin	Sebastian
Logan	

* * * * *

Zone VI.—In the State of Arkansas

Benton	Madison
Boone	Marion
Carroll	Washington

Zone VII.—In the State of Missouri

Barry	Ozark
Cedar	Polk
Christian	Pulaski (Fort Leonard
Dade	Wood Military
Dallas	Reservation, only)
Douglas	Stone
Greene	Taney
Howell	Texas
Laclede	Webster
Lawrence	Wright
McDonald	

2. In § 1106.7, paragraph (c) is revised to read as follows:

§ 1106.7 Pool plant.

* * * * *

(c) Any plant located in the marketing area or in a county adjacent to the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested by the cooperative association and during the month, or the 12-month period ending with the immediately preceding month, 45 percent or more of the producer milk of members of the cooperative association (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received in the form of bulk fluid milk products at plants specified in paragraph (a) of this section either directly from farms or by transfer from supply plants operated by the cooperative association and from plants of the cooperative association for which pool plant status has been requested under this paragraph subject to the following conditions:

* * * * *

3. In § 1106.52, in paragraph (a)(1), Zones VI and VII are added at the end of the table of location adjustments and paragraphs (a)(3)(i) and (a)(4) are revised to read as follows:

§ 1106.52 Plant location adjustments for handlers.

(a) * * *

(1) * * *

	Adjustment per hundredweight
Zone VI	Minus 22 cents.
Zone VII	Minus 58 cents.

(2) * * *

(3) * * *

(i) Minus 58 cents. In the county of Butler, Carter, Crawford, Dent, Dunklin, Gasconade, Iron, Madison, Maries, Mississippi, New Madrid, Oregon, Pemiscot, Phelps, Pulaski (except Fort Leonard Wood Military Reservation), Reynolds, Ripley, Scott, Shannon, Stoddard, or Wayne.

(4) For a plant located in the State of Arkansas but outside the marketing area, the adjustment shall be the difference (plus or minus) between the applicable Class I price effective at such plant location under the Central Arkansas order (Part 1108) and the Class I price specified in § 1106.50(a).

* * * * *

Signed at Washington, DC, on December 4, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 27614 Filed 12–8–86; 8:45 am]

BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Parts 307, 350, 351, 354, 355, 362, and 381

[Docket No. 86–046P]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry inspection regulations to increase fees charged by FSIS to provide overtime inspection, identification, certification, or laboratory services to meat and poultry establishments. The fees would reflect the increased costs of providing these services due to the increase for salaries of Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970.

DATE: Comments must be received on or before December 24, 1986.

ADDRESS: Written comments to Policy Office, Attention: Linda Carey, FSIS Hearing Clerk, Room 3168, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments as provided under the Poultry Products Inspection Act should be directed to Mr. William L. West, (202) 447–3367. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. William L. West, Director, Budget and Finance Division, Administrative Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–3367.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." It will not result in

an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or 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.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because the fees provided for in this document are not new but merely reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

Comments

Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Regulations Office and should bear a reference to the docket number located in the heading of this document. Any person desiring an opportunity for an oral presentation of views must make such request to Mr. West so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. Comments submitted pursuant to this document will be made available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Each year, the fees for certain services rendered to operators of official meat and poultry establishments, importers, or exporters by the Food Safety and Inspection Service (FSIS) are reviewed and a cost analysis is performed to determine if such fees are adequate to recover the cost of providing the services.[1] The analysis relates to fees charged in connection with overtime and holiday inspection, identification, certification, or laboratory services. The fees to be charged for these services are determined by an analysis of data on the current cost of these services coupled with the increase in that cost due to an increase for salaries of Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970 or any other increases affecting Federal employees, such as costs for travel and benefits.

Based on the Agency's analysis of the increased costs in providing these services, incurred as a result of a January 1987 pay raise of 3 percent for Federal employees, the initiation of a new retirement system in 1987 and increased health insurance costs, the fees relating to such services would be amended as listed below.

Mandatory inspection by U.S. Government inspectors of meat and poultry slaughtered and/or processed at official establishments is provided for under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry products and the ordinary costs of providing it are borne by the U.S. Government. However, costs for these inspection services on holidays or on an overtime basis may be incurred to accommodate the business needs of particular establishments. These costs are recoverable by the Government.

Currently § 307.5 (9 CFR 307.5) of the meat inspection regulations provides that FSIS shall be reimbursed for the cost of meat inspection on holidays or on an overtime basis at the rate of $21.72 per inspector hour. Similarly, § 381.38 (9 CFR 381.38) of the poultry products inspection regulations provides that FSS will be reimbursed at the rate ot $21.72 per inspector hour for overtime and holiday poultry inspection services. These fees would be increased to $22.84 per inspector hour.

FSIS also provides a range of voluntary inspection services, the costs of which are totally recoverable by the Government. These services, provided under Subchapter B—Voluntary Inspection and Certification Service of Meat and poultry, are provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) to assist in the orderly marketing of various animal products and byproducts not covered by the Federal Meat Inspection Act or the Poultry Products Inspection Act.

The basic hourly rate for providing such certification and inspection service is currently $18.60 per inspector hour §§ 350.7, 351.8, 351.9, 354.101, 355.12, and 362.5). The overtime and holiday hourly rate is currently $21.72. The rate for laboratory services is currently $32.92 per hour. These hourly rates for these services would be increased to $19.04, $22.84 and $41.36, respectively.

[1] The cost analysis is on file with the FSIS Hearing Clerk. Copies may be requested from that office.

List of Subjects

9 CFR Part 307

Meat inspection, Reimbursable services.

9 CFR Part 350

Meat inspection, Reimbursable services, Voluntary inspection, Certification Service.

9 CFR Part 351

Meat inspection, Certification service, Reimbursable services.

9 CFR Part 354

Meat inspection, Reimbursable services.

9 CFR Part 355

Meat inspection, Reimbursable services.

9 CFR Part 362

Poultry products inspection, Reimbursable services.

9 CFR Part 381

Poultry products inspection, Reimbursable services.

The amendments to the Federal meat and poultry products inspection regulations would be as follows:

PART 307—[AMENDED]

1. The authority citation for Part 307 would continue to read as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 34 Stat. 1264, as amended; 21 U.S.C. 621; 62 Stat. 334; 21 U.S.C. 695, 7 CFR 2.15(a), 2.92.

2. Section 307.5(a) would be revised to read as follows:

§ 307.5 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $22.84 per hour per Program employee to reimburse the program for the cost of the inspection service furnished on any holiday as specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

PART 350—[AMENDED]

3. The authority citation for Part 350 would be revised to read as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622; 60 Stat. 1090, as amended; 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

4. Section 350.7(c) would be revised to read as follows:

§ 350.7 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $19.04 per hour for base time, $22.84 per hour for overtime including Saturdays, Sundays, and holidays, and $41.36 per hour for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include but will not be limited to the time required for travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 351—[AMENDED]

5. The authority citation for Part 351 would continue to read as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1264; 7 CFR 2.15(a), 2.92.

6. Section 351.8 would be revised to read as follows:

§ 351.8 Charges for surveys for plants.

Applicants for the certifcation service shall pay the Department for salary costs at the rate of $19.04 per hour for base time, $22.84 per hour for overtime, travel and per diem allowances at rates currently allowed by the Federal Travel Regulations, and other expenses incidental to the initial survey of the rendering plants or storage facilities for which certification service is requested.

7. Section 351.9(a) would be revised to read as follows:

§ 351.9 Charges for examinations.

(a) The fees to be charged and collected by the Administrator for examination shall be $19.04 per hour for base time and $22.84 per hour for overtime including Saturdays, Sundays, and holidays, as provided for in § 351.14 and $41.36 per hour for any laboratory service required to determine the eligibility of any technical animal fat for certification under the regulations in this Part. Such fees shall be charged for the time required to render such services, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith.

* * * * *

PART 354—[AMENDED]

8. The authority citation for Part 354 would continue to read as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

9. Section 354.101 (b) and (c) would be revised to read as follows:

§ 354.101 On a fee basis.

* * * * *

(b) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be $19.04 for base time and $22.84 for overtime or holiday work.

(c) Charges for any laboratory analysis or laboratory examination of rabbits under this part related to inspection service shall be $41.36 per hour.

PART 355—[AMENDED]

10. The authority citation for Part 355 would continue to read as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

11. Section 355.12 would be revised to read as follows:

§ 355.12 Charge for service.

The fees to be charged and collected by the Administrator shall be $19.04 per hour for base time, $22.84 per hour for overtime, including Saturdays, Sundays, and holidays, and $41.36 per hour for laboratory services to reimburse the Service for the cost of the inspection service furnished.

PART 362—[AMENDED]

12. The authority citation for Part 362 would continue to read as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

13. Section 362.5(c) would be revised to read as follows:

§ 362.5 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $19.04 per hour for base time, $22.84 per hour for overtime including Saturdays, Sundays, and holidays, and $41.36 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

14. The authority citation for Part 381 would continue to read as follows:

PART 381—[AMENDED]

Authority: 71 Stat. 447, 448, as amended, 21 U.S.C. 463, 468; 7 CFR 2.15(a), 2.92.

15. Section 381.38(a) would be revised to read as follows:

§ 381.38 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $22.84 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

Done at Washington, DC, on: November 28, 1986.

Lester M. Crawford,

Acting Administrator, Food Safety and Inspection Service.

[FR Doc. 86-27689 Filed 12-8-86; 8:45 am]

BILLING CODE 3410-DM-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Organization; Director Compensation

AGENCY: Farm Credit Administration.

ACTION: Proposed Rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (FCA Board), publishes for comment a proposed regulation relating to the compensation of members of Farm Credit System (System) district boards. The proposed regulation implements Farm Credit Administration Order No. 866 and section 5.5 of the Farm Credit Act of 1971, 12 U.S.C. 2226, as amended (Act), as the statute authorizes the FCA to approve the compensation paid district directors for undertaking certain functions or activities.

DATE: Written comments must be received on or before February 9, 1987.

ADDRESS: Submit any comments (in triplicate) in writing to Frederick R. Medero, General Counsel, Farm Credit Administration, McLean, VA 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Senior Attorney, Office

of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020.

SUPPLEMENTARY INFORMATION: Section 5.5 of the Act authorizes the payment of compensation, including reasonable allowances for necessary expenses, to members of district boards, subject to certain limitations that may be imposed by the FCA. Specifically, district board members can be compensated for attending meetings of the board as district board and while acting as directors of the district banks. In addition to attending such meetings, directors may receive compensation and allowances for acting in an official capacity up to 30 days or parts of days in 1 calendar year, but for service in excess of 30 days, compensation may not be paid without the approval of the FCA.

The Farm Credit Amendments Act of 1985 (1985 Amendments) restructured the FCA into an arm's-length financial institution regulator and removed it from the management of Systems institutions. Consistent with this action, the FCA Board issued FCA Order No. 866 on August 6, 1986, to afford district boards the flexibility to responsibly monitor and control the number of days for which compensation and allowances can be paid to district board members. Specifically, the Order authorized the payment of compensation and allowances to district board members, at a rate not in excess of the amount specified in FCA regulations, for any special assignments beyond the 30-day limitation in section 5.5 of the Act, provided justification for such service is documented and made available for review by FCA examiners.

In this manner, the responsibility to determine the number of days of service beyond the statutory standard for which district board members can be paid compensation and allowances will be placed with the district board, the body in the best position to make policy decisions concerning the events and functions requiring the attendance of district directors.

In order to fully implement the intent of the 1985 Amendments, the FCA Board has determined that amendment to existing regulations is necessary. The FCA Board is proposing to combine existing regulations §§ 611.1020, 611.1021, 611.1022, 611.1030, and 611.1031, which implement section 5.5 of the Act, into a new § 611.1020. Existing § 611.1020 describes the activities for which district directors may be compensated, establishes a maximum level of compensation, and sets parameters for the payment of compensation during travel. Sections 611.1021 and 611.1022 prohibit the payment of compensation for district directors expending time on association affairs or other self-imposed nonofficial activities and describe the terms under which reimbursement for the expenses of spouses may be made. Sections 611.1030 and 1031 provide for the establishment of a policy by either the district or bank board authorizing special assignments for district directors and enumerate specific special assignments that are excluded from the 30-day limitation.

The proposed regulation specifies that district board members may be compensated for services performed in an official capacity, except that compensation may not be provided a director for undertaking activities on behalf of associations or for performing other nonofficial assignments. The proposed regulation directs each district board to adopt a policy on director compensation in accordance with section 5.5 of the Act and the regulation. This policy shall address, at a minimum, activities or functions for which directors may be compensated, the maximum rate of compensation, the extent of compensation allowed for travel time, and the circumstances under which expenses for directors' spouses may be reimbursed. The existing maximum rate of compensation would be unchanged. The proposed regulations are consistent with the authority of the FCA under section 5.17(5) of the Act, as provided in the 1985 Amendments, to grant required approvals through procedures established in regulations.

The FCA Board believes that because the disclosure regulations require that directors make available to their shareholders and the public information concerning compensation paid to directors, it is unncessary for the FCA to provide specific approval for the number of compensation days. Should stockholders object to the amount of compensation paid directors, they can effect their will through the election of directors who will address director activity and remuneration. Furthermore, should the FCA find that director compensation is beyond reasonable bounds, the FCA retains the authority under 5.5 to adjust the ceiling on director compensation and to address any related unsafe or unsound practices in a System bank.

In order to ensure that district boards and their members are complying with the regulation, the proposed regulation requires each district board to maintain records documenting all compensation paid to directors and their spouses and certain other related information. These records shall be kept on a current basis and shall be available to FCA examiners for ther review as part of the examination process.

The Board notes that, at this time, no changes are proposed to 12 CFR 618.8270—Travel. In relevant part, this regulation authorizes the payment of travel and subsistence expenses for directors, officers, and employees of the banks and their spouses in accordance with travel regulations adopted by the district board. The FCA Board expects the travel regulations to be consistent with proposed § 611.1020 and the district board policy required thereunder. The FCA Board intends to further examine the operation of § 618.8270 in the near future.

List of Subjects in 12 CFR Part 611

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

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

PART 611—ORGANIZATION

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

Authority: 12 U.S.C. 2031, 2091, 2182, 2183, 2216–2216k, 2243, 2244, 2250, 2252.

Subpart F—General Rules for the Districts

2. Section 611.1020 is revised to read as follows:

§ 611.1020 Compensation of district board members.

(a) Each district board director may be compensated for services performed in that person's official capacity as a director of the district banks or as a member of the district board, provided such compensation is fair and reasonable. Payment of such compensation shall be consistent with the compensation policy established by a district board in accordance with 5.5 of the Act and this regulation. A district board director may not be compensated for undertaking activities on behalf of Federal land bank associations, production credit associations, cooperatives of which the director is a member, or for

(b) Each district board shall develop a written policy regarding the compensation of district directors. The policy shall address, at a minimum, the following areas:

(1) The activities or functions for which the attendance of directors is necessary and appropriate and may be compensated.

(2) The rate of compensation to be paid district directors, which shall not exceed $200 per day, plus reasonable allowances for travel, subsistence, and other related expenses incurred in connection with such activities or functions.

(3) The formula used to determine each director's rate of compensation and allowance for expenses, and the timing and frequency when such compensation and allowance is periodically adjusted.

(4) The extent of the compensation to be allowed directors for travel time involved in attending such activities or functions.

(5) The circumstances, if any, under which travel and subsistence expenses for directors' spouses are a necessary expense for which reimbursement may be made.

(c) Each district board shall maintain records documenting all compensation and expense allowances paid to directors by such board. These records shall specify:

(1) The activity or function for which the director is being compensated;

(2) The reason the attendance of the director and the director's spouse at such activity or function is necessary and appropriate;

(3) The duration of the director's stay and the location of such activity or function;

(4) The compensation paid the director and the total payments made by the institution in order for the director to attend the activity or function; and

(5) The amount of necessary expenses of the director and the director's spouse that are reimbursed and an itemized explanation of the purpose and justification for the expenses.

§§ 611.1021, 611,1022, 611.1030, and 611.1031 [Removed]

3. Sections 611.1021, 611.1022, 611.1030, and 611.1031 are removed.

Kenneth J. Auberger,

Secretary, Farm Credit Administration Board.

[FR Doc. 86-27651 Filed 12-8-86; 8:45 am]

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12 CFR Part 615

Funding and Fiscal Affairs; Investment Activities by System Banks

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the FCA Board, publishes for comment proposed amendments and new regulations pertaining to Farm Credit System (System) institutions' investment activities. The proposed regulations broaden the investment standards for System bank investment policies, eliminate FCA prior approval of such policies, and propose additional types of investments that System banks may make under the authority of the Farm Credit Act Amendments of 1980 (1980 Amendments). The FCA initially published proposed new and amended regulations relating to System investment authorities on December 12, 1985 (50 FR 50798). The public was invited to submit written comments on or before February 10, 1986. In response to the comments received and further FCA analysis of System investment policies and needs, the FCA Board amended the proposed regulations and determined that, due to the nature of the amendments, the FCA would benefit from additional comments from interested parties. Accordingly, the FCA Board ordered that the comment period be extended on the proposed regulations, as amended.

The proposed regulations give System institutions more investment flexibility, establish basic criteria for investment policies, ease limitations on the amount, type, and purpose of investments, and require that banks maintain investments for liquidity purposes that meet minimum standards established by the FCA. They also eliminate the FCA prior approval of bank investment policies.

DATE: Written comments must be received on or before January 8, 1987.

ADDRESSES: Submit any comments (in triplicate) in writing to Frederick R. Medero, General Counsel, Farm Credit Administration, McLean, VA 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

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

SUPPLEMENTARY INFORMATION: On December 12, 1985, the FCA, by its Federal Farm Credit Board proposed regulations governing System investment activities. The FCA Board at its regular meeting held on September 3, 1986, adopted several amendments to the regulations to give banks more investment flexibility to meet increasing liquidity and other investment needs at the least cost. The proposed regulations establish basic criteria for investment activity that bank policies must address and ease the limitations on the amount, type, and purpose of investments. The proposed regulations further the directives embodied in the Farm Credit Amendments Act of 1985 (1985 Amendments) for the FCA to become a more arm's-length regulator and remove itself from bank management activities. Accordingly, the FCA prior approval of bank investment policies has been removed. In addition, the proposed regulation requires that investments for liquidity purposes be convertible to cash within one business day. The role of the bank board of directors in directing the management of the investment portfolio has been emphasized.

Several commentators stated that the restriction in the liquidity formula makes the minimum level also the maximum level. They stated that the liquidity formula does not take into account heavy seasonal disbursements, surplus funds from seasonal or unexpected loan repayments, debt restructuring or debt management needs, or new loan disbursements. One System bank stated that it is inappropriate for the FCA to make any changes to the System liquidity formula, though consultation with the System is acceptable.

One party commented that requiring the analysis of the financial condition of any investment issuer under proposed 12 CFR 615.5135, including the United States Government and agencies, may be proper in some instances but that for regulatory purposes, analyses by public rating services should be sufficient for evaluating investment risks. The party also commented that the appropriate person to receive investment activity reports should be decided by each individual bank and that person may not always be the chief executive officer.

In reviewing the written comments and analyzing the investment regulations as proposed, the FCA Board decided that restructuring and substantial refinement of the regulations were necessary. First, the bank investment policy requirements need more clarity and specificity regarding those items that the FCA considers necessary for safe and sound management of investment activities. Definitions relating to investment have been set forth at the beginning of the subpart as the new 12 CFR § 615.5130. The proposed regulation 12 CFR 615.5135(a) as amended sets forth the minimum subject areas that a bank board must address in its investment policy. Paragraph (b) of that section has been amended to set forth specific requirements that a bank board must follow in adopting an investment policy.

Many of these requirements were previously found in other sections but have been transferred to 12 CFR 615.5135(b) because they relate to the overall investment framework within which the bank must operate its investment activity. Other requirements were expanded from the proposed regulation or added to ensure that bank investment activities are conducted in a safe and sound manner and that the FCA examiners have specific benchmarks from which to measure these activities. These requirements are not designed to insure the bank against risk or prevent the banks from taking risks.

The FCA Board finds that regulating investment practices is an appropriate activity of an arm's-length regulator. Setting standards for prudent investment management is a proper area of FCA regulation relating to the safety and soundness of System institutions. In addition, the amended regulations remove significant restrictions on the types, amounts, and purposes of System investment activities. However, the boards of directors of System institutions are required to provide management with more direction on the conduct of bank investment activities in a manner that protects the safety and soundness of the institution. The FCA Board disagrees with the commentators that the chief executive officer may not always be the appropriate person to receive investment activity reports in addition to the board of directors. The chief executive officer of the bank is responsible for all bank operations including investment activities and, therefore, should receive investment reports. However, because the FCA Board believes an institution should organize its own reporting operations to senior management, the reporting requirement to the chief executive officer in the proposed regulation has been deleted. This does not in any way remove the responsibility of the chief executive officer to oversee the management of investment activities.

The first item in paragraph (b) of proposed 12 CFR 615.5135 concerns the liquidity formula to which all System banks must adhere. The commentators correctly state that the FCA should not interfere in System operations by making unilateral changes to the System liquidity formula. The System liquidity formula is established for the collective System bank asset and liability management needs. As an arm's-length banking regulator, the FCA should develop its own standard for setting the minimum level of liquidity that should be maintained by a System bank to ensure the safety and soundness of the institution and ensure that the System banks are in a position to repay maturing System securities as they become due. Such standard should be a minimum that no bank should go below. The System may establish its own formula above that standard for purposes internal to the System. This approach neither interferes with the FCA regulatory concerns, nor with bank management. A reference has been made to the collateral policy that bank boards must also adopt to support outstanding Consolidated and Systemwide obligations.

The second item in paragraph (b) establishes that a System bank may hold up to 20 percent of the bank's total capital in investments of any one obligor not guaranteed by the United States. Total capital is defined as total net worth. The FCA Board believes that such limit is necessry for the safety and soundness of System institutions if other limitations on the amount and purposes of investments are removed. The FCA Board considers 20 percent an appropriate limit given the quality and type of instrument in which the banks are permitted to invest.

The third item in paragraph (b) concerns the analysis that each bank must make of any issuer before an investment can be made in that issuer's obligations except for obligations issued or guaranteed by the United States. Currently, the FCA permits the banks to use national rating services for issuers to aid their analysis of each issuer. One party commented that such services are sufficient for regulatory purposes and that the FCA should not require additional analysis. The FCA Board believes that the bank should not be permitted to disavow its responsibility to conduct its own analysis and that such services should be supplemental to the bank's analysis. The proposed regulation has been amended to permit use of such services to supplement the bank's analysis. The amended regulation also requires regular updating of such analysis at least every quarter so long as the bank holds the investment.

The next item requires investments to be denominated in U.S. dollars unless the foreign exchange risk of foreign currency denominated investments is hedged. The FCA prior approval requirement for investing in foreign currency has been deleted. The banks have relatively little, if any, foreign currency business and therefore little experience in dealing with foreign currency denominations and foreign exchange risk. The BCs have separate authority to engage in foreign currency transactions with respect to their international lending activities. However, there is no current need to expand this activity to investments.

The fifth item sets forth those institutions with which a System bank may deposit investments not held in its possession. In recent years, several banks have from time to time deposited investment portfolios with brokerage houses or in commercial banks under the control of a brokerage house. The proposed amendment makes it clear that this activity is impermissible.

The next paragraph requires banks to establish adequate internal controls over the bank's investment strategy and activity. Examination information would support a finding that current internal controls are generally nonexistent or ineffective. As a part of the controls, the bank must maintain records of its investment strategy, activities implementing the strategy, portfolio performance against objectives, and analysis supporting the selection of an investment issuer.

The last item of paragraph (b) requires System banks to develop an investment strategy updated at least quarterly. The removal of FCA prior approvals and the easing of restrictions on bank investment activities make strategic planning very important, particular in view of the potential size of investment portfolios permitted by the proposed regulation. At a minimum, the banks should develop a strategy updated at least quarterly for their investment portfolio based on market and economic conditions.

The FCA Board amended proposed 12 CFR 615.5136 to establish the following three categories of investments: (1) System banks are authorized to invest in instruments from the list of investments set forth in 12 CFR 615.5140 for maintaining sufficient liquidity to meet the minimum standard set by the FCA under 12 CFR 615.5135; (2) System banks are authorized to invest in a number of instruments for asset and liability management and other purposes closely related to the business of the bank; and (3) System banks are authorized to invest in all types of service organizations and other entities in which a bank may invest to further its business operations. The proposed 12 CFR 615.5136 also provides that the FCA may approve any other investment not covered by the regulation.

The first investment category under paragraph (a) authorized System banks to invest in instruments from the list of investments set forth in 12 CFR 615.5140 for maintaining sufficient liquidity to

meet the minimum standard set by the FCA under 12 CFR 615.5135(b)(1). The eligible list of investments enumerated in 12 CFR 615.5140 has been revised to include only liquid investments that can be converted to cash within one busienss day. The System's primary need for liquidity investments is to provide a source of funds to pay maturing principal and interest of Consolidated and Systemwide obligations. Accordingly, the definition of liquidity has been strengthened by requiring all instruments to be quickly convertible to cash and by paring down the list of investments to those that are so convertible. For these reasons, the FCA Board disagrees with the commentators' suggestions to permit investment in term Fedreal funds, nonnegotiable certificates of deposit, or callable Federal funds of 30 days or less for liquidity purposes. Investments in Consolidated and Systemwide obligations are no longer eligible as liquidity investments because, though there is a secondary market for such obligations, the market may not be active in the event System banks experience a liquidity crisis. Each of these investments is permitted, however, under the second category of investments discussed below.

The second category of investments authorized System banks to invest in a number of instruments for asset and liability management and other purposes closely related to the business of the banks. The list of investments enumerated under this paragraph includes several instruments previously on the list of eligible investments but which are either not convertible into cash in one business day or would not likely be liquid in the event the System banks have extraordinary liquidity needs. These investments are, however, considered suitable for bank asset and liability management activities. The third item of the list permits the BCs to invest in certain international financing instruments that were originated by other financial institutions to finance international transactions of voting BC stockholders. This provision was proposed in December 1985 as a further implementation of the international financing authorities granted the BCs by the 1980 Amendments. Within the limitation of 15 percent of the total investment portfolio, a BC can serve as a liquidity facility to other financial institutions holding paper financing international transactions to voting stockholders. This is designed to give voting BC stockholders greater sources of liquidity for their international financing needs. The list also includes investments in any instrument from the list of eligible investments but without regard to limitations on maturity or liquidity of such instruments. Investments for asset and liability management need not be as readily convertible to cash as those held for liquidity purposes. Investments of greater maturities, as suggested by the commentators, are permitted under this category. The limitations on this type of investment are few, thus leaving to the banks the responsibility to develop their own policy objectives and portfolio mix for asset and liability management.

The third category of investments covers all types of service organizations and other entities in which a bank may invest to further its business operations. These include FCA-chartered service organizations such as the recently chartered Farm Credit System Capital Corporation, any partnership, joint venture, unincorporated association, or any corporation or organization not chartered by the FCA where the investment is closely related to the business of the bank. This provision also permits the BCs to invest in foreign branches or representative offices in furtherance of their international activities or in foreign entities principally engaged in credit information and member international financial services. Both of these provisions further implement the BC international financing authority granted by the 1980 Amendments. In addition, the System banks are permitted to invest in any System financial assistance plan involving the purchase of acquired property, stock, loans, or other assets of any bank or association.

Finally, 12 CFR 615.5136(d) provides that the FCA may approve any other investment not already covered in the regulation. This permits the agency to approve new investment instruments as developed by the marketplace without the necessity of first amending the regulation. However, any investments approved under this authority should be added to the list wherever the regulation is amended.

Contrary to one System bank comment, the Farm Credit Investment Bond program would be an inappropriate addition to the types of investments. Proposed 12 CFR 615.5136 covers investments of System institutions in instruments of other entities for liquidity and other investment purposes. Farm Credit Investment Bonds are investments in obligations of System institutions. These investments shall be covered by revisions to 12 CFR §§ 615.5110 and 615.5120.

The proposed 12 CFR 615.5140 was revised to limit liquidity investments to securities and instruments that are convertible to cash within one business day. This necessitates a more complete definition of Federal funds (commonly known as "Fed funds") as a loan to a federally insured financial institution for one business day or under a continuing contract not requiring notice for termination.

In addition, the term "repurchase agreement" has been deleted in favor of a more precise definition of the permissible investment for liquidity purposes. Repurchase agreements are entered into in two ways, both of which involve the same transaction but from different sides. A repurchase agreement occurs when an institution that owns securities obtains funds by transferring the securities to another institution under an agreement to repurchase the same securities at a later agreed-upon date. A reverse repurchase agreement involves an institution that provides funds and acquires securities pursuant to an agreement to resell the securities at a later agreed-upon date. The latter is the type of activity authorized by 12 CFR 615.5140 as an investment. The former type, a true repurchase agreement, is a borrowing. System banks have authority to enter into such borrowings pursuant to section 4.2(a) of the Act, which allows System banks to borrow from commercial banks or other lending institutions. Because traders, treasurers, and financial officers frequently interchange the terms or use one term when describing the other transaction, the regulation has been written using language describing the transaction envisioned by a reverse repurchase agreement.

One System bank commented that letters of credit should be added to the list of eligible investments for liquidity purposes. However, letters of credit are not liquid investments convertible to cash within one business day and are therefore inappropriate for the list of eligible investments. The BCs have been given sufficient flexibility in being able to invest in letters of credit under the proposed 12 CFR 615.5136(b).

Responding to other System bank comments, the provision listing prime corporate paper has been modified to require that such instruments are readily marketable and that the bank's investment in such obligations may not exceed 50 percent of the total investment portfolio in the first two categories of investments. The FCA Board declined the suggestion to exclude prime corporate paper issued by a commerical bank or supported by a

commercial bank letter of credit. The proposed regulation does not establish specific limits on the maximum size of the investment portfolio. However, percent of total bank capital may be limited in the instruments of one obligor. The FCA Board believes that this 20-percent limitation enables System banks to take advantage of available safe and sound investments.

The FCA Board declined other System banks' suggestions that investments in open-end management investment companies be deleted because the banks saw no need for the investment. The FCA Board considers such investments to be acceptable for liquidity purposes. No system bank must invest in all types of eligible investments merely because they are permissible. The National Credit Union Administration and the Federal Financing Bank were deleted from the list as neither institution is currently issuing any notes, bonds, debentures, or similar obligations.

The proposed regulation deletes a reference to the requirement that the collateral value of liquidity investments be the lower of cost or market value. That requirement is established in 12 CFR Part 615, Subpart B, and further reference here is unnecessary.

The FCA Board disagrees with a trade association's comments on the unfair expansion of the list of eligible investments relative to commercial banks. System banks are currently authorized to invest in the items on the lists cited by the trade association as unfair expansion. The regulation primarily expands the flexibility in the amount of and purposes for investments.

The FCA Board proposes 12 CFR §§ 615.5141 and 615.5142 to restrict investments by production credit associations (PCAs) and Federal land bank associations (FLBAs) by requiring that such investments, when approved by the supervising bank, must be undertaken in accordance with bank policy. This will ensure that a bank does not attempt to circumvent the bank policy requirements, particularly in a district where there is only one PCA or FLBA, by conducting the bank investment portfolio activities at the association level.

Finally, the FCA Board amended proposed 12 CFR 615.5144 to include the new Farm Credit System Capital Corporation and to permit service organization investment in all three categories of investments enumerated in 12 CFR 615.5136 as permitted by the articles of incorporation of the service corporation. The FCA Board declined one suggestion that System service organizations not be permitted to invest their funds like System banks. The FCA Board believes that the banks should be given flexibility in allowing their service organizations to carry out tasks and perform many functions the banks themselves may do except extend credit and sell insurance.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, banking, Capital, Government securities, Investments, Rural areas.

As stated in the preamble, it is proposed that Part 615 of Chapter VI, Title 12 of the Code of Federal Regulations be amended to read as follows:

PART 615—FUNDING AND FISCAL AFFAIRS

1. The authority citation of Part 615 continues to read as follows:

Authority: 12 U.S.C. 2154, 2243, and 2252.

§ 615.5130 [Redesignated as § 615.5121]

2. Subpart D is amended by redesignating § 615.5130 as § 615.5121.

3. Subpart E is amended by adding a new § 615.5130 to read as follows:

Subpart E—Investments

§ 615.5130 Definitions.

(a) "Continuing contract" means a contract or agreement that remains in effect for more than one business day but has no specified maturity and does not require advance notice of either party to terminate.

(b) "Immediately available funds" means funds that the borrowing bank can either use or dispose of on the same business day that the transaction giving rise to the receipt or disposal of the funds is executed.

(c) "Liquidity investment" means convertible to cash within one business day.

(d) "Marketable" means that current bid and ask prices are available on a regional or national securities exchange or from an association of brokers and dealers.

(e) "Total capital" means total net worth.

4. Section 615.5135 is redesignated from Subpart D to Subpart E and revised to read as follows:

§ 615.5135 Investment policy.

(a) The board of directors of each System bank shall adopt a policy regarding the management of the institution's investments and review the policy at least annually. The policy shall address the following matters:

(1) The purpose of the bank's investment portfolio, the objectives to be achieved in the management of the portfolio, and the relation of the portfolio investments to the management of the bank's assets and liabilities and the business of the bank.

(2) The level of liquidity necessary to meet regulatory requirements and the institution's needs.

(3) The requirements to be imposed on the size, quality, and concentration of investments in the portfolio.

(4) The conditions and limitations for trading and other means of active management of the investment portfolio.

(5) The methods of managing investment maturities including the acceptable range of maturities for all types of investments.

(6) The internal controls to be established over investment activities.

(7) The identification of bank personnel authorized to manage investment activities and a statement of the scope of their respective authorities and responsibilities.

(8) The requirements to be imposed relating to reporting and monitoring investment activities, including reporting to the bank board of directors.

Additional areas shall be addressed in the policy as deemed appropriate by each bank board.

(b) Each bank board shall follow the requirements set forth below in adopting a policy for bank investment activity authorized by §§ 615.5136 and 615.5140:

(1) Liquidity investments shall be maintained only in instruments from the list of eligible investments set forth in § 615.5140 and in an amount meeting at least the minimum standard established by the Farm Credit Administration. The Farm Credit Administration may direct changes to such standard as necessary. Investments for liquidity purposes shall be available for collateral to support the issuance of consolidated or Systemwide obligations in accordance with the collateral policy set forth in § 615.5050.

(2) A bank may not at any time hold liquidity investments or investments authorized under § 615.5136(b) of any one obligor in excess of 20 percent of the total capital of the bank unless issued or guaranteed as to principal and interest by the United States.

(3) A bank may invest in obligations not guaranteed as to principal and interest by the United States of any issuer or obligor only after the appropriate analysis has been made of the financial condition of the issuer and the bank has determined in its judgment that the issuer or obligor will be able to perform everything in connection with the obligation to assure repayment of principal and interest. The bank may use a nationally recognized rating service to supplement its analysis of any

issuer. The analysis shall be updated regularly, but at least every quarter, as long as the bank holds the investment.

(4) All investments must be denominated in dollars ($ U.S.) unless the related foreign exchange risk has been hedged by appropriate means.

(5) All investment instruments not held in the possession of the bank must be deposited with a Federal Reserve bank, a member of the Federal Reserve System, or an insured State nonmember bank as defined in section 2 of the Federal Deposit Insurance Act, except that banks for cooperatives may deposit such instruments with any financial organization by only to the extent necessary to facilitate transactions financed pursuant to section 3.7(b) of the Act.

(6) Each bank shall establish and maintain adequate internal controls and adopt procedures to assure that the bank's investment strategy; investment type, issuer, and transactions; and the market value of each investment are reported at least monthly to the bank board of directors, and shall maintain information in its files adequate to demonstrate that it is exercising prudent judgment in making investments under §§ 615.5136 and 615.5140 and in continuing such investments.

(7) Each bank shall develop an investment strategy based on current and projected market and economic conditions consistent with the investment portfolio's purpose, liquidity requirements, and asset and liability management objectives. The strategy shall be updated regularly but at least quarterly.

5. Section 615.5136 is added to Subpart E to read as follows:

§ 615.5136 Classes of investments.

(a) Banks are authorized to hold investment portfolios in instruments from the list of eligible investments set forth in § 615.5140 for the purpose of maintaining sufficient liquidity required by § 615.5135(b)(1).

(b) Banks are authorized to hold investments for purposes of asset and liability management and other purposes closely related to the business of the bank in the following types of instruments:

(1) Notes, bonds, debentures, bills, or similar obligations of any State, territory, or possession of the United States, or political subdivision thereof, including any agency, corporation, or instrumentality of any State, territory, possession, or political subdivision thereof, provided:

(i) The obligations are rated A or better (or the equivalent) by a nationally recognized rating service; and

(ii) The obligations mature within 10 years.

(2) Bankers acceptances, letters of credit, and other extensions of credit to foreign or domestic parties that a bank for cooperatives could have made under § 614.4120 of this chapter to serve as a liquidity facility for obligations arising out of transactions authorized by section 3.7(b) of the Act with voting stockholders of the banks for cooperatives. Except for bankers acceptances, such investments may be made only by banks for cooperatives and shall not exceed 15 percent of the bank's outstanding loans and other credits extended pursuant to section 3.7(b) of the Act.

(3) Notes, bonds, debentures, or other similar obligations of the System banks issued individually or jointly and severally as consolidated or Systemwide obligations.

(4) Any investment from the list of eligible investments set forth in § 615.5140 without regard to the limitations in that section on the maturity of such instrument.

(c) Banks are authorized to hold investment portfolios for purposes closely related to the business of the bank in the securities or other instruments of the following entities or plans:

(1) Farm Credit System service organizations chartered by the Farm Credit Administration under Title IV, Part D, of the Act.

(2) The Farm Credit System Capital Corporation chartered by the Farm Credit Administration under Title IV, Part D1, of the Act.

(3) Partnerships, joint ventures, and unincorporated associations organized to conduct activities the banks are authorized to perform as shall be approved by the Farm Credit Administration.

(4) Foreign branches or representative offices of banks for cooperatives for engaging in activities of the banks for cooperatives authorized under section 3.7(b) of the Act and under § 614.4120 of this chapter.

(5) Foreign entities principally engaged in providing credit information to and performing such servicing functions for their members in connection with the members' international activities as set forth in § 615.5143. Such credit information and service functions must be the major sector of the entity's business.

(6) A corporation or organization not chartered by the Farm Credit Administration where the Farm Credit Administration determines that such investment is closely related to the business of the bank.

(7) A System financial assistance plan to any System bank or association approved by the Farm Credit Administration, for the participation or purchase of, including without limitation, loans, acquired property, stock, or other assets of the bank or association.

(d) Such other investments as may be approved by the Farm Credit Administration.

6. Section 615.5140 is revised to read as follows:

§ 615.5140 Eligible liquidity investments.

The list of eligible investments for the System banks for liquidity requirements as set forth in § 615.5135 shall include the following securities or other investments:

(a) Notes, bonds, bills, debentures, or other similar obligations issued or guaranteed by:

(1) The United States Government

(2) Federal Home Loan Bank chartered pursuant to 12 U.S.C. §§ 1421-1459.

(3) The Federal Home Loan Mortgage Corporation.

(4) The Federal National Mortgage Association.

(5) The Student Loan Marketing Association.

(6) The Tennessee Valley Authority.

(7) The International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, or such other public international financial institutions approved by the Farm Credit Administration.

(b) Bankers acceptances.

(c) Negotiable certificates of deposit.

(d) Prime corporate notes, drafts, and bills of exchange, provided that such corporate debt obligations continue to be rated in the highest category by the most recently published rating of such obligations by a nationally recognized investment rating service and that such obligations are readily marketable. Total investments of this category are not to exceed 50 percent of the bank's total portfolio of investments authorized in § 615.5136 (a) and (b).

(e) Agreements to resell investments of the type enumerated in this section, which agreements shall have a term of one business day or be a continuing contract.

(f) Federal funds, which shall mean loans to a federally insured bank or other federally insured financial institution that increase that bank's or institution's reserve account with a Federal Reserve bank of immediately available funds for one business day or under a continuing contract, regardless

of the nature of the contract or of the collateral, if any.

(g) Shares or certificates in any open-end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 where the portfolio of such company is restricted to investments authorized by this section.

(h) A Systemwide funding reserve maintained by the fiscal agency or other System institution for the retirement of Systemwide debt. Investments of such reserve must be eligible under this section.

(i) Other types of investments authorized by the Farm Credit Administration.

7. Section 615.5141 is revised to read as follows:

§ 615.5141 Production credit associations.

Production credit associations may invest in obligations from the list of eligible investments set forth in § 615.5140, for liquidity purposes, as authorized by the supervising bank in accordance with the bank policy adopted under § 615.5135(a) with respect to liquidity investments.

8. Section 615.5142 is revised to read as follows:

§ 615.5142 Federal land bank associations.

A Federal land bank association may invest its excess cash in unsecured obligations of its supervising bank or in obligations from the list of eligible investments set forth in § 615.5140 for liquidity purposes, as authorized by the supervising bank in accordance with the policy adopted under § 615.5135(a) with respect to liquidity investments.

9. Section 614.5144 is added to subpart to read as follows:

§ 615.5144 System service organizations.

A service organization incorporated by the Farm Credit System banks under Title IV, Part D, of the Act and § 611.1150, and the Farm Credit System Capital Corporation chartered under Title IV, Part D1 of the Act and §§ 611.1140–611.1142 of this chapter, may invest in obligations from the list of eligible investments set forth in § 615.5140 for liquidity purposes and in other investments set forth in § 615.5136 (b) and (c) where authorized in the related articles of incorporation.

Kenneth J. Auberger,

Secretary, Farm Credit Administration Board.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

Proposed Business Energy Investment Credit for Solar, Wind, and Geothermal Energy Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the business energy investment credit ("business energy credit") for solar, wind, and geothermal energy property. These amendments will allow certain equipment that uses solar, wind, or geothermal energy ("qualified energy") and other kinds of energy ("non-qualified energy") to be eligible for the business energy credit to the extent of its basis or cost allocable to its annual use of qualified energy so long as the use of non-qualified energy does not exceed 25 percent of the total energy input of the equipment in any calendar year. Upon reconsideration of Congressional intent regarding the qualification of such equipment for the credit, it has been determined that these amendments are necessary in order that the regulations accurately reflect that intent. The regulations provide the public with notice of these changes and the guidance needed.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 9, 1987. These amendments are proposed to be effective as of October 1, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–160–83) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Keith E. Stanley of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Attention: CC:LR:T (202)–566–3458, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 48 of the Internal Revenue Code of 1954.

Section 48(l) and § 1.48–9 define energy property (which is eligible for the business energy credit) as including solar, wind, and geothermal energy property. The current regulations require that for equipment to qualify as solar, wind, or geothermal property, it must use only qualified energy. If property uses both qualified and non-qualified energy ("dual use property"), it is not considered solar, wind, or geothermal property.

Upon reconsideration of the legislative history, it has been determined that, while Congress did not intend that property that does not use qualified energy be eligible for the business energy credit as solar, wind, or geothermal property, Congress also did not intend to adopt an all or nothing rule for dual use solar, wind, or geothermal energy property. Neither the statute nor the legislative history of section 48(l) include this restriction. Where such a restriction was intended (as in the case of the residential energy credit for solar, wind, and geothermal property) the committee reports explicitly said so.

Relating to the residential energy credit, both the Ways and Means Committee Report (Rep. No. 95–496 Part III, 95th Cong., 1st Sess., p. 43) and the Finance Committee Report (Rep. No. 95–529, 95th Cong., 1st Sess., p. 39) include a restricton in the definition of solar and wind energy property that would limit the availability of the credit to property that uses only solar or wind energy. The Finance Committee Report also includes this restricton for geothermal energy property. The Ways and Means Committee Report does not include geothermal energy property.

However, in the case of the business energy credit, only the Ways and Means Committee Report (Rep. No. 95–496 Part III, 95th Cong., 1st Sess., p. 121) restricts the availability of the credit to property which uses only solar or wind energy. It states:

> In the case of solar and wind energy equipment, the credit applies to such equipment (and parts solely related to the functioning of such equipment) which use solar and wind energy (either separately or to supplement each other) to provide heat, cooling, hot water or electricity. (Emphasis added.)

The Finance Committee Report (Rep. No. 95–529, 95th Cong., 1st Sess., p. 76) does not include this restrictive language. It defines solar and wind energy property as

> [e]quipment which uses solar or wind energy to provide heat, cooling, electricity, or hot water in connection with a building or structure. . . .

Neither report places this restriction on geothermal energy property. The Conference Report (Rep. No. 95–1324, 95th Cong., 2d Sess., p. 64) states that the conference agreement generally follows the House bill, with an

exception that solar, wind, and geothermal property are defined as in the Senate amendment. Therefore, the conference agreement also does not include this restriction on the definition of solar, wind, or geothermal property. Thus, the legislative history evidences a Congressional intent not to limit the business energy credit to property which uses only solar, wind, or geothermal energy.

It is therefore proposed that the regulations under § 1.48–9 relating to solar, wind, and geothermal property be amended to allow dual use property to qualify to the extent of the property's basis or cost allocable to its annual use of qualified energy so long as the use of non-qualified energy does not exceed 25 percent of the total energy input of the property in any calendar year. This allocation may be made by comparing, on a Btu basis, energy input to dual use property from qualified sources with energy input from other sources. However, the Commissioner may accept any other method that, in his opinion, more accurately establishes the relative annual use of energy from qualified sources and energy from other sources. If, for a taxable year subsequent to the taxable year that dual use property was placed in service, the basis or cost allocable to the use of qualified energy by that dual use property is reduced, recapture may be required under section 47 and § 1.47–1(h).

The proposed regulations do not reflect amendments made by the Crude Oil Windfall Profit Tax Act of 1980.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Sandra E. Wallach of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.0–1 through 1.58–8

Income taxes, Tax liability, Tax rates, Credits.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. The authority for Part 1 continues to read in part:

Authority: 26 U.S.C 7805. * * * Section 1.48–9 is also issued under 26 U.S.C. 38 (b) (as in effect before the amendments made by Subtitle F of the Tax Reform Act of 1984).

Par. 2. Paragraphs (c) (10), (d), and (e) of § 1.48–9 are revised to read as set forth below:

§ 1.48–9 Definition of energy property.

* * * * *

(c) Alternative energy property

* * * * *

(10) *Geothermal equipment.* (i) Alternative energy property includes equipment (geothermal equipment) that produces, distributes, or uses energy derived from a geothermal deposit (as defined in § 1.44C–2(h)).

(ii) In general, production equipment includes equipment necessary to bring geothermal energy from the subterranean deposit to the surface, including well-head and downhole equipment (such as screening or slotted liners, tubing, downhole pumps, and associated equipment). Reinjection wells required for production also may qualify. Production does not include exploration and development.

(iii) Distribution equipment includes equipment that transports geothermal steam or hot water from a geothermal deposit to the site of ultimate use. If geothermal energy is used to generate electricity, distribution equipment includes equipment that transports hot water from the geothermal deposit to a power plant. Distribution equipment also includes components of a hearing system, such as pipes and ductwork that distribute within a building the energy dervied from the geothermal deposit.

(iv) Geothermal equipment includes equipment that uses energy derived both from a geothermal deposit and from sources other than a geothermal deposit (dual use equipment). Such equipment, however, is geothermal equipment (A) only if the use of energy from sources other than a geothermal deposit does not exceed 25 percent of the total energy input of the equipment in any calendar year and (B) only to the extend of the equipment's basis or cost allocable to its annual use of energy from a geothermal deposit. This allocation may be made by comparing, on a Btu basis, energy input to dual use equipment from a geothermal deposit with energy input from other sources. However, the Commissioner may accept any other method that, in his opinion, more accurately establishes the relative annual use by dual use equipment of energy derived from a geothermal deposit and energy derived from other sources. The existence of a backup system designed for use only in the event of a failure in the system providing energy derived from a geothermal deposit will not disqualify any other equipment. If geothermal energy is used to generate electricity, equipment using geothermal energy includes the electrical generating equipment, such as turbines and generators. However, geothermal equipment does not include any electrical transmission equipment, such as transmission lines and towers, or any equipment beyond the electrical transmission stage, such as transformers and distribution lines.

(v) *Examples.* The following examples illustrate this subparagraph (10):

Example (1). In 1979, corporation X, a calendar year taxpayer, installs a system which heats its office building by circulating hot water heated by energy derived from a geothermal deposit through the building. Geothermal equipment includes the circulation system, including the pumps and pipes which circulate the hot water through the building.

Example (2). The facts are the same as in example (1), except that corporation X also installs a boiler to produce hot water for heating the building exclusively in the event of a failure of the geothermal equipment. Such a boiler is not geothermal equipment, but the existence of such a backup system does not serve to disqualify property eligible in Example (1).

Example (3). The facts are the same as in Example (1), except that the water heated by energy derived from a geothermal deposit is not hot enough to provide sufficient heat for the building. Therefore, X installs a system in

which the water is heated by an electric boiler before being circulated in the heating system. Assume that, on a Btu basis, eighty percent of the total energy input to the circulating system during 1979 will be energy derived from a geothermal deposit. The boiler is not geothermal equipment. Eighty percent of the circulating system is geothermal equipment because eighty percent of its basis or cost is allocable to use of energy from a geothermal deposit. If in a subsequent taxable year the basis or cost allocable to use of energy from a geothermal deposit falls below eighty percent, recapture may be required under section 47 and § 1.47–1(h).

Example (4). Corporation Y acquires a commercial vegetable dehydration system in 1981. The system operates by placing fresh vergetables on a conveyor belt and moving them through a dryer. The conveyor belt is powered by electricity. The dryer uses solely energy derived from a geothermal deposit. The dryer is geothermal equipment while the equipment powered by electricity does not qualify.

(d) *Solar energy property*—(1) *In general.* Energy property includes solar energy property. The term "solar energy property" includes equipment and materials (and parts related to the functioning of such equipment) that use solar energy directly to (i) generate electricity, (ii) heat or cool a building or structure, or (iii) provide hot water for use within a building or structure. Generally, those functions are accomplished through the use of equipment such as collectors (to absorb sunlight and create hot liquids or air), storage tanks (to store hot liquids), rockbeds (to store hot air), thermostats (to activate pumps or fans which circulate the hot liquids or air), and heat exchangers (to utilize hot liquids or air to create hot air or water). Property that uses, as an energy source, fuel or energy derived indirectly from solar energy, such as ocean thermal energy, fossil fuel, or wood, is not considered solar energy property.

(2) *Passive solar excluded* (i) Solar energy property excludes the materials and components of "passive solar systems," even if combined with "active solar systems."

(ii) An active solar system is based on the use of mechanically forced energy transfer, such as the use of fans or pumps to circulate solar generated energy.

(iii) A passive system is based on the use of conductive, convective, or radiant energy transfer. Passive solar property includes greenhouses, solariums, roof ponds, glazing, and mass or water trombe walls.

(3) *Electric generation equipment.* Solar energy property includes equipment that uses solar energy to generate electricity, and includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. In general, this process involves the transformation to sunlight into electricity through the use of such devices as solar cells or other collectors. However, solar energy property used to generate electricity includes only equipment up to (but not including) the stage that transmits or uses electricity.

(4) *Pipes and ducts.* Pipes and ducts that are used exclusively to carry energy derived from solar energy are solar energy property. Pipes and ducts that are used to carry both energy derived from solar energy and energy derived from other sources are solar energy property (i) only if their use of energy other than solar eneregy does not exceed 25 percent of their total energy input in any calendar year and (ii) only to the extent of their basis or cost allocable to their annual use of solar energy. (See paragraph (d)(6) of this section for rules relating to the method of allocation.)

(5) *Specially adopted equipment.* Equipment that uses solar energy beyond the distribution stage is eligible only if specially adopted to use solar energy.

(6) *Auxiliary equipment.* Solar energy property does not include equipment (auxiliary equipment), such as furnaces and hot water heaters, that use a source of power other than solar ro wind energy to provide usable energy. Solar energy property does include equipment, such as ducts and hot water tanks, which is utilized by both auxiliary equipment and solar energy equipment (dual use equipment). Such equipment is solar energy property (i) only if the use of energy from sources other than solar energy does not exceed 25 percent of the total energy input of the equipment in any calendar year and (ii) only to the extent of the equipment's basis or cost allocable to its annual use of solar or wind energy. This allocation may be made by comparing, on a Btu basis, energy input a dual use equipment from solar energy with energy input from other sources. However, the Commissioner may accept any other method that, in his opinion, more accurately establishes the relative annual use by dual use equipment of solar energy and energy derived from other sources.

(7) *Solar process heat equipment.* Solar energy property does not include equipment that uses solar energy to generate steam at high temperatures for use in industrial or commercial processess (solar process heat).

(8) *Example.* The following example illustrates this paragraph (d)

Example. (a) In 1979, corporation X, a calendar year taxpayer, constructs an apartment building and purchases equipment to convert solar energy into heat for the building. Corporation X also installs an oil-fired water heater and other equipment to provide a backup source of heat when the solar energy equipment cannot meet the energy needs of the building.

On a Btu basis, eighty percent of the total energy input to the dual use equipment during 1979 will be from solar energy.

(b) The items purchased in addition to the water heater include a roof solar collector, a heat exchanger, a hot water tank, a control component, pumps, pipes, fan-coil units, and valves. Assume the fan-coil units could be used with energy derived from an oil or gas substance without significant modification. All items are depreciable and have a useful life of three years or more. The use of the equipment to heat the building is the first use to which the equipment has been put.

(c) Water is pumped from the basement through pipes to the roof solar collector. Heated water returns through pipes to a heat exchanger which transfers heat to the water in the hot water tank.

(d) The hot water tank and the oil-fired water heater utilize the same distribution pipe. Pumps and valves at the points of connection between the hot water tank, the oil-fired water heater, and the distribution pipe regulate the auxiliary energy supply use. They also prevent the oil-fired water heater from heating water in the hot water tank.

(e) An integrated control component determines whether hot water from the hot water tank or from the oil-fired water heater is distributed to fan-coil units located throughout the building.

(f) The roof solar collector is solar energy property. The pump that moves the water to the roof collector and the pipes between the roof collector and the hot water tank qualify because they are solely related to transporting solar heated water. The hot water tank qualifies because it stores water heated solely by solar radiation. The heat exchanger also qualifies.

(g) The oil-fired water heater does not qualify as solar energy property because it is auxiliary equipment.

(h) Because the distribution pipe, the control component, and the pumps and valves serve the oil-fired water heater as well as the solar energy equipment, they qualify only to the extent of eighty percent of their cost or basis, the portion allocable to use of solar energy. If in a subsequent taxable year the basis or cost allocable to use of solar energy falls below eighty percent, recapture may be required under section 47 and § 1.47–1 (h). The fan-coil units do not qualify because they are not specially adapted to use energy derived from solar energy.

(e) *Wind energy property*—(1) *In general.* Energy property includes wind energy property. Wind energy property is equipment (and parts related to the functioning of that equipment) that performs a function described in paragraph (e)(2) of this section. In general, wind energy property consists

of a windmill, wind-driven generator, storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. Wind energy property does not include equipment that transmits or uses electricity derived from wind energy. In addition, limitations apply similar to those set forth in paragraph (d)(5), (6), and (8) of this section. For example, if equipment is used by both auxiliary equipment and wind energy equipment, such equipment is wind energy property only if its use of energy other than wind energy does not exceed 25 percent of its total energy input in any calendar year and only to the extent of the equipment's basis or cost allocable to its annual use of wind energy.

(2) *Eligible functions.* Wind energy property is limited to equipment (and parts related to the functioning of that equipment) that—

(i) Uses wind energy to heat or cool, or provide hot water for use in, a building or structure, or

(ii) Uses wind energy to generate electricity (but not mechanical forms of energy).

* * * * *

James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 86-27636 Filed 12-8-86; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1084

[Ex Parte No. MC-181]

Elimination of Cargo Liability Security Requirements for Freight Forwarders of Non-Household Goods

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend 49 CFR Part 1084 to eliminate the cargo liability security requirements for non-household goods freight forwarders and to make conforming changes in the rules governing freight forwarders' surety bonds and policies of insurance. This exercise of the Commission's discretion under 49 U.S.C. 10927(c)(2) is consistent with the Surface Freight Forwarder Deregulation Act of 1986, Pub. L. No. 99-521, enacted October 22, 1986, that substantially deregulates the non-household goods segment of the freight forwarding industry.

Although the Commission has broad discretion concerning cargo security requirements for all forwarders, we propose to eliminate the cargo security requirement for non-household goods freight forwarders based on a public interest determination. We have concluded preliminarily that the proposed rule revisions will eliminate unnecessary regulatory burdens on non-household goods freight forwarders. Furthermore, adoption of the proposed rules will eliminate the administrative difficulties the Commission would face in imposing and enforcing security requirements on a segment of the transportation industry over which we no longer have licensing jurisdiction or explicit authority to impose reporting requirements. We invite comments of interested parties on these matters.

DATE: Comments are due on or before December 29, 1986.

ADDRESS: The original and, if possible, 15 copies of comments referring to Ex Parte No. MC-181, should be addressed to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Suzanne Higgins, (202) 275-7181;

or

Mark Shaffer, (202) 275-7805.

SUPPLEMENTARY INFORMATION: The Commission's decision contains additional information. To obtain a copy of the decision, write to Office of Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423, or call (202) 275-7428.

Environmental and Energy Considerations

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Initial Regulatory Flexibility Analysis

The Commission is proposing to exercise its discretion under 49 U.S.C. 10927(c)(2) and eliminate cargo liability security regulation in order to minimize the regulatory burdens on non-household goods freight forwarders.

We preliminarily conclude that the proposed elimination of prescribed cargo liability security for non-household goods forwarders will have a beneficial, although modest, economic impact on a substantial number of small entities by reducing regulatory burdens. At the same time, we are convinced that small entities that rely on forwarder service have sufficient commercial protections available to ensure that acceptable cargo liability security levels will be observed by non-household goods forwarders, absent Commission regulation of the subject.

The proposed rule revisions will not require, and to some extent will eliminate, the filing of reports or recordkeeping by small entities. The proposal will not duplicate, overlap, or conflict with any existing Federal rules.

List of Subjects in 49 CFR Part 1084

Freight forwarders, Insurance, Surety bonds.

Decided: November 24, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Vice Chairman Simmons concurred in the result with a separate expression. Commissioner Lamboley dissented in part with a separate expression.

Noreta R. McGee,

Secretary.

Appendix

Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citations following §§ 1084.1, 1084.2, 1084.3, 1084.4, 1084.6, 1084.7, and 1084.8 would be removed and the authority citation for Part 1084 would be revised to read as follows:

Authority: Pub. L. No. 99-521, 49 U.S.C. 10321 and 10927, and 5 U.S.C. 553.

PART 1084—SURETY BONDS AND POLICIES OF INSURANCE

2. Paragraph (a) of § 1084.1 would be revised to read as follows:

§ 1084.1 Definitions.

(a) *Household goods freight forwarder* means a freight forwarder as defined at 49 U.S.C. 10102(9), that is a forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.

* * * * *

§§ 1084.1, 1084.2, 1084.6, 1084.7, 1084.8, 1084.10 [Amended]

3. The words "household goods" are proposed to be inserted before the words "freight forwarder" wherever they appear in the following sections and paragraphs: sections 1084.1 (c) and (d), 1084.2(a), 1084.6, 1084.7(a), 1084.8(d), and 1084.10(a).

[FR Doc. 86-27574 Filed 12-8-86; 8:45 am]

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Notices

Federal Register
Vol. 51, No. 236
Tuesday, December 9, 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 COMMERCE

International Trade Administration

[A-122-601]

Final Determination of Sales at Less than Fair Value; Brass Sheet and Strip from Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that brass sheet and strip from Canada are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from Canada that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: December 9, 1986.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Charles Wilson, Office of Investigatons, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–1776 or 377–5288.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that brass sheet and strip from Canada are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d). We made fair value comparisons on sales of the class or kind of merchandise to the United States by Arrowhead Metals Limited (Arrowhead) and Noranda Metal Industries Limited (Noranda) during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value, based on home market prices. The weighted-average margins for individual companies investigated are listed in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation-Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union-Allied Industrial Workers of America (AFL–CIO), and Mechanics Educational Society of America (Local 56). The petition was filed on behalf of the U.S. industry that casts, rolls, and finishes brass sheet and strip.

In compliance with the filing requirements of secton 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11771, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from Canada materially injure a U.S. industry (USITC Pub. No. 1837).

On April 29, 1986, we presented an antidumping duty questionnaire to Arrowhead Metals Limited (Arrowhead) and to Noranda Metal Industries Limited (Noranda) which account for at least 80 percent of exports of the subject merchandise to the United States. We requested responses in 30 days. On May 22 and 28, 1986, at the request of respondents, we granted a 14-day extension of the due date for the questionnaire responses. We received responses from Noranda and Arrowhead on June 12. On June 24, and 27, we requested additional information from Noranda and Arrowhead on July 7, 1986.

On August 18, 1986, we made an affirmative preliminary determination (51 FR 30093, August 22, 1986).

On September 22, 1986, the repondents requested a postponement of the final determination. We granted this request and postponed the due date for the final determination until not later then December 3, 1986 (51 FR 36419, October 10, 1986).

Ratcliffs filed a voluntary response. This response was incomplete and, therefore, was not used.

As required by the Act, we afforded interested parties an opportunity to submit oral and written comments, and on September 19, 1986, a hearing was held to allow parties to address the issues arising in this investigation.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently provided for under item numbers 612.3960, 612.3982, and 612.3986 of the *Tariff Schedules of the United States Annotated (TSUSA).*

The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unifed Numbering System (U.N.S.) C2000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparison

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared the United States price with the foreign market value, based on home market prices.

For this merchandise, there are two types of sales: tolled and non-tolled. In tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into

brass sheet or strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produces brass sheet and strip from its own stocks of copper and zinc.

We have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to-apples" comparison achieves the most accurate results.

When there were a significant number of tolled sales in the United States, we asked the respondents to provide information on home market tolled sales. whenever possible, we compared prices of tolled sales in the United States to tolled sales in the home market. Similarly, we compared prices of non-tolled sales in the United States to non-tolled sales in the home market.

In this investigation, both respondents had a significant number of tolled sales to the United States. However, Noranda had no tolled sales in the home market.

For many tolled sales to the United States by Noranda, we were able to determine the component of Norand's United States price attributable to metal value in the U.S. sale from home market prices of non-tolled sales of products having the same alloy content. Altough tolling charges may vary depending on the quality of the metal input, we do not have information on the quality of the copper or zinc used. Accordingly, we have compared U.S. tolled sales to adjusted home market non-tolled sales of the product using the same alloy content as the best infomation available.

In deducting the metal cost from the home market non-tolled sale, we do not have information on whether some component of the profit on the home market sales my be attributable to the metal cost. Consequently, we are not deducting any profit.

For those tolled sales to the United States where we could not determine the component of Noranda's price attributable to metal value, we compared the U.S. tolled sale including the metal value to unadjusted home market non-tolled sales of merchandise with the same alloy content as the best information available. These sales comparisons are made for a very small percentage of Noranda's U.S. sales.

United States Price

As provided for in section 772(b) of the Act, we used the purchaser price of the subject merchandise to represent the United States price for sales by Arrowhead and most sales by Noranda because, except for certain transactions made by Noranda, the merchandise was sold by these producers to unrelated purchasers prior to importation into the United States. For some of Noranda's transactions we used the exporter's sales price of the subject merchandise as provided for in section 772(c) of the Act, for the United States price.

We calculated the purchase price based on the c.&f. delivered, duty paid, packed price to urelated customers in the United States. We made deductions, where appropriate, for discounts, foreign inland freight, U.S. duty, U.S. brokerage, and U.S. inland freight. We disallowed Noranda's claim for an increase in the purchase price for a slitting cost incurred by an unrelated U.S. distributor, because the cost was not incurred by Noranda and, hence, it is an inappropriate addition to purchase price. We calculated exporter's sales price by deducting, where appropriate, discounts, foreign inland freight, U.S. duty, U.S. brokerage and U.S. inland freight. We aslso made a deduction for credit expenses.

Foreign Market Value

In accordane with section 773(a) of the Act, we calulated foreign market value based on f.o.b. packed home market prices to unrelated purchases. We made deductions, where appropriate, for discounts, rebates and foreign inland freight. We made an adjustment for differences in circumstance of sales for credit expenses, pursuant to § 353.15 of our regulations. We subtracted home market packing cost and added U.S. packing cost.

Where U.S. purchase price sales involved unrelated party commission, indirect selling expenses were granted as an offset for the U.S. commission expenses, in accordance with § 353.15(c) of the Commerce Regulations.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16) of the Act. In order to select the most similar products, we made comparisons of merchandise groups based on form of material (sheet or strip), grade (chemical composition), dimensions, special finishes, and traverse wound coils.

For those categories where there were no identical products in the home market with which to compare products sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(C) of the Act. These adjustments were based on differences in the costs of materials, direct labor and directly related factory overhead..

For Noranda's sales, we made the difference in merchandise adjustments except for the cost of alloy content, based on cost differences supplied by petitioners, since Noranda was unable to provide us with these other cost differences.

Currency Conversion

For comparisons involving purchase price transactions, when calculating foreign market value, we made currency conversions from Canadian dollars to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York. For comparisons involving exporter's sales price transactions, we used the official exchange rate for the date of purchase pursuant to section 615 of the trade and Tariff Act of 1984. We followed section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations, as it supercedes that section of the regulations.

Verification

As provided in section 776(a) of the Act, we verified all information provided by the respondents, using standard verification procedures, including examination of accounting records and original source documents containing relevant information on selected sales.

Petitioners' Comments

Comment 1: Petitioners assert that the Department should reject the response submitted by Noranda as inadequate and, therefore, should use the best information otherwise available.

DOC Position: We disagree. Based on our verification of the response submitted by Noranda, we are satisfied that the information provided is adequate for the purpose of making fair value comparisons.

Comment 2: Petitioners contend that Noranda and Arrowhead provided overly broad product groupings for proper comparison between the U.S. and home market sales. Therefore, the Department should reject both companies' suggestions for comparison groups.

DOC Position: We disagree. The product groupings suggested by respondents were based on their pricing practices and were in accordance with their cost records. Therefore, we determined that they were reasonable and used them for comparison purposes.

Comment 3: Petitioners argue that Noranda failed to provide appropriate cost adjustments for physical differences of the merchandise.

DOC Position: We agree. Since Noranda did not provide production cost data on which to base adjustments for physical differences of the merchandise, we used information provided by petitioners as best information available in making these adjustments.

Comment 4: Petitioners contend that the Department should disallow Noranda's claimed rebate expenses in the home market as it did in its preliminary determination. This contention is based on petitioners' claim that year-end rebates cannot be related to individual sales throughout the year.

DOC Position: We disagree. We verified that the year-end rebate expenses were provided for in the terms at the time of sale and, therefore, were directly related to the sales under consideration.

Accordingly, we deducted the rebate amount applicable to each individual sale.

Comment 5: Petitioners maintain that the Department should reject Noranda's claim for a level of trade adjustment based on a price differential between customers who slit the material and those who do not.

DOC Position: We agree. Level of trade adjustments may be made under certain circumstances in order to compare sales at the same commerical level of trade in the United States and the home market. Noranda's sales were at the same commercial level of trade in both markets. Moreover, Noranda did not quantify the price difference between the slitting and non-slitting customers.

Comment 6: Petitioners contend that the Department should reject Noranda's corrected sales information submitted during the verification because this data has not been verified.

DOC Position: We disagree. During the verification, Noranda submitted revised data which were verified.

Comment 7: Petitioners contend that the Department should reject Noranda's claim that all of its exporter's sales price, "trial" sales and certain home market sales in which a surcharge was included should be excluded as not in the ordinary course of trade.

DOC Position: We agree. The Department has determined that the prices of these sales were based on the company's price list, and that there were sufficient commercial transactions of these particular sales in the home market as well as in the U.S. market during the period of investigation. Therefore, we included these sales in our comparisons.

Comment 8: Petitioners contend that Noranda and Arrrowhead should not have used average credit cost and that the Department should use credit cost incurred relative to individual sales.

DOC Position: We agree. During verification, the Department established that each company did not average credit costs but calculated the credit cost on each sale by basing it on the actual number of days from the date of shipment to the date of receipt of payment.

Comment 9: Petitioners argue that the Department should reject Arrowhead's contention that tolled sales be excluded in our calculations, since they reflect sale of a service not the merchandise under investigation.

DOC Position: We agree. While U.S. purchasers provided materials to respondents for the manufacture of the merchandise under investigation, respondents are the manufacturers of the product exported to the United States, and their sales of this product are the appropriate subject of our investigation (Certain Small Diameter Welded Carbon Steel Pipes and Tubes from the Philippines, 51 FR 33099, September 18, 1986).

Comment 10: Petitioners claim that in its preliminary determination, the Department made programming errors with regard to credit, commissions and difference in merchandise adjustments in calculating foreign market value and United States price.

DOC Position: We agree. We have received our data base and have made appropriate corrections with regard to credit, commissions and difference in merchandise adjustments for our final determination.

Comment 11: Petitioners argue that Arrowhead failed to consider width as a factor in its product comparisons.

DOC Position: We disagree. We have been provided by Arrowhead with product comparisons based in part on width and have used these product comparisons in making our final determination.

Comment 12: Petitioners assert that Arrowhead's non-tolled sales are not accounted for in product comparisons.

DOC Position: We disagree. These particular sales have been considered.

Comment 13: Petitioners argue that Arrowhead's product groupings do not compare groups of identical alloy composition.

DOC Positions: We disagree. We have determined that Arrowhead's product groupings compare groups of identical alloy composition.

Respondent's Comments

Noranda

Comment 1: Noranda argues that the Department should exclude exporter's sales price transactions from its fair value comparisons, because they were not made in the ordinary course of trade. Noranda states that if the Department includes these sales, separate margins should be calculated for exporter's sales price and for purchase price sales.

DOC Position: We disagree. The term "ordinary course of trade" pertains only to home market sales. In fair value investigations, the Department calculates one margin for a class or kind of merchandise whether the sales were purchase price or exporter's sales price.

Comment 2: Noranda claims that products such as cut to length, traverse wound and coated brass sold in the home market should be disregarded when comparisons are made between the U.S. market and the home market.

DOC Position: We disagree. We consider these products similar to the U.S. products. See "Foreign Market Value" section of this notice.

Comment 3: Noranda argues that the Department in making its credit adjustment should not deduct imputed interest expenses on exporter's sales price sales.

DOC Position: Since the company incurred actual credit expenses, it was unnecessary to impute credit expenses. Accordingly, the Department followed its usual policy of computing credit expense deductions based on actual credit terms for U.S. sales to unrelated purchasers. For these sales, the period considered was the time the merchandise left the warehouse in the United States until the time payment was made by the U.S. purchaser.

Comment 4: Noranda maintains that an adjustment for differences in level of trade should be made, for a differential between a price paid by customers who slit the material and a price paid by those who do not.

DOC Position: We disagree. See our response to petitioners' Comment 5.

Comment 5: Noranda argues that certain home market sales which have a surcharge are not in the ordinary course of trade and should be excluded from our fair value comparisons.

DOC Position: We disagree. See our response to petitioners' Comment 7.

Comment 6: Noranda states that the Department should adjust the foreign market value to reflect rebates incurred in the home market.

DOC Position: We agree. See our response to petitioners' Comment 4.

Comment 7: Noranda argues that the Department should use an average of U.S. sales prices in its final determination.

DOC Position: We disagree. The only authority we have to average U.S. prices is contained in section 777A of the 1984 amendments to the Act (19 U.S.C. 1677f–1). This authority only extends, however, to situations in which a "significant volume of sales is involved or a significant number of adjustments to prices is required." In this proceeding we do not find the number of sales (less than 175) or the number of adjustments to be so large as to authorize us to average U.S. price.

Arrowhead

Comment 1: Arrowhead argues that the Department should exclude "tolled" sales in its calculations because it was only performing a conversion service rather than the sale of a finished product.

DOC Position: We disagree. See our response to petitioners' Comment 9.

Comment 2: Arrowhead argues that the Department should not extend the scope of this investigation to include the brass strip that is 1.25 inches or less in width unless it includes the brass strip that is equal to or less than 0.006 inches in thickness. Arrowhead asserts that the petitioners were being selective in including brass strips that were 1.25 inches or less in width and excluding those that were less than 0.006 inches in thickness.

DOC Position: We disagree. The scope of this investigation accords with the wishes of the petitioners. Item numbers 612.3982 and 612.3986 of the *TSUSA* include brass strips less than 1.25 inches in width. The *TSUSA* does not exclude from its definition of brass strip a product less than 1.25 inches in width unless it is flat wire. In order to be considered flat wire, the product must meet all of the requirements for flat wire. Respondent has not demonstrated that sales of a product less than 1.25 inches in width are sales of flat wire instead of strip. However, a product less than 0.006 inch in thickness is no longer brass strip, rather it is defined as brass foil by the *TSUSA*. Neither brass flat wire nor brass foil are within the scope of this investigation.

Comment 3: Arrowhead argues that petitioners proposed product groupings should be rejected and that we should use Arrowhead's product groupings.

DOC Position: We agree. See our response to petitioners' Comment 2.

Comment 4: Arrowhead argues that petitioners' November 3, 1986, submission should be rejected as untimely.

DOC Position: We disagree. We have exercised our discretion under 19 CFR 353.46 to accept these comments because they contributed towards a more accurate result in our investigation. We allowed respondents time to comment on the submission.

Ratcliffs

Ratcliffs argues that the Department's refusal to verify its voluntary response is arbitrary and violates the Antidumping Code as enacted into U.S. law because (a) absent a finding of a price differential with respect to a particular company there can be no finding of dumping and (b) interested parties should be given an opportunity to present evidence. Ratcliffs also argues that its voluntary response should be used as best information available. Ratcliffs has supplied the Department with information that it has no less than fair sales and should be excluded.

DOC Position: By regulation (19 CFR 353.38), and consistent practice, we are only required to examine 60 percent of the merchandise exported to the United States during the period of investigation. Noranda and Arrowhead account for considerably more than 60 percent of the exports of the product under investigation. We advised counsel for Ratcliffs prior to its submission that we would accept and consider a voluntary response only if it were free of deficiencies. If we advise a voluntary respondent that its first response is deficient, as a practical matter, we become engaged in explaining the deficiencies, reexamining the corrected response, and possibly repeating this procedure. Our administrative resources would be eroded to the point where our ability to meet statutory deadlines would be impaired. Ratcliffs was given an opportunity to submit information, but its submission was seriously deficient. We have no need to resort to Ratcliffs' response for best information available because we have verified information from Noranda and Arrowhead. The information submitted by Ratcliffs was not sufficient. Consequently, it was not verified and cannot form the basis for exclusion.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from Canada that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond on all such entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/seller/exporter	*Weighted-average margins (percentage)*
Arrowhead	2.51
Noranda	11.54
All Others	8.10

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on brass sheet and strip from Canada entered, or withdrawn from warehouse, for consumption on or after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 167d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

December 3, 1986.

[Fr. Doc. 86–27608 Filed 12–8–86; 8:45]

BILLING CODE 3510-DS-M

[A-405-069]

Kraft Condenser Paper From Finland; Preliminary Results of Antidumpting Duty; Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty; Administrative Review and Intent to Revoke.

SUMMARY: In response to a request by Tervakoski USA, Inc., the Department of Commerce has conducted an administrative review of the antidumping finding on kraft condenser paper from Finland. The review covers the one known exporter of this merchandise to the United States and the period September 1, 1982 through June 23, 1983.

The review indicates the existence of *de minimis* margins during the period. As a result of the review, the Department intends to revoke the finding. Interested parties are invited to comment on these preliminary results and intent to revoke.

EFFECTIVE DATE: December 9, 1986.

FOR FURTHER INFORMATION CONTACT: Linda Pasden, Elena Gonzalez, or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/5255.

SUPPLEMENTARY INFORMATION:

Background

On June 23, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 28693) a tentative determination to revoke the antidumping finding on draft condenser paper from Finland (44 FR 54696, September 21, 1979). On October 6, 1983, the Department published in the **Federal Register** (48 FR 45584) the final results of its last administrative review of the antidumpting finding. We began the current review of the finding under our old regulations. After the promulgation of our new regulations, the respondent requested that we conduct an administrative review in accordance with section 353.53a(a) of the Commerce Regulations. We published a notice of initiation of the antidumping duty administrative review on February 12, 1986 (51 FR 5219). As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the review

Imports covered by the review are shipments of kraft condenser paper, meaning capacitor tissue or condenser paper containing 80 percent or more by weight chemical sulphate or soda wood pulp based on total fiber content. Kraft condenser paper is currently classifiable under items 252.4000, 252.4200, and 256.3080 of the Tariff Schedules of the United States Annotated.

The review covers Tervakoski Osakeyhtio, the one known exporter of Finnish condenser paper to the United States, and the period September 1, 1982 through June 23, 1983.

United States Price

In calculating United States price the Department used exporter's sales price as defined in section 772 of the Tariff Act. Exporter's sales price was based on the f.o.b. packed price to the first unrelated purchaser in the United States. Where applicable, we made adjustments for ocean freight, marine insurance, U.S. customs duties, U.S. and foreign inland freight, brokerage charges, credit expense, and the U.S. subsidiary's indirect selling expenses. We disallowed adjustments for credit given to the U.S. subsidiary for recycling of wastage and associated freight costs because these were not directly related to the U.S. sales. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used the price to third countries, as defined in section 773 of the Tariff Act, because insufficient quantities of such or similar merchandise were sold in the home market to be used as a basis for comparison. Third country prices was based on the f.o.b. packed price to the first unrelated Brazilian purchaser with adjustments, where applicable, for foreign inland freight, credit expense, and differences in packing costs. We made further adjustments, where applicable, for third country indirect selling expenses to offset U.S. indirect selling expenses, and for differences in physical characteristics of the merchandise. We disallowed a circumstance of sale adjustment for a cash discount because it was not offered to purchasers in Brazil. No other radjustments were claimed or allowed.

Preliminary Results of the Review and Intent to Revoke

As a result of our comparison of United States price to foreign market value, we preliminarily determine that a margin of 0.04 percent exists for the period of September 1, 1982 through June 23, 1983.

The Department has determined that all sales of Finnish kraft condenser paper ty Tervakoski Osakeyhtio were made at not less than fair value or had *de minimis* margins during the period September 1, 1980 through June 23, 1983, the date of our tentative determination to revoke. As provided for in § 353.54(e) of the Commerce Regulations, Tervakoski Osakeyhtio has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding under circumstances as specified in the written agreement.

Consequently, we intend to revoke the antidumping finding on kraft condenser paper from Finland. If this revocation is made final, it will apply to all unliquidated entries of this merchandise entered, or withdrawn from warehouse for consumption, on or after June 23, 1983.

Interested parties may submit written comments on these preliminary results and intent to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review and intent to revoke, including the results of its analysis of issues raised in any such comments or hearing.

The Department shall determine, and the Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

This administrative review, intent to revoke and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act [19 U.S.C. 1675(a)(1) and (c)] and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a and 353.54).

Dated: December 3, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-27633 Filed 12-8-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-333-002]

Cotton Yarn From Peru; Final Results of Countervailing Duty; Administrative Review

AGENCY: International Trade Administration/Impact Administration Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On October 14, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on cotton yarn from Peru. The review covers the period January 1, 1983 through December 31, 1983 and three programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, we determine the total bounty or grant during the period of review to be 19.06 percent *ad valorem*.

EFFECTIVE DATE: December 9, 1986.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Lorenza Olivas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 14, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 36583) the preliminary results of its administrative review of the countervailing duty order on cotton yarn from Peru (48 FR 4508, February 1, 1983). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of various Peruvian cotton yarns currently classifiable under the following item numbers of the Tariff Schedules of the United States: 300.60, 301.01 through 301.60, 301.70, 301.80, 301.82, 301.84, 301.86, 301.88, 301.92, 301.94, 301.96, 301.98, 302.01 through 302.60, 302.70, 302.80, 302.82, 302.84, 302.86, 302.88, 302.92, 302.94, 302.96, and 302.98.

The review covers the period January 1, 1983, through December 31, 1983 and three programs: (1) CERTEX; (2) FENT; and (3) the Export Law.

In the preliminary results, we tentatively found a freight rate reduction program, Article 31 of the Export Law, to be countervailable. We have reconsidered the issue. The freight rate negotiations are solely between the transportation companies and the exporters. Because both parties act without any direction, funds, or incentives from the Peruvian government, we determine that this program is not countervailable.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from the Government of Peru.

Comment 1: The Government of Peru claims that the Department overstated the benefit from the dollar-denominated FENT loans by using as a benchmark the interest rate for dollar-denominated loans available from local banks instead of the interest rate for dollar-denominated loans available from foreign banks. Since the Department used the latter rate as a benchmark for the required external dollar loans, it should use the same rate for the dollar-denominated FENT loans. In addition, the Government of Peru contends that the Department miscalculated the FENT benefit for one company, resulting in an overstatement of the total benefit from that program.

Department's Position: We disagree with the first point. For our domestic loan benchmark, it is our policy to use interest rates on the most comparable form of financing available in the domestic market. We agree that we miscalculated the FENT benefit for one company. We have corrected our calculation and determine the benefit from the program to be 2.02 percent *ad valorem* for the period of review.

Comment 2: The Government of Peru claims that the benefits from Articles 8 and 9 of the Export Law are aimed at decentralization of all domestic facilities and, as such, benefit the exporter's total sales, not just export sales. The government claims that the Department overstated the benefit by using total exports rather than total sales as the denominator for calculating the benefit.

Department's Position: We agree and have allocated the benefit over total sales. We determine the benefit to be 0.02 percent *ad valorem* for the period of review.

Comment 3: The Government of Peru argues that the Department should not include duties deferred in 1983 in calculating the benefit from Article 16. According to the Department's methodology, a one-year loan in 1983 (*i.e.*, the duties deferred in 1983) would not incur an interest payment until 1984. The Government of Peru further argues that the Department should exclude, for cash deposit purposes, any duties exonerated in 1984. Such exoneration produces no benefit beyond 1984, and the Department will countervail the benefit from the 1984 exonerated duties in its 1984 administrative review.

Department's Position: We agree with the first point and have recalculated the benefit by excluding the 1983 duty deferrals. We disagree with the second point. It is inappropriate to exclude the duties exonerated after the period of review because we have no information on other benefits that firms may have received in 1984 (such as new duty deferrals). We will address the exonerated duties in our administrative review for 1984. For this review, we determine the benefit from this program to be 3.07 percent *ad valorem*.

Final Results of Review

After reviewing all of the comments received and correcting certain calculation errors, we determine the total bounty or grant to be 19.06 percent *ad valorem* for the period of review.

The Department will instruct the Customs Service to assess countervailing duties of 19.06 percent of the f.o.b. invoice price on any shipments exported on or after January 1, 1983 and on or before December 31, 1983.

The elimination of the FENT loans and of the CERTEX benefits on exports of this merchandise to the United States has reduced the total estimated bounty or grant to 3.09 percent *ad valorem*. Therefore, the Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 3.09 percent of the f.o.b. invoice price on shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 3, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-27606 Filed 12-8-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-355-001]

Leather Wearing Apparel From Uruguay; Final Results of Countervailing Duty; Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On June 25, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on leather wearing apparel from Uruguay. The review covers the period April 17, 1982 through December 31, 1983 and nine programs.We gave interested parties an opportunity to comment on the preliminary results. We received no comments. We have determined the net subsidy to be 1.35 percent *ad valorem* for direct exports to the United States and 26.18 percent *ad valorem* for exports to the United States through intermediate countries for the period April 17, 1982 through December 31, 1982 and zero percent for all exports to the United States from January 1, 1983 through December 31, 1983.

EFFECTIVE DATE: December 9, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Bernard T. Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On July 16, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 31032) a countervailing duty order on leather wearing apparel from Uruguay. We began this review under our old regulations. On September 17 and October 9, 1985, after the promulgation of our new regulations, a domestic interested party, the Amalgamated Clothing and Textile Workers Union—AFL-CIO and the Government of Uruguay, respectively, requested in accordance with § 355.10 of the Commerce Regulations that we complete the administrative review of this order. We published the new initiation on November 27, 1985 (50 FR 48825) and the preliminary results of the review on June 25, 1986 (51 FR 23110). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are shipments of Uruguayan leather wearing apparel and parts and pieces thereof. Such merchandise is currently classifiable under items 791.7620, 791.7640, and 791.7660 of the Tariff Schedules of the United States Annotated.

The review covers the period April 17, 1982 through December 31, 1983 and nine programs: (1) Reintegros; (2) supplementary reintegros; (3) transitional export payments; (4) Tax Refund Certificates; (5) bonification payments; (6) uncollected social security taxes; (7) income tax forgiveness; (8) tanner's subsidy; and (9) preferential export financing.

In the preliminary results of this review, we incorrectly calculated the weighted-average benefit conferred by the supplementary reintegros on leather wearing apparel exported indirectly to the United States during the period April 17, 1982 through December 31, 1982. The rate should have been 6.86 percent *ad valorem* rather than 8.25 percent. Accordingly, we determine the total bounty or grant to be 26.18 percent *ad valorem* for Uruguayan leather wearing apparel exported to the United States through intermediate countries for the period April 17, 1982 through December 31, 1982. All other rates remain the same.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. we received no comments. Except for the correction of a calculation error, the final results of the review are the same as the preliminary results.

The Department will instruct the Customs Service to assess countervailing duties in the following amounts:

1. For all shipments exported directly to the United States and entered, or withdrawn from warehouse, for consumption on or after April 17, 1982 and exported on or before December 31, 1982, 1.35 percent of the f.o.b. invoice price of the merchandise.

2. For all shipments exported from Uruguay on or after April 17, 1982 and on or before December 31, 1982, to intermediate countries and entered, or withdrawn from warehouse, for consumption in the United States on or after April 17, 1982, 26.18 percent of the f.o.b. invoice price of the merchandise.

3. For all shipments exported either directly or indirectly from Uruguay to the United States on or after January 1, 1983 and on or before Decembr 31, 1983, zero percent of the f.o.b. invoice price.

Further, the Department will instruct the Customs Service not to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This notice is published in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 3, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-27607 Filed 12-8-86; 8:45 am]

BILLING CODE 3510-DS-M

Export Promotion Services, Revision of Exporting Guide

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce announces the revision and update of "A Basic Guide to Exporting."

EFFECTIVE DATE: November 17, 1986.

ADDRESSES: Requests for the publication described in this notice should be directed to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 or contact the nearest Department of Commerce District Office. Cost $8.50.

SUPPLEMENTARY INFORMATION: This handy, step-by-step rule book to exporting, prepared by the Office of Marketing Programs, Export Promotion Services, provides potential exporters with information on how to sell their products overseas. It describes the operations of exporting and provides the potential exporter with information about government assistance and the various products and services designed to help them enter the export market.

Dated: November 17, 1986.

Alexander H. Good,

Director General, U.S. and Foreign Commercial Service.

[FR Doc. 86-27634 Filed 12-8-86; 8:45 am]

BILLING CODE 3510-FP-M

National Oceanic and Atmospheric Administration

Issuance of Marine Mammals, Permit: Sea World, Inc. (P2Q)

On October 8, 1986, notice was published in the **Federal Register** (51 FR 36049) that an application had been filed by Sea World, Inc., 1720 South Shores Road, San Diego, California 92109, to take eight (8) Pacific white-sided dolphins (*Lagenorhynchus obliguidens*) for public display.

Notice is hereby given that on December 3, 1986 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: December 3, 1986.

Henry R. Beasley,

Director, Office of International Fisheries, National Marine Fisheries Service.

[FR Doc. 86–27589 Filed 12–8–86; 8:45 am]

BILLING CODE 3510–22–M

Issuance of Marine Mammals Permit: Sea World, Inc. (P2R)

On October 20, 1986, notice was published in the **Federal Register** (51 FR 37213) that an application had been filed by Sea World, Inc., 1720 South Shores Road, San Diego, California 92109 to import a killer whale (*Orcinus Orca*).

Notice is hereby given that on December 3, 1986 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above importation subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC;

Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: December 2, 1986.

Henry R. Beasley,

Director, Office of International Fisheries, National Marine Fisheries Service.

[FR Doc. 86–27590 Filed 12–8–86; 8:45 am]

BILLING CODE 3510–22–M

[Docket No. 60848–6148]

Availability and Opportunity for Comment

AGENCY: NOAA, Commerce.

ACTION: Notice of Availability and Opportunity for Comment.

SUMMARY: NOAA's draft Products Information Catalog is available for inspection at 17 locations nationwide. Also a copy can be requested by interested persons who do not reside or work within 50 miles of any of these locations. NOAA is soliciting comments on this draft catalog, particularly as to whether 1) it omits any products now offered by NOAA and 2) it includes any products that compete unnecessarily with those available from private industry.

DATE: Written comments should be received by January 9, 1987.

ADDRESSES: Written comments should be sent to: Arva Jackson, Chief, Reference Services Staff, NOAA, Office of Legislative Affairs, Room 6021, Herbert C. Hoover Building, Washington, D.C. 20230. Telephone No. (202) 377–3862.

The draft catalog is available at the locations listed in the Appendix to this Notice.

FOR FURTHER INFORMATION CONTACT: Arva Jackson at the above address and telephone number.

SUPPLEMENTARY INFORMATION: The NOAA Products Information Catalog is the first comprehensive listing of all of the products generated by the various elements of NOAA and will include, for example, descriptions of weather service charts, fishery publications, environmental informational bulletins and photographs generated via remote sensing devices. Each product listed is followed by a description, contact point and cost information. A keyboard list has been included to expedite the catalog search for any product. It will be updated as needed and will provide an easy reference for current and future users of NOAA's products.

Although the availability of most of the products has been publicized through various NOAA lists and publications, e.g., the National Climatic Data Center Bulletins, this is the first time that the full scope of these products will be apparent. (The Catalog is approximately 200 pages long). Consequently, NOAA is soliciting the views of affected users on whether any NOAA products have been ommitted as well as one questions such as the clarity of the format. NOAA is also interested in the views of affected private industries on whether any of the products compete unecessarily with commercial products.

The draft catalog is available for inspection at the 17 locations listed in the Appendix to this Notice. In addition, interested persons living and working more than 50 miles from any of the listed locations may request a copy of the catalog or selected portions of the catalog by writing or telephoning the nearest location. In view of the length of the document, discretion is requested.

B. Kent Burton,

Director, Office of Legislative Affairs.

Appendix

Proposed Sites for NOAA Product Information Catalog Review

1. NOAA Information Center, 701 C Street, Box 23, Anchorage, Alaska 99501.

2. West Coast Liaison Officer, National Environmental Satellite, Data, and Information Service—NOAA, 8605 La Jolla Shores Drive, P.O. Box 271, La Jolla, California 92038.

3. Mountain Administrative Support Center, 325 Broadway, Room 4512, Boulder, Colorado 80303.

4. Reference Services Staff, Herbert C. Hoover Bldg.—Room 6019, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

5. Southeast Liaison Officer, National Environmental Satellite, Data, and Information Service—NOAA, AOML Bldg., 4301 Rickenbacker Causeway, Miami, Florida 33149.

6. National Weather Service Pacific Region, Prince Kuhio Federal Bldg., Room 4110, 300 Ala Moana Blvd., Honolulu, Hawaii 96850.
7. National Marine Fisheries Service, NMFS, NOAA, 408 Atlantic Avenue—Room 141, Boston, Massachusetts.
8. National Capital Administrative Support Center, 11400 Rockville Pike, Room 505, Rockville, Maryland 20852.
9. Great Lakes Environmental Research Laboratory, 2300 Washtenaw Avenue, Ann Arbor, Michigan 48104.
10. Central Administrative Support Center, 601 East 12th Street, Room 1736, Kansas City, Missouri 64101.
11. NOAA Liaison Officer, COMNAVOCEANCOM, Code N322, NSTL Station—Building 1100, Bay St. Louis, Missouri 39522.
12. National Climatic Data Center, National Environmental Satellite, Data, and Information Service—NOAA, Federal Building, Battery Park Avenue, Asheville, North Carolina 28801.
13. National Weather Service, Eastern Region, 585 Stewart Avenue, Garden City, New York 11530.
14. National Severe Storms Laboratory, 1313 Holley Circle, Norman, Oklahoma 73069.
15. National Weather Service, Western Region, NOAA, Box 11188, Federal Building, 125 S. State Street, Salt Lake City, Utah 84147.
16. Eastern Administrative Service Center, 253 Monticello Avenue, Room 401, Norfolk, Virginia 23510.
17. NOAA Information Center, 7600 Sand Point Way NE, Seattle, Washington 98115.

[FR Doc. 86-27588 Filed 12-8-86; 8:45 am]
BILLING CODE 3510-12-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing in the Import Limits for Certain Cotton Textile Products Produced or Manufactured in Pakistan

December 4, 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 10, 1986. For further information contact Ann Fields, 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

A CITA directive dated December 26, 1985 (50 FR 53373) established limits for the aggregate limit as well as for certain specified categories of cotton textile products within the aggregate, including Categories 335 (women's, girls' and infants' cotton coats), 336 (cotton dresses), 338 (men's and boys' cotton knit shirts), 340 (men's and boys' woven cotton shirts), 341 (women's girls' and infants' cotton blouses and shirts), and 363 (cotton terry and other pile towels), produced or manufactured in Pakistan and exported during the agreement year which began in January 1, 1986.

Under the terms of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, as amended, between the Government of the United States and Pakistan and at the request of the Government of Pakistan, swing is being applied to the restraint limits established for the foregoing categories, increasing the limits for the current agreement year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textiles Agreements.

December 4, 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 December 26, 1985 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton textile products, produced or manufactured in Pakistan.

Effective on December 10, 1986, the directive of December 26, 1985 is hereby amended to include increased restraint limits for cotton textile products in the following categories, exported during the agreement year which began on January 1, 1986 and extends through December 31, 1986.[1]

Category	Adjusted 12-month restraint limit [1]
335	48,150 dozen.
336	131,079 dozen.
338	3,004,853 dozen.
340	140,255 dozen.
341	229,801 dozen.
363	27,165,213 numbers.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-27628 Filed 12-8-86; 8:45 am]
BILLING CODE 3510-DR-M

Adjusting Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

December 4, 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 10, 1986. For further information contact Kathy Davis, International Trade Specialist, Office of Textiles and Appeal, 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 reopenings, please call (202) 377-3715.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27, and August 9, 1983 between the Governments of the United States and

[1] The Bilateral Cotton Textile Agreement of March 9 and 11, 1982, as amended, between the Governments of the United States and Pakistan provides, among other things, that: (1) within the aggregate limit specific restraint limits may be exceeded by designated percentages; (2) specific limits may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

Thailand provides, among other things, for the borrowing of yardage from the succeeding year's level with the amount used being deducted from the level in the succeeding year or restored, if deducted but not used (carryforward).

In the following letter the Chairman of CITA directs the Commissioner of Customs to reduce the restraint limits for cotton and man-made fiber textile products in Categories 313 (cotton sheeting) and 317 (cotton twill and sateen) to 13,868,873 square yards and 7,127,343 square yards, respectively, for the current agreement year which began on January 1, 1986 and extends through December 31, 1986, to account for carryforward used during the 1985 agreement year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textiles Agreements.

December 4, 1986

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 19, 1985, which prohibited entry into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported during 1986.

Effective on December 10, 1986, the directive of December 19, 1985 is hereby further amended to include adjusted restraint limits for the following categories, as indicated:[1]

Category	Adjusted 12-month restraint limit[1]
313	13,868,873 square yards.
317	7,127,343 square yards.

[1] The restraint limits have not been adjusted to reflect any imports exported after December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-27629 Filed 12-8-86; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Restraint Limits for Certain Cotton and Wool Apparel Products Produced or Manufactured in Uruguay Effective on January 1, 1987

December 4, 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 January 1, 1987. 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 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

The Bilateral Cotton and Wool Textile Agreement of December 30, 1983 and January 23, 1984, as amended, between the Governments of the United States and Uruguay establishes restraint limits of 50,562 dozen for women's, girls' and infants' cotton coats in Category 335, and 6,886 dozen for men's and boys' wool suit-type coats in Category 433, produced or manufactured in Uruguay and exported during the periods beginning on January 1, 1987 and extending through June 30, 1987 for Category 433, and extending through December 31, 1987 for Category 335.

The letter which follows this notice directs the Commissioner of Customs to prohibit entry for consumption and withdrawal from warehouse for consumption of cotton and wool apparel products in Categories 335 and 433, produced or manufactured in Uruguay and exported during the agreement period beginning on January 1, 1987, in excess of the designated restraint limits.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

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).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

December 4, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton and Wool Textile Agreement of December 30, 1983 and January 23, 1984, as amended, between the Governments of the United States and Uruguay; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool apparel products in Categories 335 and 433, produced or manufactured in Uruguay and exported during the following restraint periods, in excess of the following limits:

Category	Restraint limit	Period of restraint
335	50,562 dozen	January 1—December 31, 1987.
433	6,886 dozen	January 1—June 30, 1987.

In carrying out this directive, entries of cotton and wool apparel products in Categories 335 and 433, produced or manufactured in Uruguay, which have been exported on and after January 1, 1986 and extending through December 31, 1986 shall, to the extent of any unfilled balances, be charged to the limits established for such

[1] According to the terms of the bilateral agreement of July 27 and August 8, 1983, under certain specified conditions any non-apparel specific limit of sublimit may be exceeded by not more than 7 percent, provided that the amount of increase is compensated for by an equal square yard equivalent decrease in another specific limit in the same group; (2) specific limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

goods during that period. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this directive.

These limits are subject to adjustment in the future according to the provisions of the bilateral agreeement, as amended, which provide, in part, that: (1) the specific limits may be adjusted for carryover and carryforward, and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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** 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 27854), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-27630 Filed 12-8-86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China Concerning Man-Made Fiber Textile Products in Category 650

December 4, 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 10, 1986. For further information contact Diana Solkoff, 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 October 30, 1986, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of man-made fiber dressing gowns and robes in Category 650, produced or manufactured in China and exported to the United States.

A summary market statement concerning 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 650 under the agreement with the People's Republic of China, 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 reponse 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 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."

Pursuant to the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of man-made fiber textile products in Category 650 during the ninety-day period which began on October 30, 1986 and extends through January 27, 1987 to a level of 22,441 dozen.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve-months following the ninety-day consulation period (January 28, 1987–January 27, 1988) to a level of 71,376 dozen.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of textile products in Category 650 exported during the ninety-day period at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register**.

In the event the limit established for Category 650 for the ninety-day period is exceeded, such excess amounts, if allowed to enter at the end of the restraint period, shall be charged to the level defined in the agreement for the subsequent twelve-month period.

SUPPLEMENTARY INFORMATION: On December 30, 1985 a letter to the Commissioner of Customs was published in the **Federal Register** (50 FR 53182) from the Chairman of the Committee for the Implementation of Textile Agreements which established restraint limits for certain categories of cotton, wool and man-made fiber textile products, produced or manfactured in the People's Republic of China and exported during 1986. The notice which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Category 650, which are not subject to specific ceilings and for which levels may be established during the year. In the letter to the Commissioner of Customs which follows this notice, a

ninety-day level is established for this category.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—China

Category 650 Man-Made Fiber Dressing Gowns and Robes

October 1986.

Summary and Conclusions

U.S. imports of Category 650 from China were 64,117 dozen during the year ending August 1986, 50 percent above the level imported a year earlier. During the first eight months of 1986, imports from China were 40,727 dozen, 20 percent above the level imported during the same period of 1985.

The U.S. market for Category 650 has been disrupted by imports. The sharp and substantial increase of imports from China has contributed to this disruption.

U.S. Production and Market Share

U.S. Production of man-made fiber dressing gowns and robes declined eight percent from 3,148 thousand dozen in 1983 to 2,894 thousand dozen in 1985. The U.S. producers' share of the market declined from 93 percent in 1983 to 90 percent in 1985.

U.S. Imports and Imports Penetration

U.S. imports of Category 650 grew from 248 thousand dozen in 1983 to 308 thousand dozen in 1985, a 24 percent increase. During the year ending August 1986, imports of Category 650 were 403 thousand dozen, 48 percent above the level imported during the year ending August 1985. Category 650 imports are up 55 percent through the first eight months of 1986 compared to the same period in 1985. The ratio of imports to domestic production increased from 8 percent in 1983 to 11 percent in 1985.

Duty Paid Value and U.S. Producers' Price

Approximately 65 percent of the imports of Category 650 from China during the first eight months of 1986 entered under TSUSA numbers 381.9820—men's and boy's man-made fiber dressing gowns, not knit, not ornamented; and 348.2520—women's, girls' and infants' man-made fiber dressing gowns, not knit, ornamented. These garments entered the U.S. at duty paid landed values below U.S. producers' prices for comparable garments.

December 4, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 10, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 650, produced or manufactured in China and exported during the ninety-day period which began on October 30, 1986 and extends through January 27, 1987, in excess of 22,441 dozen.[1]

Textile products in Category 650 which have been exported to the United States prior to October 30, 1986 shall not be subject to this directive.

Textile products in Category 650 which have been released form the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

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).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-27631 Filed 12-8-86; 8:45am]

BILLING CODE 3510-DR-M

Announcement of Bilateral Textile Consultations With the Government of Japan to Review Trade in Categories 333 and 448

December 4, 1986.

On October 31, 1986, the Government of the United States, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested consultations with the Government of Japan with respect to cotton suit-type coats in Category 333 and wool trousers, slacks and shorts in Category 448, produced or manufactured in Japan.

The purpose of this notice is to advise the public that consultations were held between the Governments of Japan and the United States from November 10, through November 14, 1986. Limits for these and other categories agreed in consultation will be announced after exchange of Diplomatic notes between the two governments on the new bilateral agreement.

Summary market statements concerning these categories follow this notice.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, DC (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.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Japan

Category 333—Men's and Boys' Cotton Suit-Type Coats

October 1986.

Summary and Conclusions

U.S. imports of Category 333 from Japan were 13,618 dozen during the year ending August 1986, 11 percent above the level imported a year earlier. During the first eight months of 1986, imports of Category 333 from Japan were 7,259 dozen, five percent above the level imported during the same period of 1985.

The U.S. market for Category 333 has been disrupted by imports and imports from Japan are contributing to this disruption.

U.S. Production and Market

The U.S. market for domesticaly produced and imported men's and boys' cotton suit-type coats increased 25 percent between 1972 and 1985, reaching 392 thousand dozen. During this same period, U.S. production peaked at 489 thousand dozen in 1976, fell to its lowest level, averaging 122 thousand dozen during 1981-1983, and then increased, reaching its 1972 level of 170 thousand dozen in 1984 and 1985. Most of the increase in the latter years resulted from a consumer shift to natural fibers. Imports grew by 55 percent from 1972 to 1985. The U.S. producers' share of the market declined form 54 percent in 1972 to 43 percent in 1985.

Even though there has been some recovery in men's and boys' cotton suit-type production in 1984-1985, U.S. production of total men's and boys' suit-type coats, those of man-made fiber, cotton, and wool, has been on the decline. Total men's and boys' suit-type coat production dropped to 1,555 thousand dozen in 1985, its lowest level in recent history, save 1980-1981 when production averaged 1,522 thousand dozen. The 1985 production level is 25 percent below

[1] The limit has not been adjusted to account for any imports exported after October 29, 1986.

the 1972 level and 6 percent below the 1984 level.

All evidence indicates that the men's and boys' suit-type coat industry will fare no better in 1986. Government cuttings data show production of men's and boys' man-made fiber, cotton, and wool suit-type coat down five percent in 1986 compared to the previous year. Through the first eight months of 1986, production worker employment in the men's and boys' suit and coat industry dropped six percent compared to the same period in 1985. Also, during this same period, manhours worked dropped four percent.

U.S. Imports and Import Penetration

Between 1972 and 1985 imports of Category 333 grew from 143 thousand dozen to 222 thousand dozen, a 55 percent increase. This surge of imports is continuing into 1986. Category 333 imports are up 46 percent in the first eight months of 1986. The ratio of imports to domestic production has increased from 84 percent in 1972 to 131 percent in 1985.

Duty-Paid Value and U.S. Producer Price

Approximately 80 percent of Category 333 imports from Japan during the first eight months of 1986 entered under TSUSA number 381.4820—men's and boys' cotton woven suit-type coats, not ornamented, corduroy. These garments entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable garments.

Japan—Market Statement

Category 448—Women's, Girls' and Infants' Wool Trousers, Slacks, and Shorts

October 1986.

Summary and Conclusions

U.S. imports of Category 448 from Japan were 32,541 dozen during the year ending August 1986, 14 percent above the 28,529 dozen imported during the same period a year earlier. During the first eight months of 1986, imports from Japan were 15,110 dozen compared to 14,015 dozen imported during the same period of 1985. Japan is the fourth largest supplier of Category 448 imports during the year ending August 1986, accounting for seven percent of total imports.

The U.S. market for Category 448 has been disrupted by imports and Japan is contributing to this disruption.

U.S. Production and Import Penetration

U.S. production of women's, girls' and infants' wool trousers, slacks and shorts has declined by 23 percent from 826 thousand dozen in 1983 to 638 thousand dozen in 1985. The U.S. producers' share of this market fell from 82 percent in 1983 to 60 percent in 1985.

U.S. Imports and Import Penetration

U.S. imports of Category 448 more than doubled from 183 thousand dozen in 1983 to 418 thousand dozen in 1985. Imports continue to grow in 1986. Category 448 imports are up eight percent in the first eight months of 1986. The ratio of imports to domestic production increased from 22 percent in 1983 to 66 percent in 1985.

Duty Paid Value and U.S. Producers' Price

Approximately 98 percent of Category 448 imports from Japan during the first eight months of 1986 entered under TSUSA No. 384.7556—women's, girls' and infants' wool slacks, not knit, not ornamented. These slacks entered the U.S. at duty paid landed values below the U.S. producers' prices for comparable slacks.

[FR Doc. 86-27632 Filed 12-8-86; 8:45 am]

BILLING CODE 3510-DR-M

COPYRIGHT ROYALTY TRIBUNAL

[CRT Docket No. 87-1-85JD]

Declaration of Controversy and Partial Distribution of Jukebox Royalty Fees

In accordance with 17 U.S.C. 116(c)(3), the Copyright Royalty Tribunal (Tribunal) declares the existence of a controversy, effective December 10, 1986, concerning the distribution of royalty fees paid for 1985 performances of certain musical works by means of coin-operated phonorecord players (jukeboxes).

The Tribunal has been informed by ASCAP, BMI, and SESAC, Inc. (A/B/S) that they have joined in a voluntary agreement conerning the distribution of 1985 jukebox fees, and together they claim they are entitled to 100% of the fund. the Tribunal has also been informed that ACEMLA and Italian Book Company (IBC) have joined in a voluntary agreement, and together they claim they are entitled to 12% of the fund.

Motion to Strike. A motion was filed by A/B/S to strike IBC's justification of claim to 1985 jukebox royalties and to deny their participation in the 1985 jukebox distribution proceeding. The basis for A/B/S' motion is that on October 30, 1986, IBC informed the Tribunal that it has reached a settlement with ACEMLA and that it has therefore withdrawn its claim to 1985 jukebox royalties. Subsequent to that letter, IBC filed a justification of claim with ACEMLA. A/B/S argues that the withdrawal was unequivocal, and IBC may not now re-enter the proceeding.

IBC replied to A/B/S' motion on November 20, 1986 stating that the October 30 letter should be modified to indicate that while IBC would not participate in the proceeding individually, it would participate as a joint claimant with ACEMLA. ACEMLA joined with IBC in opposing A/B/S' motion to strike. A/B/S replied to ACEMLA's and IBC's opposition stating that a claim is the essential predicate to any entitlement to the fund, and that IBC had clearly withdrawn its claim.

The Tribunal denies A/B/S' motion. The Tribunal accepts IBC's modification to its October 30 letter.

Motion for Immediate Partial Distribution. On November 5, 1986, A/B/S moved for distribution of 95% of the 1985 jukebox fund. A/B/S argues that although from the asserted claims it appears that 12% of the fund is in controversy, the Tribunal should distribute 95% of the jukebox fund, noting that the Tribunal has previously said, "the maximum claims advanced by claimants (do) not determine the amount in controversy for partial distribution purposes." 48 FR 54680 (December 6, 1983). ACEMLA and IBC opposed the motion, and A/B/S replied to the opposition.

The Tribunal grants A/B/S' motion and will make a distribution of 95% of the jukebox fund on December 18, 1986.[1] The Tribunal observed last year that wildly inflated claims could frustrate a partial distribution, but chose last year to retain 10% of the 1984 jukebox fund pending review of ACEMLA's claim. Now in three successive distributions, ACEMLA's allocation has been 0.15, 0.15%, and 0.06% of the fund, and IBC's stipulated award has been smaller than ACEMLA's allocations.

It is the Tribunal's judgment that given the previous records, ACEMLA's and IBC's combined claims could not reasonably be viewed to exceed 5% of the 1985 jukebox fund, absent a strong showing of changed circumstances or improved evidence. However, if there were such changed circumstances or improved evidence from 1984 to 1985, it was incumbent upon ACEMLA and IBC to show the basis of it in their justifications of claim.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1100 20th Street, NW., Washington, DC 20036 (202)653-5175.

Dated: December 4, 1986.

J. C. Argetsinger,

Chairman.

[FR Doc. 86-27662 Filed 12-8-86; 8:45 am]

BILLING CODE 1410-09-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on National Aerospace Plane (NASP)

ACTION: Notice of Advisory Committee Meetings.

[1] A/B/S has stipulated that should the Tribunal grant its motion, and should the Tribunal eventually find that it has distributed more than A/B/S' final allocation, A/B/S will return to the Tribunal the excess amount plus the interest the excess amount would have accrued had it remained in the fund.

SUMMARY: The Defense Science Board Task Force on the National Aerospace Plane (NASP) will meet in closed session on January 14–15, 1987, at The Pentagon, Arlington, 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 these meetings the Task Force will review the National Aerospace Plane (NASP) concept, technical basis, program content, and missions.

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 these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 4, 1986.

[FR Doc. 86–27581 Filed 12–8–86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Privacy Act of 1974; Systems of Records

AGENCY: Department of the Air Force (DAF), DoD.

ACTION: Notice of deletion and amendment of Air Force Systems of Records Notices.

SUMMARY: The Air Force proposes to delete 5 record system notices, and amend 34. The specific changes to the notices being amended are set forth below followed by the record system notices, as amended, published in their entirety.

EFFECTIVE DATES: The deletions are effective immediately on December 9, 1986, and the amendments shall be effective without further notice January 8, 1987, unless public comments are received which would result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, HQ USAF/DAQD(S), The Pentagon, Washington, D.C. 20330–5024, telephone: 202/694–3431; Autovon: 224–3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records inventory subject to the Privacy Act of 1974, Title 5, United States Code, Section 552a (Pub. L. 93–579; 44 Stat. 1986 *et seq.*) has been published in the **Federal Register** as follows:

FR Doc. 85–10237 (50 FR 22332) May 29, 1985 (Compilation)
FR Doc. 85–14122 (50 FR 24672) June 12, 1985
FR Doc. 85–15062 (50 FR 25737) June 21, 1985
FR Doc. 85–26775 (50 FR 46477) November 8, 1985
FR Doc. 85–29261 (50 FR 50337) December 10, 1985
FR Doc. 86–2527 (51 FR 4531) February 5, 1986
FR Doc. 86–4546 (51 FR 7317) March 3, 1986
FR Doc. 86–10044 (51 FR 16735), May 6, 1986
FR Doc. 86–11696 (51 FR 18927), May 23, 1986
FR Doc. 86–25787 (51 FR 41382) November 14, 1986
FR Doc. 86–25788 (51 FR 41402) November 14, 1986

None of the proposed changes require a report as mandated by 5 U.S.C. 552a(o).

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

December 4, 1986.

DELETIONS

F035 AFRES C

System name:

Reserve Manning Report (50 FR 22394), May 29, 1985.

Reason:

This system has been discontinued.

F035 SAC A

System name:

Navigator Background Information (50 FR 22423), May 29, 1985.

Reason:

The system has been discontinued.

F050 AFCC B

System name:

USAF Air Traffic Control (ATC) Training Program (50 FR 22444), May 29, 1985.

Reason:

This system has been discontinued.

F050 ATC C

System name:

Faculty Board Ledger (50 FR 46484), November 8, 1985.

Reason:

These records are arranged chronologically and are not subject to the Privacy Act.

F213 MPC A

System name:

Air Force Educational Assistance Loans (50 FR 22555), May 29, 1985.

Reason:

This notice duplicates system F213 AFWB A, Air Force Educational Assistance Loans (50 FR 22555), May 29, 1985.

AMENDMENTS

F030 MPC B

System name:

Indebtedness, Nonsupport, Paternity, (50 FR 22369), May 29, 1985.

Changes:

System location:

Change to, "HQ Air Force Military Personnel Center, Randolph AFB TX 78150–6001."

Categories of individuals covered by the system:

Change to, "Active duty military personnel who are the subject of complaints of indebtedness, nonsupport or inadequate support of dependents, or paternity allegations."

Categories of records in the system:

Change to, "Correspondence relating to a complaint of indebtedness, nonsupport or inadequate support of dependents, or allegations of paternity with a report of the immediate commander's final action."

Purpose(s):

Change to, "Source of background information used for historical or statistical purposes."

Safeguards:

Change to, "Immediate access is limited to Chief, Personal Assistance Section (HQ AFMPC/DPMASC2) in performance of official duties. Safeguarded by personal screening."

System manager(s) and address:

Change to, "Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB TX 78150–6001."

Notification procedure:

Change to, "Requests from individuals should be addressed to, Chief, Personal Assistance Section (HQ AFMPC/DPMASC2), Randolph AFB TX 78150–6001, stating name, SSN and date of birth."

Record access procedures:

Change to, "Assistance can be obtained by writing HQ AFMPC/DPMASC2, Randolph AFB TX 78150–6001."

F030 SAC A

System name:

Automated Command and Control Executive Support System (50 FR 22369), May 29, 1985.

Changes:

Categories of individuals covered by the system:

Add, "and the Strategic Information Systems Division (SISD)."

Purpose(s):

Add, "Used by managers outside of the Deputy Chief of Staff for Personnel to view individual records and create summary reports for personnel within SAC and SSID."

Retention and disposal:

After "SAC," add "or SISD."

System manager(s) and address:

Change to, "Chief, Executive Systems Division, (HQ SAC/SIOU), Offutt AFB NE 68113–5001."

F035 AF A

System name:

Officer Quality Force Management Records (50 FR 25741), June 21, 1985.

Changes:

System location:

Change section (2) to read, "Headquarters Air Force Communications Command (AFCC), Force Management Division (DPAFA), Directorate of Personnel Programs, Scott AFB IL 62225–6001."

Purpose(s):

In section (2), delete "Manpower and."

System manager(s) and address:

In section (2), delete "Quality," and change "MPPF" to "DPAF."

Record source categories:

Delete "Quality."

F035 AF MP C

System name:

Military Personnel Records System (50 FR 22373), May 29, 1985.

Changes:

System location:

Change "Air Force Manpower and Personnel Center" to "Headquarters, Air Force Military Personnel Center."

Categories of records in the system:

Change "Air Force Manpower and Personnel Center" to "Headquarters, Air Force Military Personnel Center (HQ AFMPC)."

Authority for maintenance of the system:

Change "AFR 35–55" to "AFR 35–44."

F035 AF MP D

System name:

Officer Effectiveness Report/Airman Performance Report Appeal Case Files (50 FR 22375), May 29, 1985.

Changes:

System location:

Change to read, "Air Force Military Personnel Center (AFMPC), Randolph AFB TX 78150–6001. Air Reserve Personnel Center (ARPC), Denver CO 80280–5000. At Consolidated Base Personnel Offices/Consolidated Reserve Personnel Offices (CBPO/CRPO). Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices."

Categories of records in the system:

Change to read, "Copy of individual application, supporting documents, indorsements by the CBPO/CRPO, correspondence reflecting the board's decision on the case, and other official records."

Purpose(s):

Change to read, "Used to answer individual inquiries concerning particular appeal, and at AFMPC/ARPC level, as a basis for consideration in preparation of Air Staff advisory opinions on OER/APR appeals."

Retention and disposal:

Change to read, "At AFMPC/ARPC, case files are maintained for three calendar years from date of last action as indicated in the file, then destroyed. At CBPOS/CRPOS, files are maintained for two calendar years from date of last action as indicated in the file, then destroyed."

System manager(s) and address:

Change to read, "Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB TX 78150–6001. Commander, Air Reserve Personnel Center, Denver CO 80280–5000."

Notification procedure:

Change to read, "Requests from individuals should be addressed to the System Manager or to the CBPO/CRPO which processed the appeal."

Contesting records procedure:

Change to read, "The Air Force rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager or the CBPO/CRPO."

Record source categories:

Change to read, "Member's application, indorsements by the CBPO/CRPO, official records and documents from other sources, and correspondence reflecting the appeal board's decision. Also, when applicable, Air Staff advisory opinions furnished the Board for correction of Military Records under the provisions of Air Force Regulation 31–3."

F035 AF MP H

System name:

Air Force Enlistment/Commissioning Records System (50 FR 22377), May 29, 1985.

Change:

System manager(s) and address:

Change to read, "Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB TX 78150–6001."

F035 AF MP J

System name:

Absentee and Deserter Information Files (50 FR 22378) May 29, 1985.

Changes:

System location:

Change "Air Force Manpower and Personnel Center" to "Air Force Military Personnel Center."

Retention and disposal:

Change address to "Air Force Military Personnel Center (AFMPC/DPMARS1)."

System manager(s) and address:

Change to "Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB TX 78150–6001."

F035 AF MP L

System name:

Unfavorable Information Files (UIFs) (50 FR 22380) May 29, 1985.

Changes:

System location:

Change "(HQ AFMPC/MPCOC)" to "(HQ AFMPC/DPMOC)."

System manager(s) and address:

Delete "Manpower and."

F035 AF MP M

System name:

Officer Promotion and Appointment (50 FR 22380), May 29, 1985.

Changes:

Categories of records in the system:

Change subparagraph (3) to read, "This card file contains a history card on each Regular Air Force Officer who was on active duty, temporary disability retired list or missing in action as of January 1973." Change subparagraph (5) to read, "The Regular Officer Promotion List. The Regular Officer Promotion List (lineal list is a historical computer-generated product maintained by AFMPC displaying the names of all active duty Air Force officers in lineal order (descending) by promotion category or permanent grade," Delete subparagraphs (6) and (7) and renumber subparagraph (8) as (6).

Storage:

Change "microfiche" to "microform."

System manager(s) and address:

Delete "Manpower and."

F035 AFCC A

System name:

Scope Leader Program (50 FR 22390), May 29, 1985.

Changes:

Categories of records in the system:

Delete "Individuals currently serving as commanders in positions designated as 'tough jobs,' and."

F035 AFCC B

System name:

Management Control System (MCS) (50 FR 25741), June 21, 1985.

Changes:

System location:

Change "1st Information Support Group" to "7 Communications Group," and "1st ISG/XMI" to "7 CG/KS."

Categories of records in the system:

Delete last sentence.

F035 AFRES B

System name:

Recruiter Automated Program (RAP) (50 FR 22394), May 29, 1985.

Changes:

System name:

Change to "Recruiter Automated Management System (RAMS)."

System location:

Insert at beginning, "All Reserve Recruiting. locations, AF Reserve numbered Air Forces and."

Categories of records in the system:

Add "Resumes and other data elements to record name, date of birth, service dates, assignment status, grade, salary, promotion and step increase dates, occupational series, AFSC, skill level, position title, educational level, professional/scientific status, special training awards, publications, handicap, minority and sex codes."

Purpose(s):

Change to read, "Provides data concerning the professional qualifications for selection and utilization of personnel, for position management and to perform certain scientific and technical research efforts in program support. To furnish leads to field recruiters from various advertising campaigns and other sources. To track leads to ensure follow-up by recruiters. To provide recruiters with management tools to follow-up on recruiting programs. To determine which sources of leads produce the greatest number of accessions. To provide a system by which resource areas may be mechanized and managed more efficiently. Used to prepare requests for enlistment data trends. Records are also used for statistical compilations and to ensure quality review of recruiting workflow/products."

Storage:

Add, "and in paper form."

Retention and disposal:

Change to read, "Enlistment processing records are retained until no longer needed for recruiting purposes; recruiter records are retained for one year after individual is removed from recruiter production status. These retentions are built into the computer system program with automatic software controlled deletions from the machine-readable record. Recruiter information is retained in computer file or in office file until reassignment or separation when it is destroyed."

F035 ATC I

System name:

Status of Ineffective Recruiter (50 FR 22405), May 29, 1985.

Change:

Retention and disposal:

Change to read, "Retained in office files for one year after annual cut-off, then destroyed."

F035 MP C

System name:

Personnel Action File (Digest File) (50 FR 46481), November 8, 1985.

Changes:

System location:

Change "Manpower and" to "Military."

System manger(s) and address:

Change first three lines to read, "Promotion Division (HQ AFMPC/DPMAJ), Randolph AFB TX 78150–6001 for active duty officers."

Notification procedure:

Change "Quality Enhancement Division to "Promotion Division."

F035 MPC B

System name:

Civilian/Military Service Review Board Card (50 FR 22410), May 29, 1985.

Changes:

System name:

Change to, "Civilian/Military Review Board."

System location:

Change to, "Air Force Military Personnel Center, Randolph AF TX 78150–6001."

Categories of records in the system:

Change "cards" to "case files."

System manager(s) and address:

Change to, "Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB TX 78150–6001."

F035 MPC E

System name:

Disability/Non-disability Retirement Records (50 FR. 22411), May 29, 1985.

Changes:

System location:

Change to, "Air Force Military Personnel Center, Randolph AFB TX 78150–6001."

Categories of records in the system:

Change to, "Copies of medical histories, Secretarial determinations, retirement forms, routine correspondence files, case files, disability retain folders, and Punch Card Transcripts."

Retention and disposal:

Change to: "Correspondence file are retained for two years after end of year case was closed or inquiry responded to;

disability retain files are retained for 90 days after case is finalized; case histories are retired to Master Personnel Record Group when service and/or disability retirement action has been completed; Punch Card Transcripts are destroyed when member is entered into computer system."

System manager(s) and address:

Change to, "Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB TX 78150–6001."

Record source categories:

Change to, "Correspondence and forms generated in Retirements Branch (HQ AFMPC/DPMARR), military hospitals, HQ USAF Surgeon General (HQ USAF/SG), HQ AFMPC Surgeon (SG), Consolidated Base Personnel Offices and Major Air Commands, by members themselves, and by the general public on retirement-related matters."

F035 MPC R

System name:

Air Force Personnel Test 851, Test Answer Cards (50 FR 22425), May 29, 1985.

Changes:

System name:

Change "Cards" to "Sheets."

Purpose(s):

Change first sentence to "Used by Air Force Military Personnel Center/Airman Promotion Branch (AFMPC/DPMAJW) to score tests."

Retrievability:

Change to "Filed by Electronic Scanner Index Number (cross-referenced to SSN)."

F035 MPC U

System name:

Separation Case Files (Officer and Airman) (50 FR 22421), May 29, 1985.

Changes:

System location:

Change "Manpower and" to "Military." Add "–6001" after "78150." After "63132," add "–5000, Air Reserve Personnel Center, Denver CO 80280–5000."

Categories of individuals covered by the system:

Delete "under 10 U.S.C. 617(b) (including Reserve officers as a matter of Air Force policy."

Categories of records in the system:

Delete, "or documents pertaining to actions authorized by 10 U.S.C. 617(b)."

Authority for maintenance of the system:

In line 1, after "Separations" add "10 U.S.C. Chapter 36, Promotion, Separation and Involuntary Retirement of Officer on the Active-Duty List, Chapter 60, Separation of Regular Officers for Substandard Performance of Duty or for Certain Other Reasons," and delete 10 U.S.C. 617(b), Reports of Selection Boards." Change "as implemented by Air Force Regulation 36–2, Administrative Discharge Procedures (Unfitness, Unacceptable Conduct, or in the Interest of National Security); 36–3, Administrative Discharge Procedures (For Substandard Performance of Duty)" to "as implemented by Air Force Regulation 36–2, Administrative Discharge Procedures (For Substandard Performance of Duty, Misconduct, Moral or Professional Dereliction, or in the Interest of National Security)." Delete "and Warrant Officers of the Air Force."

Retrievability:

Delete "initiated under the provisions of 10 U.S.C. 617(b)."

System manager(s) and address:

Add "–6001" after "78150" and delete "Manpower and."

Record source categories:

Change "pertaining to actions provided for in 10 U.S.C. 617(b) to ", and involuntary separation programs."

F035 SAC B

System name:

Officer Involuntary Administrative Separation File (50 FR 22424), May 29, 1985.

Changes:

Categories of individuals covered by the system:

Delete "or AFR 36–3."

Authority for maintenance of the system:

In line 8, delete all after "Procedures" and add "(For Substandard Performance of Duty, Misconduct, Moral or Professional Dereliction or in The Interest of National Security) and AFR 36–12, Administrative Separation of Commissioned Officers."

Retention and disposal:

Change to "Records are retained in the office files for 90 days after the effective date of the officer's discharge, or if the officer is not discharged, for one year after the cut-off date."

F045 MPC A

System name:

Educational Delay Board Findings (50 FR 22438), May 29, 1985.

Changes:

System location:

Change to read, "Air Force Military Personnel Center, Randolph AFB TX 78150–6001."

System manager(s) and address:

Change to read, "Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB TX 78150–6001."

F050 AFCC A

System name:

USAF Air Traffic Control (ATC) Certification and Withdrawal Documentation (50 FR 22443), May 29, 1985.

Changes:

System name:

Change "Documentation" to "Records."

Authority for maintenance of the system:

Change "50–20, USAF Air Traffic Control Certification and Rating" to "60–5, Flying, Air Traffic Control."

System manager(s) and address:

Change to "Air Traffic Services Division (DOOF), HQ AFCC, Scotte AFB IL 62225–6001.

F050 AFCC C

System name:

Individual Academic Training Records (50 FR 46483), November 8, 1985.

Changes:

System location:

After "1815" add "Operational," after "AFCC Radar Evaluation School" add "1954 RADES," and change "Engineering Installation Center" to "Engineering Installation Division."

System manager(s) and address:

After "1815" add "Operational," after "AFCC Radar Evaluation School" add "1954 RADES," and change "Engineering Installation Center" to "Engineering Installation Division."

F050 AFCC D

System name:

Student Record (50 FR 22445), May 29, 1985.

Changes:

System location:

Add "Interservice Frequency Management School, and AFCC Wideband Maintenance 5-level Academy, 1872 School Squadron."

Categories of individuals covered by the system:

Add "TAC, USAFE, and PACAF; active duty officers and enlisted personnel of the US Army, Navy, Marine Corps, Coast Guard and DOD civilian personnel."

Categories of records in the system:

Add "volume review exercise (VRE) and end of course test (EOCT) results."

Purpose:

After "NCO Leaderships School," add "Interservice Radio Frequency Management School; and AFCC Wideband Maintenance 5-Level Academy."

System manager(s) and address:

Add "Director of Education, Interservice Radio Frequency Management School; and Superintendent, AFCC Wideband Maintenance 5-Level Academy; 1872 SCHS."

F050 ATC H

System name:

Student Record of Training (50 FR 22450), May 29, 1985.

Changes:

System location:

Change to read, "All Technical Training Centers (ATC); Air Force Military Training Center and Officer Training School at Lackland AFB TX 78236; and the Washington National Records Center, Washington DC 20409. Official mailing addressed are in the Department of Defense directory in the appendix to the Air Force's systems notices."

Categories of records in the system:

Delete "reading proficiency training."

Authority for maintenance of the system:

Change last three lines to read, "and Air Training Command Regulation 52–26, Student Scheduling and Administration."

Retrievability:

Change to read, "Filed by name."

Retention and disposal:

Change to read, "Records of individual training created before FY 1982 were retired to the Washington National Records Canter for 28 years retention, and will then be destroyed. Those created beginning with FY 1982 are destroyed 2 years after information is entered into Pipeline Management System (PMS). Records collateral to individual training records are destroyed 3 months after class/course completion or when required information is posted to the individual training records, or when no longer needed, whichever is later. Basic Military Training (BMT) and Officer Training School (OTS) collateral training records are destroyed 6 months after completion of training, except records of OTS distinguished graduates are destroyed 1 year after class completion."

System manager(s) and address:

Change to read, "Deputy Chief of Staff for Technical Training, Standards and Evaluation Directorate, Randolph AFB TX. The Registrar: 3330 TCHTW, Chanute AFB IL; 3480 TCHTW, Goodfellow AFB TX; 3300 TCHTW, Kessler AFB MS; 3250 TCHTW, BMTS, USAF, and OTS, USAF, Lackland AFB TX; 3400 TCHTW, Lowry AFB CO; and 3700 TCHTW and SHCS, USAF, Sheppard AFB TX. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices."

Notification procedure:

Change to read, "Contact the Registrar at the ATC Air Force base where the training was conducted: 3330 TCHTW, Chanute AFB IL; 3480 TCHTW, Goodfellow AFB TX; 3300 TCHTW, Kessler AFB MS; 3250 TCHTW, BMTS, USAF, and OTS, USAF, Lackland AFB TX; 3400 TCHTW, Lowry AFB CO; and 3700 TCHTW and SHCS, USAF, Sheppard AFB TX. Full name, Social Security Number, Course Number or Title and Dates of Attendance are required. Official mailing addresses are in the appendix to the Air Force's systems notices."

Record access procedures:

Change to read, "Individual can obtain assistance in gaining access from the System Manager."

F050 ATC J

System name:

Branch Level Training Management System (BLTMS) (50 FR 50337), December 10, 1985.

Change:

Retention and Disposal:

Change to read, "(1) Student Records of Training are destroyed two years after information is entered into the Pipeline Management System which is part of PDS. (2) Graduate Evaluation Master File records are destroyed when superseded, obsolete, or no longer needed, whichever is sooner."

F050 SAC A

System name:

ADP Training Management System (50 FR 22455), May 29, 1985.

Changes:

System location:

Change to "Headquarters Strategic Air Command, Deputy Chief of Staff, Information Systems (HQ SAC/SI), Offutt AFB NE 68113–5001."

Purpose(s):

Change "HQ SAC/AD" to "HQ SAC/SI."

Retention and disposal:

Change "HQ SAC/AD" to "HQ SAC/SI."

System manager(s) and address:

Change to "Deputy Chief of Staff, Information Systems, Training Division, Headquarters Strategic Air Command (HQ SAC/SIRT), Offutt AFB NE 68113–5001."

Notification procedure:

Change to "Deputy Chief of Staff, Information Systems (HQ SAC/SIRT), Offutt AFB NE 68113–5001. Requests to determine existence of record should include full name, grade and whether currently assigned to HQ SAC/SI."

Record access procedures:

Change "ADXRT" to "SIRT."

F100 AFCC A

System name:

Military Affiliate Radio System (MARS) Member Records (50 FR 22477), May 29, 1985.

Changes:

Authority for maintenance of the system:

Change "100–15" to "700–17."

Storage:

Delete "aperture cards" and add "computer diskettes."

System manager(s) and address:

Delete "Plans and Readiness" and substitute "(DOOC)."

F168 AF SG A

System name:

Automated Medical/Dental Records System (50 FR 25746), June 21, 1985.

Change:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add, "Information from the inpatient medical records of retirees and dependents may be disclosed to third-party payers in accordance with 10 U.S.C. 1095 as amended by Pub. L. 99–272, for the purpose of collecting reasonable inpatient hospital care costs incurred on behalf of retirees or dependents."

F168 AF SG C

System name:

Medical Records System (50 FR 22515), May 29, 1985.

Change:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add, "Information from the inpatient medical records of retirees and dependents may be disclosed to third party payers in accordance with 10 U.S.C. 1095 as amended by Pub. L. 99–272, for the purpose of collecting reasonable inpatient hospital care costs incurred on behalf of retirees or dependents."

F176 AF MP C

System name:

Morale, Welfare, and Recreation (MWR) Participation/Membership/ Training Records (50 FR 22521), May 29, 1985.

Changes:

System location:

Change "Manpower and" to "Military," and add "–6001" to ZIP code.

System manager(s) and address:

Change to read, "Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB TX 78150–6001."

F176 AFCC A

System name:

Individual Earning Data (50 FR 22523), May 29, 1985.

Changes:

System location:

Delete "Manpower and," and change "Personnel Services" to "Morale, Welfare and Recreation."

System manager(s) and address:

Change "Personnel Services" to "Morale, Welfare and Recreation," and delete "Manpower and."

F178 AFCC A

System name:

Center Automated Manpower and Update System (CAMPUS) (50 FR 22542), May 29, 1985.

Changes:

System location:

Change to read, "Standard System Center (SSC), Gunter AFS AL 36114–6343."

System manager(s) and address:

Change to read, "Commander, Standard System Center, Gunter AFS AL 36114–6343."

Change all references in the notice from "AFDSC" to "SSC."

Records source categories:

Change "PCAS" to "CAMPUS."

F213 AFWB A

System name:

Air Force Educational Assistance Loans (50 FR 22555), May 29, 1985.

Changes:

System location:

Change "Manpower and" to "Military."

System manager(s) and address:

Change "Chairman" to "Executive Secretary."

F900 AF MP A

System name:

Military Decorations (50 FR 22559), May 29, 1985.

Changes:

System location:

Change to, "Director of Personnel Programs Management, Headquarters Air Force Military Personnel Center, Randolph AFB TX 78150–6001."

System manager(s) and address:

Change to, "Assistant Chief of Staff/ Personnel for Military Personnel, Randolph AFB TX 78150–6001."

F030 MPC B

SYSTEM NAME:

030 MPC B—Indebtedness, Nonsupport, Paternity.

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph AFB TX 78150–6001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel who are the subject of complaints of indebtedness, nonsupport or inadequate support, or paternity allegations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondance relating to a complaint of indebtedness, nonsupport or inadequate support of dependents, or allegations of paternity with a report of the immediate commander's final action regarding same.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force:

Powers and duties; delegation by: Air Force Regulation 35–18, Financial Responsibility.

PURPOSE(S):

Source of background information used for historical and statistical purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Immediate access limited to Chief, Personnel Assistance Section (HQ AFMPC/DPMASC2) in performance of official duties. Safeguarded by personal screening. By persons who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained for two years after end of year in which the case was closed, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Personnel for Military Personnel Randolph Air Force Base, TX 78150–6001.

NOTIFICATION PROCEDURE:

Assistance can be obtained by writing Chief, Personal Assistance Section (HQ AFMPC/DPMASC2), Randolph AFB TX 78150–6001 stating name, SSN and date of birth.

RECORD ACCESS PROCEDURES:

Assistance can be obtained by writing HQ AFMPC/DPMASC2, Randolph AFB TX 78150–6001.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individuals, private concerns, and government agencies with interests pursuant to subject records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 SAC A

SYSTEM NAME:

030 SAC A—Automated Command and Control Executive Support System.

SYSTEM LOCATION:

Headquarters Strategic Air Command (SAC), Executive Systems Program Management Office (ADUC), Offutt Air Force Base, NE 68113–5001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel of all services, civilian employees, and contractor personnel assigned to SAC and the Strategic Information Systems Division (SISD) after September 1, 1984.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data extracted from the Personnel Data System (F030 AF MP A) plus 100 characters of locally generated information. Record includes name, grade, SSN, unit of assignment, security clearance, supervisor's name, duty title, office telephone, home address and telephone number, dependents, education and training, specialty or job qualification, performance/effectiveness reports, awards/decorations, promotions, duty assignment history and similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force:

Powers and duties; delegation by.

PURPOSE(S):

Used by HQ SAC for locating and administering assigned personnel. Used by managers outside of the Deputy Chief of Staff for Personnel to view individual records and create summary reports for personnel within SAC and SSID.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Record from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on computer and computer output products, and on microfiche.

RETRIEVABILITY:

By Social Security Number or name.

SAFEGUARDS:

Records are accessed by the custodian of the system and by persons servicing the records who are properly cleared for need-to-know. Records are protected by computer software and the system is operated in a secure area.

RETENTION AND DISPOSAL:

Computer record is retained until individual is no longer assigned to or attached to SAC. Records will be destroyed not later than 2 years after last entry.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Executive Systems Division (HQ SAC/SIOU), Offutt AFB NE 68113–5001.

NOTIFICATION PROCEDURE:

Requests from individuals should be sent to the System Manager. Full name, military or civilian status, grade and SSN are needed to determine if the system contains a record. Visitors must provide identification such as a military ID card, driving license, or some information contained in the record.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager:

CONTESTING RECORDS PROCEDURES:

Contesting records procedure: The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation (AFR) 12–35.

RECORD SOURCE CATEGORIES:

Information obtained from the Air Force Personnel Data System, personnel records or the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

F035 AF A

SYSTEM NAME:

Officer Quality Force Management Records.

SYSTEM LOCATION:

(1) Headquarters Strategic Air Command (SAC), Quality Force Management Division, Directorate of Personnel Programs (DPAA), Offutt AFB NE 68113. (2) Headquarters Air Force Communications Command (AFCC), Force Management Division (DPAFA), Directorate of Personnel Programs, Scott AFB IL 62225–6001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty officers assigned or attached to (1) SAC or (2) AFCC whose performance, conduct, or alleged misconduct, may, or has resulted in initiation of administrative action(s).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to substandard performance, unacceptable conduct or unfitness, and status and dates of pending or completed administrative actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force:

Powers and duties; delegation by; and 8074, Commands; territorial organization.

PURPOSE(S):

To provide information to (1) Commander in Chief SAC or (2) Deputy Chief of Staff for Personnel (AFCC) and staff members as appropriate who make decisions on officers' qualifications for continuation on active duty, or further consideration for promotion. Used to evaluate and monitor status of actions on subjects.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Maintained in computer and computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by the custodian of the record system and by persons responsible for servicing the records in performance of their official duties who are properly screened and cleared for need-to-know. Records and computer software are stored in locked cabinets in locked rooms in buildings protected by guards.

RETENTION AND DISPOSAL:

Retained until superseded, obsolete, or no longer needed for reference, whichever is sooner. Files will be destroyed not later than 2 years from last entry.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Chief, Quality Force Management Division, Directorate of Personnel Programs (HQ SAC/DPAA), Offutt AFB, NE 68113. (2) Chief, Force Management Division, Directorate of Personnel Programs (HQ AFCC/DPAF), Scott AFB IL 62225–6001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Full name, military status, grade and SSN are required to determine if the system contains records on an individual. Visitors must provide proof of identity such as a military ID card, valid drivers license, or some item of information which can be verified from the records. The authority for soliciting the SSN is the same as the authority listed for operating the system. Disclosure of the SSN, which will only be used to retrieve records from the system, is voluntary. Failure to disclose the SSN will make it difficult to insure accurate retrievals of information.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations may be obtained from the System Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents, the individual concerned, member's commander, /Quality Force Management Division (SAC)/Force Management Division (AFCC), Consolidated Base Personnel Offices, and the office of the Judge Advocate General for each command.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP C

SYSTEM NAME:

035 AF MP C—Military Personnel Records System.

SYSTEM LOCATION:

Headquarters United States Air Force, Washington, DC 20330. Air Force Military Personnel Center, Randolph AFB TX 78150–6001. Air Reserve Personnel Center, Denver, CO 80280. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Headquarters of the major commands and separate operating agencies. At consolidated base personnel offices and other installation units. At State Adjutant General Office of each respective State, District of Columbia or Commonwealth of Puerto Rico. At Air Force Reserve and Air National Guard units. Official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's Systems Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer Correspondence and Miscellaneous Document Group (C&M) at Air Force Military Personnel Center (AFMPC); Headquarters United States Air Force (HQ USAF) Selection Record Group (SR) at HQ USAF Assistant for General Officer Matters; Retired Air Force general officers. Master Personnel Record Group (MPeRGp) at AFMPC; active duty colonels at HQ USAF, Assistant for Senior Officer Management. C&M at AFMPC Air Force active duty officer personnel. MPeRGp at AFMPC Officer Command Selection Record Group (OCSR) at the respective major command or separate operating agency. Field Record Group (FRGp) at the respective Air Force base of assignment/servicing Consolidated Base Personnel Office (CBPO); Air Force active duty enlisted personnel. MPeRGp at AFMPC, FRGp at respective servicing CBPO, Senior Noncommissioned Officer (NCO) Selection Folder at the respective servicing CBPO; personnel in Temporary Disability Retired List (TDRL) status, Missing in Action (MIA), Prisoner of War (POW), Dropped From Rolls (DFR), MPeRGp at AFMPC; Reserve officers MPeRGp at Air Reserve Personnel Center (ARPC), OCSR at the respective Air Force (AF) major command (MAJCOM) when applicable, FRGp at the respective unit of assignment or servicing CBPO or Consolidated Reserve Personnel Office (CRPO); Reserve airmen MPeRGp at ARPC, FRGp at the respective unit of assignment or servicing CBPO/CRPO; Air National Guard (ANGUS) officers MPeRGp at ARPC, OCSR at the respective State Adjutant General Office, FRGp at the respective unit of assignment, ANGUS airmen MPerGp at the respective State Adjutant General Office FRGp at the respective unit of assignment; Retired Air Force military personnel; Discharged personnel MPerGp at National Personnel Records Center (NPRC); Air Force Academy cadets MPerGp at unit of assignment CBPO. System contains substantiating documentation such as forms, certificates, administrative orders and correspondence pertaining to appointment as a commissioned officer, warrant officer, Regular AF, AF Reserve or ANGUS; enlistment/reenlistment/extension of enlistment; assignment Permanent Change of Station (PCS)/Temporary Duty (TDY); promotion/demotion; identification card requests; casualty; duty status changes—Absent Without Leave (AWOL)/MIA/POW/Missing/Deserter; military test administration/results; service dates; separation; discharge; retirement; security; training, Precision Measurement Equipment (PME), On-The-Job Training (OJT), Technical, General Military Training (GMT), commissioning, driver; academic education; performance/effectiveness reports; records corrections—formal/informal; medical or dental treatment/examination; flying/rated status administration; extended active duty; emergency data; line of duty determinations; human/personnel reliability; career counseling; records transmittal; AF reserve administration; Air National Guard administration; board proceedings; personnel history statements; Veterans Administration compensations; disciplinary actions; record extracts; locator information; personal clothing/equipment items; passport; classification; grade data; Career Reserve applications/cancellations; traffic safety; Unit Military Training; travel voucher for

TDY to Republic of Vietnam; dependent data; professional achievements; Geneva Convention cards; drug abuse; Federal Insurance; travel and duty restrictions; Conscientious Objector status; decorations and awards; badges; Favorable Communications (colonels only); Inter-Service transfers; pay and allowances; combat duty; leave; photographs; Personnel Data System products.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by; implemented by Air Force Regulation 35–44, Military Personnel Records System.

PURPOSE(S):

Military Personnel Records are used at all levels of Air Force personnel management within the agency for actions/processes related to procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, sustentation, separation and retirement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. Compensation claims submitted to Veterans Administration Regional Offices; dependents and survivors requesting issuance or determination of eligibility for identification card privileges; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) eligibility and benefits requests—copies are provided to CHAMPUS, Denver, CO; Immigration and Naturalization—copies are provided to respective local Immigration Office; Unemployment Compensation Requests—verification of service related information provided to State Unemployment Compensation (UCX) Office; Vietnam State Bonus—information provided to respective local State offices; Civil Service requests for verification of military service for benefits; leave or Reduction in Force (RIF) purposes—Worldwide locator inquiries; Dual compensation cases involving former officers—provided to establish Civil Service employee tenure and leave accrual rate; Social Security Retirement Credit Verification—verification of service data provided to substantiate applicant's credit for Social Security compensation; Soldiers and Sailors Civil Relief Act requests—verification of service—Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces, information as to last known residential or home address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonered check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual the United States Government will be liable for the losses the facility may incur. Information is provided to the US Department of Agriculture for investigative and audit procedures Separation information provided to the Veteran's Administration and Selective Service Agencies. American National Red Cross—information to local Red Cross offices for emergency assistance to military members, dependents, relatives or other persons if conditions are compelling. Department of Labor, Bureau of Employees' compensation—medical information for claims of civilian employees formerly in military services; Employment and Training Administration—verification of service-related information for unemployment compensation claims; Labor Management Services Administration for investigations of possible violations of labor laws and pre-employment investigations; National Research Council—for medical research purposes; U.S. Soldiers' and Airman's Home—service information to determine eligibility; used by Veterans Administration for research.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, placed in metal file containers or on open shelves. Microfiche placed in rotary power files; computer disk resident data file consists of Social Security Number (SSN) and disk location of the associated image record which includes document data describing document type, date, location, and number of pages in each document.

RETRIEVABILITY:

Information in the system is retrieved by last name, first name, middle initial and Social Security Number (SSN). Records stored at National Personnel Records Center Center are retrieved by registry number, last name, first name, middle initial and SSN.

SAFEGUARDS:

The prescribing directive for the Military Personnel Records System requires those records to be stored (after duty hours) in a locked building, room or filing cabinets. Access is specifically limited to those personnel designated by the Consolidated Base Personnel Office (CBPO) Chief and those provisions for access and release of information contained in Air Force Regulation 12–35 and 31–4.

RETENTION AND DISPOSAL:

Users who are granted access to the microfiche files are screened by computer software. Those documents designated as Temporary in the prescribing directive remain in the records until their obsolescence (superseded, member terminates status, or retires) when they are removed and provided to the individual data subject. Those documents designated as Permanent remain in the military personnel records system permanently and are retired with the master personnel record group.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB TX 78150–6001.

NOTIFICATION PROCEDURE:

The individual data subject may be notified that a record exists on him by submitting a request to or appearing in person at the responsible official's office or the respective repository for records for personnel in particular category during normal duty hours any day except Saturday, Sunday or national and local holidays. The Saturday and Sunday exception does not apply to Reserve and National Guard units during periods of training. Response to written requests will be provided not later than ten days following receipt of request. The System Manager has the right to waive these requirements for personnel located in areas designated as Hostile Fire Pay areas.

RECORD ACCESS PROCEDURES:

The same written notification or personal visit procedures which apply to notification also apply to access.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Sources of information contained in the system include data subject's applications, requests, personal history statements, supervisors' evaluations, correspondence generated within the agency in the conduct of official business, medical treatment records, educational institutions, civil authorities, other service departments, and interface with the Personnel Data System.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP D

SYSTEM NAME:

035 AF MP D—Officer Effectiveness Report/Airman Performance Report Appeal Case Files.

SYSTEM LOCATION:

Air Force Military Personnel Center (AFMPC), Randolph AFB TX 78150. Air Reserve Personnel Center (ARPC), Denver, CO 80280–5000. At Consolidated Base Personnel Offices/Consolidated Reserve Personnel Offices (CBPOs/CRPOs). Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former officers and airmen of the regular Air Force, the Air Force Reserve and the Air National Guard who appeal for correction of records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copy of individual application, supporting documents, indorsements by the CBPO/CRPO, correspondence reflecting the board's decision on the case, and other official records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by; implemented by Air Force Regulation 31–11, Correction of Officer and Airman Evaluation Reports.

PURPOSE(S):

To answer individual inquiries concerning a particular appeal and, at the AFMPC/ARPC level, as a basis for consideration in preparation of Air Staff advisory opinions on OER/APR appeals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

At AFMPC/ARPC, case files are maintained for three calendar years from date of last action as indicated in the file, then destroyed. At CBPOS/CRPOS, files are maintained for two calendar years from date of last action as indicated in the file, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB TX 78150–6001. Commander, Air Reserve Personnel Center, Denver, CO 80280–5000.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager or to the CBPO/CRPO which processed the appeal.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager or any holder of a copy of the individual appeal.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager or the CBPO/CRPO.

RECORD SOURCE CATEGORIES:

Member's application, indorsements by CBPO/CRPO, official records and documents from other sources, and correspondence reflecting the appeal board's decision. Also, when applicable, Air Staff advisory opinions furnished the Board for Correction of Military Records (BCMR) under the provisions of Air Force Regulation 31–3.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

F035 AF MP H

SYSTEM NAME:

035 AF MP H—Air Force Enlistment/Commissioning Records System.

SYSTEM LOCATION:

At recruiting offices and Military Entrance Processing Stations (MEPS), Liaison Noncommissioned Officer (NCO) offices in all States.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for enlistment or commissioning programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application, personal interview record (PIR) and supporting documents containing name, Social Security Number, finger prints, historical background, education, medical history, physical status, employment, religious preferences (optional), marital and dependency status, linguistic abilities, aptitude test results, parental consent for minors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 31, Enlistments; implemented by Air Force Regulation 33–3, Enlistment in the United States Air Force.

PURPOSE(S):

Information is collected by recruiters to determine enlistment/commissioning eligibility, and process qualified applicants. Personnel managers use as hard copy documentation of data entered in Personnel Data Systems (PDS). Personnel managers also use certain documents to determine classification and assignment actions after enlistment. All documents are source documents in determining benefits/entitlements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Files of applicants not enlisted are retained in the local recruiting office and destroyed after two years. Records of enlistees that are not forwarded to Master and Unit Personnel Records files are destroyed after two years, by tearing into pieces, burning, shredding, macerating or pulping.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Personnel for Military Personnel, Randolph AFB TX 78150–6001.

NOTIFICATION PROCEDURE:

Individuals may contact agency officials at respective recruiting office locations.

RECORD ACCESS PROCEDURES:

Same procedure as notification above.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual provides through written application or personal interview.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP J

SYSTEM NAME:

035 AF MP J—Absentee and Deserter Information Files.

SYSTEM LOCATION:

Absentee and deserter documents are maintained in the Unit Personnel Record Group at consolidated base personnel offices. Deserter information files are maintained at major commands of the parent unit of assignment. Official mailing addresses for consolidated base personnel offices and major commands are in the Department of Defense directory in the appendix to the Air Force's systems notices. Case files are maintained at the Air Force Military Personnel Center, Randolph AFB TX 78150–6001. Permanently retained documents are located at the National Personnel Records Center, Military Personnel Branch, 9700 Page Boulevard, St. Louis, MO 63132 and the Air Reserve Personnel Center, Denver, CO 80280.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty and inactive duty Air Force personnel who are or have been reported absent without leave or who have been administratively classified as a deserter.

CATEGORIES OF RECORDS IN THE SYSTEM:

Duty status change forms; Absentee Wanted by the Armed Forces forms; copy of unit commander's initial and follow-on Report of Inquiry. Includes information concerning circumstances surrounding the unauthorized absence and attempts to locate the individual; copy of notification letter to next of kin stating that member is considered in an administrative status of an unauthorized absentee or deserter; Federal Bureau of Investigation (FBI) and Office of Special Investigations (OSI) reports or extracts therefrom are included in some case files; correspondence administratively classifying the individual as a deserter, if appropriate; Report of Return of Absentee Wanted by the Armed Forces forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 47, Uniform Code of Military Justice, Sections 885, Desertion, 886, Absence without leave and 887, Missing movement; implemented by Air Force Regulation 35–73, Desertion and Unauthorized Absence.

PURPOSE(S):

Provides documentation and reference source for the administration of individuals administratively classified as deserters. Used as basis for preparing statistical reports required by DOD, managers of unauthorized absentee programs, e.g., Major Commanders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. Changes in individual's status are reported to military, federal and civil law enforcement agencies to facilitate apprehension.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed alphabetically by last name.

SAFEGUARDS:

Records are accessed by the custodian of the record system, and by persons responsible for servicing the records system in the performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in file cabinets in buildings that are either locked or have controlled access entry requirements.

RETENTION AND DISPOSAL:

Documents originated at base level are maintained in the Military Personnel Records System. Major command files are maintained as temporary general correspondence files and destroyed by shredding one year after the calendar year in which the member returned to military control. Case files maintained at the Air Force Military Personnel Center (AFMPC/MPCAKP) are destroyed six months after the member is returned to military control; however, if additional accountable disclosures are made during that six month period the files are transferred to the Military Personnel Records System and retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Personnel for Military Personnel, Randolph AFB TX 78150–6001.

NOTIFICATION PROCEDURE:

During the period of unauthorized absence, no procedures exist for notifying individuals that a Deserter file is maintained on them unless address provided by requester. Subsequent to the member's return to military control individuals can contact the System Manager or visit the locations identified above. Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Contact the System Manager or visit the locations identified above.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Unit Commanders, Consolidated Base Personnel Office representatives, military and civilian law enforcement officials, and anyone who may report information concerning an absentee wanted by the Armed Forces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP L

SYSTEM NAME:

035 AF MP L—Unfavorable Information Files (UIFs).

SYSTEM LOCATION:

Complete UIF files are maintained at Consolidated Base Personnel Offices (CBPOs) only. However, UIF summary sheets, a part of the UIF, are also maintained at: Individual's unit of assignment (commander's copy), geographically separated units not colocated with a servicing CBPO, and for officers only at the major command of assignment; and for colonels or colonel selectees only an additional copy is maintained at Headquarters, United States Air Force Military Personnel Center (HQ AFMPC/DPMOC), Randolph Air Force Base, TX 78150–6001. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel who are the subject of UIFs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Derogatory correspondence determined as mandatory for file or as appropriate for file by an individual's commander. Examples include: Written admonitions or reprimands, drug abuse correspondence, court-martial orders, letters of indebtedness, control roster correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by; as implemented by Air Force Regulation 35–32, Unfavorable Information Files, Control Rosters, Administrative Reprimands and Admonitions.

PURPOSE(S):

Reviewed by commanders and personnel officials to assure appropriate assignment, promotion and reenlistment considerations are made prior to effecting such actions. UIFs also provide information necessary to support administrative separation when further rehabilitation efforts would not be considered effective.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

UIFs are maintained for one year from the date of the most recent correspondence except when the file contains Article 15, Court-Martial or certain civil court conviction, correspondence in which case the retention period is for two years from the date of that correspondence, unless a year retention period for non-related Article 15/court-martial correspondence would post-date the two year retention period for the Article 15/court-martial correspondence, in which case all correspondence would be maintained a year from the most recent non-related Article 15/court-martial correspondence. Files are automatically destroyed upon separation, or retirement and on an individual basis when the individual's commander so determines. Destroy by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB, TX 78150–6001.

NOTIFICATION PROCEDURE:

Personnel for whom optional UIFs exist are routinely notified of the existence of a file. In all cases personnel have had opportunity or are authorized to rebut the correspondence in the file.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager or agency officials at the servicing Consolidated Base Personnel Office.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Supervisory reports or censures and documented records of poor performance or conduct.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP M

SYSTEM NAME:

035 AF MP M—Officer Promotion and Appointment.

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150–6001 and headquarters of the major commands and separate operating agencies. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Officers selected/nonselected for active duty promotion or appointment; officers projected as eligible for promotion or appointment consideration.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records is comprised of the following categories of information or subsystems: (1) Officer Selection Brief File. This file contains information extracted from the mechanized USAF Master Personnel File to include basic personnel, flying, and education data for each officer to be considered by a selection board for promotion or Regular Air Force appointment. The preselection brief is provided to each eligible officer in advance of presentation to the selection board. An updated selection brief is produced about 30 days prior to board convening for actual board use. Copies of selection briefs are retained on microfilm. Additionally, a record copy of documentation accepted for manual posting of updates/corrections to the officer selection brief processed for board consideration is retained. (2) Officer Promotions and Appointments Administrative Files. At the Air Force Military Personnel Center (AFMPC), this file includes copies of staff advisories provided to Secretary of the Air Force Board for Correction of Military Records containing promotion and appointment

related information in response to specific points in an application. At AFMPC, this file includes background information and proposed responses to Congressional and high-level inquiries in the officer promotions and appointments area. This file further includes, at all levels, information and background relative to any propriety of promotion or appointment action (not qualified recommendation, removal action, delaying action, etc.) processed. This file further includes listings of officers eligible for promotion or appointment consideration. (3) Regular Officer History Card File. This card file contains a history card on each Regular Air Force Officer who was on active duty, temporary disabled retired list or missing in action as of January 1973. It contains Name, Social Security Number (SSN), Promotion List Service Date (10 U.S.C. 8287), Adjusted Promotion List Service Date (PLSD) (10 U.S.C. 8303 or any other provision if applicable), Source of Commission, Date of Regular Air Force Acceptance, Date of Birth, Promotion Category (Line, Medical Corps, etc.) (10 U.S.C. 8296), Base Retirement Date (10 U.S.C. 8927), permanent grade history, temporary grade history to include dates of rank, effective dates and special orders announcing the promotion, Total Active Federal Commissioned Service Date, date officer was placed on or recalled from the Temporary Disability Retired List (if applicable), Regular Air Force Lineal Position Number, Presidential Nomination Date, Total Active Federal Service as of date of Presidential nomination, any commissioned service held prior to Regular Air Force appointment (if applicable), former service numbers if member of other than the Air Force, Public Law under which officer was appointed in the Air Force, Remarks (Secretary of the Air Force Board for the Correction of Military Records correction to records, any adjustments to officer's record and reasons therefor). (4) Air Force Confirmed Nomination Lists. This file includes all Senate confirmed nomination lists for officer appointments and promotions through the grade of colonel. This file contains the only existing official signed document reflecting Senate confirmation. (5) Regular Air Force Officer Promotion List The Regular Officer Promotion List (Lineal List) is a historical computer-generated product maintained at AFMPC displaying the names of all active duty Regular Air Force officers in lineal order (descending) by promotion category by permanent grade. (6) Regular Air Force Appointment Management File. This file includes individual locator cards reflecting a Regular officer selectee's progress from selection by a board of officers to either acceptance or declination; Regular Air Force declination statements; Regular Appointment Board work rosters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapters 35 and 837, Appointments as Reserve Officers. Chapter 835, Appointments in the Regular Air Force, Chapter 839, Temporary Appointments, 37 U.S.C. Chapter 3, Basic Pay and Allowances of the Uniformed Services. 10 U.S.C. Chapter 79, Correction of Military Records, Section 628, Pub. L. 96–513, the Defense Officer Personnel Management Act, December 12, 1980; as implemented by Air Force Regulation 36–89, Promotion of Active Duty List Officers.

PURPOSE(S):

The Air Force operates basically a central selection process for an active duty promotion, of officers to grades 03–06 and all Regular Air Force appointments. As part of the active duty promotion program, major commanders are tasked to conduct below-the-promotion zone screening boards to nominate a given number of officers from their command for central consideration. Selection briefs are retained as a historical record of data presented to an officer selection board and, as such are used to validate completeness, accuracy, or omission of data reviewed by boards. Administrative files are used for research, precedence, and reference purposes. Promotion/appointment propriety files are used to monitor completeness, legality, and processing timeliness of the actions. Generally, this records system contains necessary information necessary to manage a diverse promotion and appointment program in a centralized environment. Board results to include names of selectees and statistical analysis of those results are made a matter of public record after appropriate approval of board proceedings. Results of the board are updated to the individual subject record in the Personnel Data System (PDS) after public release of the board proceedings. Benchmark records are five records of officers from the lowest score category selected by each board and five records of officers from the highest score category not selected by each board captured on microfilm. For boards held prior to October 20, 1975, the benchmark records will consist of only the record of five officers from the lowest score category selected by the board. Benchmark records are used as directed by the Assistant Secretary to the DCS/Personnel for Special Review Board considerations and for Special Selection Boards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. The names and Social Security Number (SSN) of officers selected by central selection board for an active duty promotion, to grades above captain, and Regular Air Force Appointment as well as officers to receive appointments in the Air Force requiring confirmation of such appointments by the Senate of the United States, are provided to the Office of the President of the United States for nomination and to the United States Senate for confirmation. This information will be published in the Congressional Record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, card files, on computer paper printouts and microform.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and in locked cabinets or rooms. Records are protected by guards and records are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph Air Force Base, TX 78150–6001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

All data contained on the Officer Selection and Preselection Briefs and various selection board computer products is directly extracted from the Headquarters Air Force Master Personnel File. Selection brief documentation backup files in the form of official correspondence, letters, or messages, properly authenticated by an appropriate personnel official, is generated, normally at the officer's request from the servicing Consolidated Base Personnel Office (CBPO). Information is obtained from HQ USAF and major command officer selection folders from Special Orders, oath of office signed by data subject, memorandums from the Secretary of the Air Force Board for Correction of Military Records, selection board reports. Data is obtained from appointment applications from data subject and from the Master Record Group of the applicable Service Department as concerns data subject.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AFCC A

SYSTEM NAME:

035 AFCC A—Scope Leader Program.

SYSTEM LOCATION:

At Headquarters Air Force Communications Command (AFCC/DPRO), Scott AFB, IL 62225–6001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel, officer grade, assigned to Air Force Communications Command (AFCC).

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel selected as potential candidates for "tough job" and commander positions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by; and Air Force Communications Command Regulation 500–16.

PURPOSE(S):

Used to monitor the assignment and replacement of unit Commanders in Air Force Communications Command (AFCC).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Retrievability based on presence of commander identification code. Computerized.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms and computer system requiring user codes and passwords for access.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, burning or degaussing. Also destroyed by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Assignments, Deputy Chief of Staff Personnel, Headquarters, AFCC, Scott AFB, IL 62225–6001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager and include full name, rank and Social Security Number.

RECORD ACCESS PROCEDURES:

Record access can be obtained only through the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for contesting contents and appealing initial determinations by the individual concerned are in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AFCC B

SYSTEM NAME:

035 AFCC B—Management Control System (MCS).

SYSTEM LOCATION:

7 Communications Group, Directorate of Management Support (7CG/XMI), Pentagon, Washington, DC 20330–6345. Command and Control Systems Office, Chief of Administration (CCSO/DA), Tinker AFB, OK 73145.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel and civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Locator type files including the individual's name, home address, home phone, etc. and records relating to the office the individual is assigned to, their authorized and assigned grade, duty title, duty AFSC, position number, date they were assigned to this organization, date they will depart, control tour code, assignment availability date, overseas tour start date, short tour return date; who their supervisor is, date supervision began, type of performance report, date of last report and date of next report. Also contains training information for military and civilian personnel assigned to 1st 1SG and CCSO consisting of course completions by date and educational level, his immediate supervisor's duty phone.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

The MCS system was established as a management tool to provide commanders and office managers with information concerning their overall manpower picture to aid them in scheduling workload requirements in support of their organization's assigned mission. This system also acts as a Central Locator File and also allows a variety of manpower reports to be produced.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. Locator information is provided for official business or with individual consent.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Filed by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

MCS Administrator, Directorate of Management Support, 7CG, Pentagon, Washington, DC 20330-6345. Chief of Administration, Command and Control Systems Office, Tinker AFB, OK 73145.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individual or personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AFRES B

SYSTEM NAME:

035 AFRES B—Recruiters Automated Management System (RAMS)

SYSTEM LOCATION:

All Reserve Recruiting locations, AF Reserve numbered Air Forces and HQ Air Force Reserve, Robins AFB, GA 31098

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former officers and enlisted personnel from all branches of the services making application for assignment to the Air Force Reserve; nonprior service personnel making application for the Air Force Reserve; and Air Force personnel on Reserve recruiting duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records for high school seniors who are ASVAB tested and meet the basic Air Force Reserve enlistment criteria showing name, mailing address, test scores, and location of high school. Enlistment processing records for prior service Air Force and other military services, and nonprior service personnel, showing name, SSN, mailing address, ZIP Code, educational level, processing date, lead source code, and other personal data such as date of birth, sex, phone number, number of years of prior service, MOS or AFSC held, duty AFSC, and date of enlistment. Resumes and other data elements to record name, date of birth, service dates, assignment status, grade, salary, promotion and step increase dates, occupational series, AFSC, skill level, position title, educational level, professional/scientific status, special training awards, publications, handicap, minority and sex codes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by, and 10 U.S.C. 503, Enlistments: recruiting campaigns.

PURPOSE(S):

Provides data concerning the professional qualifications for selection and utilization of personnel, for position management and to perform certain scientific and technical research efforts in program support. To furnish leads to field recruiters from various advertising campaigns and other sources. To track leads to ensure follow-up by recruiters. To provide recruiters with management tools to follow-up on recruiting programs. To determine which sources of leads produce the greatest number of accessions. To provide a system by which resources areas may be mechanized and managed more efficiently used to prepare requests for enlistments data trends. Records are also used for statistical compilations to ensure quality review of recruiting workflow/products.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer and computer output products, and in paper form.

RETRIEVABILITY:

Filed by name or SSN.

SAFEGUARDS:

Records are accessed through computer run scheduling arrangements by persons responsible for servicing the system in performance of their official duties. Computer paper printouts are distributed only to authorized users. Records are physically safeguarded by controlled access to the computer facility, secured buildings, and locked rooms.

RETENTION AND DISPOSAL:

Enlistment processing records are retained until no longer needed for recruiting purposes; recruiter records are retained for one year after individual is removed from recruiter production status. These retentions are built into the computer system program with automatic software controlled deletions from the machine-readable record. Recruiter information is retained in computer file or office file until reassignment or separation when it is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

HQ AFRES/RS, Robins AFB, GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Requests must contain full name and current mailing address.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is obtained from military and civilian personnel records, and managers and supervisors of individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 ATC I

SYSTEM NAME:

035 ATC I—Status of Ineffective Recruiter

SYSTEM LOCATION:

Headquarters Air Training Command (ATC) Deputy Chief of Staff for Personnel (DCS/P), Randolph Air Force Base, TX 78150. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty ATC enlisted recruiter personnel relieved from duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual military record containing active case data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: recruiting campaigns, and Air Training Command Regulation 33–2, Recruiting Procedures for the United States Air Force (Recruiting Service).

PURPOSE(S):

DCS/P uses data to monitor relief actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Stored in locked building.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

DCS/P, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MP C

SYSTEM NAME:

035 MP C—Personnel Action File (Officer Digest File).

SYSTEM LOCATION:

Headquarters Air Force Military Personnel Center, Randolph AFB TX 78150–6001 for active duty officers. Headquarters Air Reserve Personnel Center, Denver CO 80280–5000 for nonactive duty USAFR officers, and Headquarters Air Force Reserve, Robins AFB GA 31098–6001 for non-Extended Active Duty (EAD) unit assigned USAFR officers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty officer personnel and USAFR officers who are the subject of a Digest File.

CATEGORIES OF RECORDS IN THE SYSTEM:

Composed largely of summaries/extracts or notices of the Air Force Office of Special Investigations (AFOSI) Reports of Investigation (ROIs). The system may also contain other official records or documents which reflect relevant derogatory information about officers, e.g., notice of involuntary separation proceedings, notice of Special Security File, reports of AWOL/Desertion status, administrative inquiries and investigations, Inspector General (IG) reports, and reports of violations of public trust in contract, procurement, and other matters. Additionally, a file will contain a statement regarding the subject matter from the officer if one is made, plus any comments and recommendations by the member's commander and intermediate commanders. A Digest File will contain copies of documentation used to notify the individual and a Decision Authority's decision to retain the file. The system of records also includes letters of notification when digest files are destroyed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by, and Air Force Regulation 36–25, Officer Digest Files.

PURPOSE(S):

Digest Files are reviewed by career management officials and Central Selection Boards at HQ USAF, HQ AFMPC, HQ ARPC or HQ AFRES, as appropriate, to insure the propriety of personnel decisions finalized at those levels regarding promotion, assignment, mobilization, recall to extended active duty, selection, utilization and separation. The purpose of such review is to insure that individual career management decisions enhance the quality of professionalism in the Air Force.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper form.

RETRIEVABILITY:

Filed alphabetically by name or numerically by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by persons responsible for servicing the record system and by other personnel whose names appear on an authorized access list indicating they have a need to know in the performance of their official duties. Records are stored in locked cabinets.

RETENTION AND DISPOSAL:

Files are destroyed 2 years from date established, or 2 years from date new derogatory information is added. Decision authority may destroy active digest files sooner than the specified retention. Active files are destroyed when member separates, retires

(including placement on the Temporary Disability Retired List (TDRL)), or dies, except files on officers who separate and are transferred to AFRES are forwarded to HQ ARPC/DPAAS. Digest Files may be destroyed following receipt of nonjudicial punishment under Article 15, UCMJ, or conviction by court-martial, if either action is based upon the same incident(s) which caused the creation of a Digest File and a copy of the Article 15 or court-martial order are filed in the Officer Selection Record (OSR), maintained at HQ AFMPC.

SYSTEM MANAGER(S) AND ADDRESS:

Promotion Division (HQ AFMPC/DPMAJ), Randolph AFB TX 78150–6001 for active duty officers. HQ ARPC, Denver CO 80280–5001 for nonactive duty USAFR officers, and HQ AFRES, Robins AFB GA 31098–6001 for non-EAD unit assigned USAFR officers.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests should contain the member's full name, rank, and SSN. Information may also be obtained by personal visit with the appropriate System Manager on normal workdays. Requests from individuals should be addressed to the Promotion Division (AFMPC/DPMAJ), Randolph AFB TX 78150–6001 for active duty officers or the Command Records Manager (HQ ARPC/DAD), Denver CO 80280–5000 for nonactive duty USAFR officers. Nonactive duty USAFR officers should also include current address and the case (control) number shown on any correspondence received from the Center. Information may be obtained by active duty officers by personal visit with the System Manager upon verification of the identification data required for written requests. Nonactive duty USAFR officers may review records in Record Receptionist's Review Room HQ ARPC, Denver CO 80280, between 8:00 a.m. and 3:00 p.m. on normal workdays. For personal visits, the individual should provide current Reserve ID cards and/or drivers license and present some verbal information that could verify their identity from their record.

RECORD ACCESS PROCEDURES:

Individuals can obtain access to their own Digest Files by following the procedures described above.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager or by reviewing AFR 36–25.

RECORD SOURCE CATEGORIES:

Digest File information is obtained from AFOSI, Commanders, Consolidated Base Personnel Offices, MAJCOMs, and from official records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC B

SYSTEM NAME:

035 MPC B—Civilian/Military Service Review Board

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150–6001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Women's Air Force Service Pilots (a group of Federal Civilian employees attached to the United States Army Air Force during World War II), or any person in any other similarly situated group the members of which rendered service to the Armed Forces of the United States in a capacity considered civilian employment or contractual service (or their survivors) as recognized under provisions of Pub. L. 95–202.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case Files containing individual's name and Social Security Number, date of application and summary of the case through final decision by the Service Review Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95–202, Women's Air Forces Service Pilots; as implemented by Air Force Regulation 30–45, Determination of Active Military Service and Discharge for Civilian or Contractual Personnel.

PURPOSE(S):

Case files are used by Service Review Board personnel to manage the collection of information requested by the applicant, to monitor the processing of each case through completion, and to respond to inquiries concerning the case.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Stored in secure building.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph Air Force Base, TX 78150–6001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Members' applications, supporting documents and certificates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC E

SYSTEM NAME:

035 MPC E Disability/Non-disability Retirements Records.

SYSTEM LOCATION:

At Air Force Military Personnel Center, Randolph Air Force Base, TX 78150–6001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and airmen processed through the disability system and on the Temporary Disability Retired List (TDRL); airmen and officers, active and retired, who inquire or who are the subject of an inquiry concerning

disability/non-disability retirement status; and officers and airmen who have requested voluntary retirement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of medical histories, Secretarial determinations, retirement forms, routine correspondence files, case files, disability retain folders, and punch card transcripts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 36, Mandatory Retirement of Officers; Chapter 59, Separation; Chapter 61, Retirement or Separation for Physical Disability; Chapter 63, Retirement for Age; Chapter 867, Retirement for Length of Service; as implemented by Air Force Regulation 35–4, Physical Evaluation for Retention, Retirement and Separation, and 35–7, Service Retirements.

PURPOSE(S):

To provide information on retirement cases and to allow appropriate case processing.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Stored in secure building.

RETENTION AND DISPOSAL:

Correspondence files are retained for two years after end of year case was closed or inquiry responded to; disability retain files are retained for 90 days after case is finalized; case files are retired to Master Personnel Records Group when service and/or disability retirement action has been completed; punch card transcripts are destroyed when member is entered into computer system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph Air Force Base, TX 78150–6001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Correspondence and forms generated in Retirements Branch (HQ AFMPC/DPMARR), military hospitals, HQ USAF Surgeon General (HQ USAF/SG), HQ AFMPC Surgeon (SG), Consolidated Base Personnel Offices and Major Air Commands, by the members themselves, and by the general public on retirement-related matters.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC R

SYSTEM NAME:

035 MPC R—Air Force Personnel Test 851, Test Answer Sheets.

SYSTEM LOCATION:

Air Force Military personnel Center, Randolph AFB TX 78150–6001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty airmen in grades E–4 through E–8. Air Force Reserve and Air National Guard airmen in grade E–7.

CATEGORIES OF RECORDS IN THE SYSTEM:

Answers for Specialty Knowledge Tests (SKT), Promotion Fitness Examinations (PFE) and United States Air Force Supervisory Examinations (USAFSE).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force:

Powers and duties; delegation by; as implemented by Air Force Regulation 35–8, Air Force Military Personnel Testing System, Chapters 14, 15, and 16.

PURPOSE(S):

Used by Air Force Military Personnel Center/Airman Promotion Branch (AFMPC/DPMAJW) to score tests. The percent correct score on the SKT, PFE, and USAFSE, are weighted factors in the the Weighted Airman Promotion System (WAPS) to advance airmen (E–4 to E–8) to the next higher enlisted grade. The percentile score on the 9-level upgrade exam is used as an eligibility criterion for promotion to grade E–8 and award of the superintendent (9) Air Force Specialty Code (AFSC) skill level, for ANG and AFRES.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by Electronic Scanner Index Number (cross-referenced to Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in vaults.

RETENTION AND DISPOSAL:

Maintained for 12 months following completion of promotion cycle for which member was tested, then destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel, Randolph AFB TX.

NOTIFICATION PROCEDURE:

See Exemption.

RECORD ACCESS PROCEDURES:

See Exemption.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

See Exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a (k)(6). For additional

information, contact the System Manager.

F035 MPC U

SYSTEM NAME:

035 MPC U—Separation Case Files (Officer and Airman) System 1ocation:

Air Force Military Personnel Center, Randolph AFB TX 78150–6001. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132–5000. Air Reserve Personnel Center, Denver CO 80280–5000. Duplicate copies may be retained temporarily at each level requiring review or action on the case.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and airmen who have requested voluntary separation, who have been recommended or identified for involuntary separation under 10 U.S.C. 617(b) (including Reserve officers as a matter of Air Force Policy). Individuals who, under Pub. L. 95–202, Sec 401, have requested review of service performed with the Army Air Force or U.S. Air Force to determine if such service was equivalent to "active duty" for purposes of laws administered by the Veteran's Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Member's application, letter from commander initiating separation action with indorsements, supporting documents, and record of final action taken. If congressional inquiry involved, request for information and reply provided is also filed by those offices involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 59, Separations, 10 U.S.C. Chapter 36, Promotion, Separation and Involuntary Retirement of Officer on the Active-Duty List, Chapter 60, Separation of Regular Officers for Substandard Performance of Duty or for Certain Other Reasons, and 38 U.S.C., Veteran's Benefits; as implemented by Air Force Regulation 36–2, Administrative Discharge Procedures (For Sub-standard Performance of Duty, Misconduct, Moral or Professional Dereliction, or in the Interest of National Security); 36–12, Administrative Separation of Commissioned Officers; and 39–10, Administrative Separation of Airmen.

PURPOSE(S):

The original document is retained as a permanent record of action taken. The duplicate copies are retained to provide a temporary record of actions being taken for responding to inquiries concerning the status of a particular case. Occasionally, a case file is retained as a precedence file for later reference in revising separation directives.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. Individual case files may also be released to a governmental body or agency or health care professional society or organization if such record is needed to perform licensing or professional standards monitoring related to credentialed health care practitioners or licensed, noncredentialed health care personnel who are or were formerly members of the Armed Forces. Case files may also be released to medical institutions or organizations wherein such member has applied for or been granted authority or employment to provide health care services if such record is needed to assess the professional qualifications of such member.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name. At National Personnel Records Center. Cases and correspondence are filed with Master Personnel Records. Transitory copies are filed alphabetically by general subject categories, i.e., involuntary officer separations, involuntary airman separations, etc.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. File cabinets and power files are secured during nonduty hours.

RETENTION AND DISPOSAL:

Master copies are retained permanently. Temporary files are disposed of within three years after final action is taken. Files are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph AFB TX 78150–6001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Member's application, correspondence from unit commander's initiating separation action. Systems exempted from certain provisions of the act:

None.

F035 SAC B

SYSTEM NAME:

035 SAC B—Officer Involuntary Administrative Separation File.

SYSTEM LOCATION:

Headquarters Strategic Air Command (SAC), Deputy Chief of Staff, Personnel, Quality Control Branch (DAPP)), Offutt AFB NE 68113–5001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present Air Force active duty officers assigned to the Strategic Air Command who have Air Force Regulation (AFR) 36–2 action pending or are resigning in lieu of court-martial.

CATEGORIES OF RECORDS IN THE SYSTEM:

SAC officers involuntary administrative separation discharge case file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 859, Separation from Regular Air Force for Substandard Performance of Duty; and Chapter 860, Separation from Regular Air Force for Moral or Professional Dereliction or in the Interest of National Security; AFR 36–2, Administrative Discharge Procedures (For Substandard Performance of Duty, Misconduct, Moral or Professional Dereliction or in the Interest of National Security) and AFR 36–12, Administrative Separation of Commissioned Officers.

PURPOSE(S):

The users are Strategic Air Command commander and his staff who exercise decision authority in the processing and

determination of the officer involuntary separation actions. HQ SAC personnel use these files to process administrative discharge cases of officers assigned to Strategic Air Command.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual; maintained in paper files.

RETRIEVABILITY:

Filed by name and type of pending discharge action.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly identified and cleared for need-to-know. Records are stored in locked cabinets in a locked room.

RETENTION AND DISPOSAL:

Records are retained in the office files for 90 days after the effective date of the officer's discharge, or if the officer is not discharged, for one year after the cutoff date.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Quality Force Management Division, DCS/Personnel, HQ SAC/DPAA, Offutt AFB NE 68113-5001.

NOTIFICATION PROCEDURE:

Request from individuals for records should be addressed to the Chief, Quality Force Management Division, DCS/Personnel, HQ SAC/DPAA, Offutt AFB NE 68113-5001. Specific information required to determine if there are records of the individual in the system must include the member's full name, military status, and grade, SSN, or service number. Visiting personnel must show positive proof of identity by providing a military ID card, a valid state driver's license, and two nationally recognized means of identification.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. The mailing address is in the Department of Defense Directory in the appendix to the Air Force systems notice.

CONTESTING RECORDS PROCEDURES:

The Air Force rules for contesting contents and for appealing initial determination are found in the Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from automated systems interfaces; Source documents (such as reports) prepared on behalf of the Air Force by boards, committees, and individuals; the member's commanders' Chief, Quality Force Management; consolidated Base Personnel Office; and the SAC Staff Judge Advocate office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F045 MPC A

SYSTEM NAME:

045 MPC A—Educational Delay Board Findings.

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150-6001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve Officers' Training Corps (AFROTC) Cadets and/or AFROTC graduates (officers).

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for delay in entering extended active duty status to pursue advanced degrees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2108, Advanced standing; interruption of training; delay in starting obligated service; release from program, and 50 Appendix 456, Deferments and exemptions from training and service, as implemented by Air Force Regulation 33-3, Enlistment in the United States Air Force.

PURPOSE(S):

Used to inform applicants of results of Board action on their request for delay.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Disapproved applications are destroyed after 6 months; approved applications are destroyed on completion of delay.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph Air Force Base, TX 78150-6001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Member's application.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 AFCC A

SYSTEM NAME:

050 AFCC A—USAF Air Traffic Control (ATC) Certification and Withdrawal Documentation.

SYSTEM LOCATION:

Headquarters of major commands and at all levels down to and including Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel, and Air Force Reserve and Air National Guard personnel assigned ATC duties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on individuals by name and Social Security Number (SSN), Air Traffic Control Certificate Numbers (ATCS) military status (active duty,

reserve, or air guard), requested action (issue, reissue, or cancellation of certificate), and justification. Contains documentation compiled by requesting unit to justify withdrawal of the ATCS. Includes evaluation by medical authorities; Staff Judge Advocate (legal); Office of Special Investigation results; serious incident reports; and statements by supervisory personnel, co-workers and the individual. Contains copies of officer effectiveness/airman performance (OER/APR) reports and unfavorable information files. Includes headquarters staff evaluation and all files maintained by the system user. Computer reports pertaining to withdrawal of ATCS, Certificates, master roster of ATCS certificate members and Air Traffic Control experience level report.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by, as implemented by Air Force Communications Command Regulation (AFCCR) 60–5, Flying, Air Traffic Control.

PURPOSE(S):

Documentation used to evaluate request for withdrawal of ATCS certification. Permits immediate access to name, SSN, certificate number, date of issuance, and category of service. A master alphanumeric roster is maintained at Headquarters AFCC/DOOF and the units maintain certificate information in the individual's on-the-job training record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders note books/binders and on computer paper printouts and microfiche.

RETRIEVABILITY:

Filed by name or Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. Records are controlled by computer system software.

RETENTION AND DISPOSAL:

Individual withdrawal microfiche case files are kept for 6 years after end of the year in which case closed. Official withdrawal book, long, and computer printouts by name and SSN will be kept for 20 years. Other computer reports are superseded monthly. Files are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Retained for one year after end of year in which the case was closed, transferred to a staging area for one additional year, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Traffic Services Division (DOOF), HQ AFCC, Scott AFB IL 62225–6001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports, and from medical institutions, trade associations, police and investigating officers, state and local governments, and witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 AFCC C

SYSTEM NAME:

050 AFCC C—Individual Academic Training Record.

SYSTEM LOCATION:

AFCC System Evaluation School, 1815 Operational Test and Evaluation Squadron (AFCC), Wright-Paterson AFB, OH 45433–6346; AFCC Radar Evaluation School, 1954 RADES, Hill AFB, UT 84056–6348; AFCC Engineer Installation Academy, Engineering Installation Division, Tinker AFB, OK 73145–6343; Engineering Installation organizations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military, Air Force Reserve, Air National Guard, Army National Guard, and Department of Defense civilian personnel, and others who apply for this training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel index; absentee report; class pre-graduation/graduation roster; attendance record; student questionnaires, individual academic standing; record of individual training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

To record emergency data and course completion information, and to report student absences to the school commandant.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folder and card files, and on computer and computer output products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the records system and by person(s) responsible for servicing the records system in performance of official duties. Stored in file cabinet. Automated records are controlled by computer system software.

RETENTION AND DISPOSAL:

Retained for ten years after individual completes or discontinues training course. Records of individual training at EI organizations are retained until individual no longer performs EI duties, then are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant, AFCC Systems Evaluation School, 1815 Operational Test and Evaluation Squadron, Wright-Paterson AFB, OH 45433–6346; Commandant AFCC Radar Evaluation School, 1954 RADES, Hill AFB, UT 84056; Commandant, AFCC EI Academy,

Engineering Installation Division, Tinker AFB, OK 73145–6343.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Information from individuals and instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 AFCC D

SYSTEM NAME:

050 AFCC D—Student Record.

SYSTEM LOCATION:

AFCC NCO Professional Military Education Center, Interservice Radio Frequency Management School, and AFCC Wideband Maintenance 5-Level Academy, 1872 School Squadron, Air Force Communications Command (AFCC), Keesler Air Force Base, MS 39534.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Duty Air Force enlisted personnel and Air National Guard personnel assigned to AFCC, TAC, USAFE, and PACAF; active duty officers and enlisted personnel of the US Army, Navy, Marine Corps, Coast Guard and DOD civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student record including individual's academic standing; student evaluation; reading laboratory progress record; record of individual counseling; student roster; volume review exercise (VRE) and end of course test (EOCT) results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by; and Air Force Regulation 50–39/AFCC Supplement 1.

PURPOSE(S):

Record of student's attendance at AFCC Academy or NCO Leadership School; Interservice Radio Frequency Management School; and AFCC Wideband Maintenance 5-Level Academy. Used to record vital information on each student including examination grades, class standing, and completion of or elimination from course. Serves as locator card. Used to provide data for statistical reports submitted to higher headquarters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in files folders.

RETRIEVABILITY:

Filed by student name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

After the end of the year in which the individual completes or discontinues a training course, the record is transferred to a staging area for nine additional years, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, Academic Services, AFCC NCO Professional Military Education Center; Director of Education, Interservice Radio Frequency Management School; and Superintendent, AFCC Wideband Maintenance 5-Level Academy; 1872 SCHS, Keesler Air Force Base, MS 39534.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions and Chief Training and Education Division Directorate of Personnel Programs, Deputy Chief of Staff for Personnel, Headquarters AFCC.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATC H

SYSTEM NAME:

050 ATC H—Student Record of Training.

SYSTEM LOCATION:

All Technical Training Centers of Air Training Command (ATC); Air Force Military Training Center and Officer Training School at Lackland AFB, TX 78236; and the Washington National Records Center, Washington, DC 20409. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel and civilian employees, Air Force Reserve and Air National Guard personnel, foreign nationals, and retired Air Force military personnel who have attended a training course conducted by an ATC activity. Employees of Air Force contractors receiving training at USAF schools.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of individual training and education, subjects studied, hours, final grades, and graduation data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by; and Air Training Command Regulation 52–26, Student Scheduling and Administration.

PURPOSE(S):

Record individual attendance, achievement and special training progress, and evaluate student's potential for commissioning and need for remedial teaching. Used by the Community College of the Air Force to grant college credits for successful completion of the course.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by the custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets and rooms.

RETENTION AND DISPOSAL:

Record of individual training created before FY 81982 were retired after 2 years to the Washington National Records Center for 28 years retention, and will then be destroyed. Those created beginning with FY 1982 are destroyed 2 years after information is entered into Pipeline Management System (PMS). Records collateral to individual training records are destroyed 3 months after class/course completion or when required information is posted to the individual training record, or when no longer needed, whichever is later. Basic Military Training (BMT) and Officer Training School (OTS) collateral training records are destroyed 6 months after completion of training, except records of OTS distinguished graduates are destroyed 1 year after class completion.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Technical Training, Standards and Evaluation Directorate, Randolph AFB, TX. The Registrar, 3330 TCHTW, Chanute AFB, IL; 3480 TCHTW, Goodfellow AFB, TX; 3300 TCHTW, Keesler AFB, MS; 3250 TCHTW, BMTS, USAF, and OTS, USAF, Lackland AFB, TX; 3400 TCHTW, Lowry AFB, CO; and 3700 TCHTW and SHCS, USAF, Sheppard AFB, TX. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

NOTIFICATION PROCEDURE:

Contact the Registrar at the ATC Air Force base where the training was conducted: 3330 TCHTW, Chanute AFB, IL; 3480 TCHTW, Goodfellow AFB, TX; 3300 TCHTW, Keesler AFB, MS; 3250 TCHTW, BMTS, USAF, and OTS, USAF, Lackland AFB, TX; 3400 TCHTW, Lowry AFB, CO; and 3700 TCHTW and SHCS, USAF, Sheppard AFB, TX. Full Name, Social Security Number, Course Number or Title and Dates of Attendance are required. For personal visits, identification card or driver's license is acceptable proof of identity. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Training Center Organizational Directory; Enlistment Records; Basic Military Training Records; Score from Nelson Denny Reading Test; Internal Testing and Instructor/Peer Observation; and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATC J

SYSTEM NAME:

050 ATC J—Branch Level Training Management System (BLTMS).

SYSTEM LOCATION:

All Technical Training Centers of Air Training Command (ATC). Official mailing addresses are in the Air Force Address Directory, AFP 12–36, attachment 3.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel, U.S. government civilian employees, Air Force Reserve and Air National Guard personnel, foreign nationals, and retired or separated Air Force personnel who are attending or have attended a resident training course conducted at one of the Technical Training Centers within the past two years.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of individual training and education. (1) The ATC Student Records of Training consists of background and test scores. (2) The Graduate Evaluation Master File contains units of assignment or graduates and individual and supervisory responses to training effectiveness questionnaires.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by. (1) Air Training Command Regulation (ATCR) 52–3, Student Measurement; ATCR 52–26, Student Scheduling and Administration; and ATCR 35–301, Student Flow Management. (2) Air Force Regulation (AFR) 50–38, Field Evaluation of Education and Training Programs.

PURPOSE(S):

(1) To record individual attendance, achievement, and training progress. Provides the data base for producing summary reports for managing the flow of students through training and the evaluation of training adequacy. Information extracted from these records is provided to the Personnel Data System (PDS) for reporting course completion and changes to assignment availability date, and to the Community College of the Air Force (CCAF) for student's education records. (2) To perform required evaluation of the technical training received by graduates.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on computer and computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know and by those responsible for servicing the record system in the performance of their official duties. Computer records and equipment are kept in lockable offices and access to the computer records is controlled by computer software which includes userids and passwords.

RETENTION AND DISPOSAL:

(1) Student Records of Training are destroyed two years after information is entered into the Pipeline Management System which is part of PDS. (2) Graduate Evaluation Master File records are destroyed when superseded.

obsolete, or no longer needed, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Technical Training, Standards and Policy Directorate, Headquarters Air Training Command, Randolph AFB, TX 78150. (1) The System Manager for a base is the Technical Training Wing, Operations Division, Registrar Branch. (2) The System Manager for a base is the Technical Training Wing, Training Evaluation Division.

NOTIFICATION PROCEDURE:

Requests from individuals should be sent to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the local base System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Information is obtained from the Personnel Data System for Training (PDST), personnel records, training records, or the individual. (1) Tests and instructor observations. (2) Responses to training effectiveness questionnaires.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 SAC A

SYSTEM NAME:

050 SAC A—ADP Training Management System.

SYSTEM LOCATION:

Headquarters Strategic Air Command, Deputy Chief of Staff, Information Systems (HQ SAC/SI), Offutt AFB NE 68113– 5001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel currently assigned to HQ SAC/SI.

CATEGORIES OF RECORDS IN THE SYSTEM:

Training Summary Files: Records are maintained for each student listing training courses completed and scheduled. Computer Based Training (CBT) Management: For students enrolled in Computer Assisted Instructions (CAI) courses, maintains record of student progress and responses to lesson material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Used to validate prerequisites for projected training, track student progress in CAI courses, monitor enrollment processing actions, and generate statistical information on training trends within HQ SAC/SI.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, and on computer and computer output products.

RETRIEVABILITY:

By name, course, date, or organization.

SAFEGUARDS:

Records are accessed by personnel responsible for servicing the record system in performance of official duties. Students have access only to their own file by grant of specific "permissions." Hard copies of records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Retained until reassigned from HQ SAC/SI, then computer files are erased or overwritten and hard copies are destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Information Systems, Training Division, Headquarters Strategic Air Command (HQ SAC/SIRT), Offutt AFB NE 68113–5001.

NOTIFICATION PROCEDURE:

Deputy Chief of Staff, Information Systems (HQ SAC/SIRT), Offutt AFB NE 68113–5001. Requests to determine existence of record should include full name, grade and whether currently assigned to HQ SAC/SI.

RECORD ACCESS PROCEDURES:

Access to all records is controlled by HQ SAC/SIRT, Offutt AFB NE 68113–5001.

CONTESTING RECORDS PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial determination by the individuals concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from individual and graduation certificates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F100 AFCC a

SYSTEM NAME:

100 AFCC A—Military Affiliate Radio System (MARS) Member Records.

SYSTEM LOCATION:

At Headquarters Air Force Communications Command (AFCC). Subordinate headquarters, and Air Force installations. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Force systems notice. At MARS member stations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Amateur Radio Operators licensed by United States Air Force (USAF) MARS.

CATEGORIES OF RECORDS IN THE SYSTEM:

MARS Personnel Action Notification and Registration; MARS Station Questionnaire; Application for Membership in Military Affiliate Radio System. Information includes individuals name, MARS call sign, amateur call sign, mailing address, Federal Communications Commission (FCC) license class, MARS assignment, communications capability, MARS position, military status, and telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of Air Force, powers and duties; delegation by; as implemented by Air Force Regulation (AFR) 700–17, Military Affiliate Radio System.

PURPOSE(S):

To identify MARS members, to describe and update information concerning members, station capability, MARS assignment and position status, to assign call signs and designators, to specify operational parameters and constraints, mailing address, amateur license, telephone number, and responsibilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING , AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and computer diskettes.

RETRIEVABILITY:

Filed by name, by call sign or designator and geographic location.

SAFEGUARDS:

By authorized personnel in the course of their duties who are properly screened and cleared for need-to-know. Stored in file cabinets.

RETENTION AND DISPOSAL:

At HQ AFCC, retained until termination of membership or alteration of information and then destroyed by tearing to pieces, shredding, pulping, macerating or burning. At MARS stations, retained in office files until reassignment or termination of membership and then destroyed by tearing to pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Operations (DOOC), HQ AFCC, Scott AFB IL 62225–6001, and Director of Operations at all other levels.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual members and MARS officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F168 AF SG A

SYSTEM NAME:

168 AF SG A—Automated Medical/Dental Record System.

SYSTEM LOCATION:

At Air Force medical centers, hospitals and clinics, major command headquarters and separate operating agency headquarters, Air Force Data Service Center, Air Force Medical Service Center, USAF School of Aerospace Medicine, and USAF School of Health Care Sciences. Official mailing addresses are in the Department of Defense directory in the appendix of the Air Force's Systems notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who is hospitalized in, is dead on arrival at, or has received medical or dental care at an Air Force medical treatment facility. Individuals who have received medical care at other DOD or civilian medical facilities but whose records are maintained at or processed by Air Force medical facilities. Any military active duty member who is on an excused-from-duty status, on quarters, on subsistence elsewhere, on convalescent leave, meets Medical Evaluation Board (MEB) or a Physical Evaluation Board (PEB) on an outpatient basis or who is hospitalized in a non-federal hospital and for whom an Air Force medical facility has assumed administrative responsibility. Any individual who has undergone medical or dental examinations at any Air Force medical facility (or who has undergone medical examinations at other medical facilities and whose records are maintained or processed by the Air Force), e.g., preemployment examinations and food handlers examinations, or who has otherwise had medical or dental tests performed at any Air Force medical facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files consist of automated records of treatment received and medical/dental tests performed on an inpatient/outpatient basis in military medical treatment facilities and of military members treated in civilian facilities. These records may include radiographic images and reports, electrocardiographic tracings and reports, laboratory test results and reports, blood gas analysis reports, occupational health records, dental radiographic reports and records, automated cardiac catheterization data and reports, physical examination reports, patient administration and scheduling reports, pharmacy prescriptions and reports, food service reports, hearing conservation tests, cardiovascular fitness examinations and reports, reports of medical waivers granted for flight duty, and other inpatient and outpatient data and reports. They may contain information relating to medical/dental examinations and treatments, innoculations, appointment and scheduling information, and other medical and/or dental information. Subsystems of the Automated Medical/Dental Data System include: Air Force Clinical Laboratory Automation System (AFCLAS)/TRILAB I; Automated Cardiac Catheterization Laboratory System (ACCLS); Computer Assisted Practice of Cardiology (CAPOC) System; DATA STAT Pharmacy System (Formerly PROHECA); Occupational Health and Safety System; Patient Appointment and Scheduling System (PAS); Tri-Laboratory System (TRILAB); TriPharmacy System; Tri-Radiology System (TRIRAD); Health Evaluation and Risk Tabulation (HEART).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 55, Medical and Dental Care.

PURPOSE(S):

Used as a record of patient's medical/dental health, diagnosis, and treatment and disposition while authorized care. Used to help determine individual's qualification for duty, for security clearances and for assignments. Used by an individual or his legal representative for further medical care, legal purposes, or other uses such as insurance requests or compensation claims when specifically authorized by the patient. Used by physicians/dentists and other health care providers for further care of the patient, research, teaching, and legal purposes. Used by medical treatment facility staff for evaluation of staff performance in the care rendered; for preparation of statistical reports; for reporting communicable diseases and other conditions required by law to federal and state agencies. Used by Army, Navy, Veterans Administration, Public Health Service or civilian hospitals for continued medical care of the patient. Used by insurance companies, (only with the patient's written consent for release); for arbitrating insurance claims. Used by other Federal agencies such as Veterans Administration and Department of Labor (Workmen's Compensation) for adjudication of claims; for reporting communicable diseases or other conditions required by law. Used to provide input to other DOD medical records systems including the Medical Records System (F168 AF SG C), the Dental Health Records System (F162 AF SG A) and other DOD agencies (e.g., Army and Navy) when such agency is normally by the primary source or

repository of medical information about the individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. Information from the inpatient medical records of retirees and dependents may be disclosed to third-party payers in accordance with 10 U.S.C. 1095, as amended by Pub. L. 99–272, for the purpose of collecting reasonable inpatient hospital care costs incurred on behalf or retirees of dependents.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data maintained primarily on magnetic tape or disks. May also be maintained: In file folders, on computer paper printouts or punched cards, on roll microfilm or microfiche.

RETRIEVABILITY:

Filed by Social Security Number (SSN) of the individual or his/her sponsor in combination with the Family Member Prefix (FMP). The FMP describes the relationship of the patient to his sponsor, e.g., second oldest dependent child, spouse, self, etc. May also be retrieved by the individual's name or by other identification or system number such as inpatient register number, laboratory accession number, or pharmacy prescription number.

SAFEGUARDS:

Records are accessed by medical records custodians or other person(s) responsible for maintaining the record system in performance of their official duties, by commanders of Air Force medical treatment facilities or by personnel authorized by the medical records custodian(s), i.e., administrative employees, Peer Review and Utilization Review committees, etc. Records are controlled by computer system software including the use of pass words or other user identification system, and by limiting physical access to the computer and computer terminals. Except when under direct physical control of authorized individuals, records will be stored in locked rooms or in locked cabinets. Records are accessed by authorized personnel who are properly screened and cleared for a need to know.

RETENTION AND DISPOSAL:

Computer files are retained for variable lengths of time depending upon the type of information involved and the size and mission of the medical treatment facility. Retention time may vary from one day to ten years. Records are disposed of by erasure of the magnetic computer records and destruction of the computer related worksheets on paper, film, or other media by tearing, shredding, pulping, burning or other destructive methods. Identical medical/dental information may be retained for longer periods of time in other medical records systems (such as inpatient or outpatient charts), including the Medical Records System (F168 AF SG C) and Dental Health Records (F162 AF SG A).

SYSTEM MANAGER(S) AND ADDRESS:

Major command and separate operating agency headquarters and Air Force Medical Service Center, commanders of USAF medical centers, hospitals, and clinics, USAF School of Health Care Sciences, Aerospace Medical Division, Brooks AFB, Texas, and the USAF School of Aerospace Medicine, Brooks AFB, Texas. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force Systems notice.

NOTIFICATION PROCEDURE:

Requests from individuals should be directed to the System Manager. Requests should include complete name (including maiden name), sponsor's name, Social Security Number or Service Number of person through whom eligibility is established, category of record desired, year in which treatment was provided, whether treatment was inpatient or outpatient. If the individual establishes eligibility through a sponsor other than self, the request should include the relationship to the sponsor, e.g., spouse, second oldest child, parent, etc.

RECORD ACCESS PROCEDURES:

Address requests to the System Manager. Official mailing addresses are in the Department of Defense Directory in the appendix to the Department of Air Force's systems notices.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual whenever practical and possible, from other individuals when necessary, e.g., when the patient is a child or is in coma, from other medical institutions, from automated systems interfaces, from medical records, and from patient interactions with physicians and other health care providers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F168 AF SG C

SYSTEM NAME:

168 AF SG C—Medical Record System.

SYSTEM LOCATION:

HQ USAF/SG, medical centers, hospitals and clinics, medical aid stations, National Personnel Record Centers, Air National Guard activities, and Air Force Reserve units. Official mailing addresses are in the Air Force Directory in the appendix to the Air Force systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons treated in an Air Force medical facility and active duty members for whom primary care is provided.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inpatient and outpatient records of care received in Air Force medical facilities. Documentation includes, but is not limited to, patient's medical history, physical examination, treatment received; supporting documentation such as laboratory and x-ray reports, cover sheets and summaries of hospitalization, diagnoses, procedures or surgery performed; administrative forms which concern medical conditions such as Line of Duty Determinations, physical profiles, Medical Recommendations for Flying Duty. Secondary files are maintained such as patient registers, nominal indices, x-ray and laboratory files, indices and registers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 55, Medical and Dental Care, 10 U.S.C. 8012, Secretary of the Air Force; powers and duties; delegation by.

PURPOSE(S):

Used to document, plan, and coordinate the health care of patients; also aid in preventitive health and communicable disease control programs, determine eligibility and suitability for benefits for various programs, adjudicate claims, evaluate care rendered, teach, compile statistical data and conduct research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. Information from the inpatient medical records of retirees and dependents may be disclosed to third-party payers in accordance with 10 U.S.C. 1095, as amended by Pub. L. 99–272, for the purpose of collecting reasonable inpatient hospital care costs incurred on behalf of retirees or dependents. Records which reveal the identity, diagnosis, prognosis or treatment of any individual for drug or alcohol abuse may only be disclosed in accordance with 21 U.S.C. 1175 (for drug abuse) and 42 U.S.C. 4582 (for alcohol abuse). Blanket routine uses do not apply in these cases.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper and machine-readable form.

RETRIEVABILITY:

By name, Social Security Number (SSN) or by Military Service Number.

SAFEGUARDS:

Records are accessed by commanders of medical centers, hospitals, and clinics, by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and controled by personnel screening.

RETENTION AND DISPOSAL:

While on active duty, the Health Record of a US military member is maintained at the medical unit at which the person receives treatment. On separation or retirement, records are forwarded to National Personnel Records Center/Military Personnel Records (NPRC/MPR) or other designated depository, such as Commandant, US Coast Guard for that agency's personnel, to appropriate Veterans Administration Regional Office if VA Claims has been filed. Records of outpatient treatment of non-active duty personnel may be handcarried or mailed to the next military medical facility at which treatment will be received or the records are retained at the treating facility for a minimum of 1 year after date of last treatment then retired to NPRC or other designated depository, such as, but not limited to, Medical Director, American Red Cross, Washington DC 20006 for Red Cross Personnel. At NPRC records for military personnel are retained for 50 years after date of last documents; for all others, 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters United States Air Force. Chief of Air Force Reserve, Headquarters United States Air Force. Director of Air National Guard, Headquarters United States Air Force. Commanders of medical centers, hospitals, clinics, medical aid stations; Commander, Air Force Manpower and Personnel Center; Addresses are in the Air Force Directory in the appendix to Air Force system notices.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Requester must submit full name, Social Security Number (or Military Service Number) through whom eligibility for care is established, date (at least year) treatment was provided, name of facility providing treatment, whether treatment was as inpatient or outpatient.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Air Force Directory in the appendix to the Air Force system notices.

CONTESTING RECORDS PROCEDURES:

The Air Force rules for contesting contents and for appealing initial determinations are in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Physicians and other patient care providers such as nurses, dietitians, physicians assistants. Administrative forms completed by appropriate official, military or civilian.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F176 AF MP C

SYSTEM NAME:

176 AF MP C—Morale, Welfare, and Recreation (MWR) Participation/ Membership/Training Records.

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph AFB TX 78150–6001; major command headquarters; all levels down to and including Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired military members and their dependents; members of Reserve components while on inactive duty for training and DOD civilians and their dependents; certain other categories for individuals identified by authorized personnel who directly support Air Force mission requirements. Following additional categories apply for specific activities as indicated: Air Force Aero Clubs; Air Force, Army or Naval Academy Cadets; military members of foreign governments on duty with the DOD; members elected to the US Congress or a statutory appointee of the Federal Government; Federal Government employees working on military installations and conducting various recreation programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Volunteer, membership, attendance, training, and participation/competition records and supporting data relative to Air Force MWR activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Determine membership/participation eligibility; maintain patron attendance; conduct contests; monitor training and currency of members; and serve as data base for designing and conducting various recreation programs. Used by personnel responsible for conducting Air Force MWR activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

May be provided to commercial or non-profit concerns conducting activities in support of, similar to, or in furtherance of, the Air Force programs involved.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file cabinets.

RETRIEVABILITY:

Filed by name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in secured buildings. Access is controlled by authorized personnel and limited to those requiring access in the performance of their duties.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning, or surrender to member upon termination, as applicable.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Personnel for Military Personnel, Randolph AFB TX 78150– 6001.

NOTIFICATION PROCEDURE:

Request from individual should be addressed to the Chief, Morale, Welfare, and Recreation Division at the appropriate Air Force installation or the System Manager giving the individual's full name and SSN.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to the Chief, Morale, Welfare, and Recreation Division at the appropriate Air Force installation or the System Manager to exercise their rights under the Act. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Individual applications for membership/participation in MWR activities and offices of primary responsibility for MWR activities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F176 AFCC A

SYSTEM NAME:

176 AFCC A Individual Earning Data

SYSTEM LOCATION:

Headquarters Air Force Communications Command, DCS/ Personnel, Directorate of Morale, Welfare and Recreation, Scott AFB IL 62225–6001; 18 Isolated Site Lounge Sundry Funds (ISLSFs); Internal Revenue Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Off-duty active duty military personnel employed by ISLSF.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual pay records and identifies individual by name and SSN.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

To report to the IRS individual earnings on all payments made to individuals employed in the operations of an ISLSF.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. Information from this system may be made avilable to federal, state and local taxing authorities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name. Filed by SSN.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets.

RETENTION AND DISPOSAL:

Retained in HQ AFCC/DPS files for 4 years after wages are paid.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Morale, Welfare and Recreation, Deputy Chief of Staff/ Personnel, HQ AFCC, Scott AFB IL 62225–6001. Comptroller of the Air Force, HQ USAF.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F178 AFCC A

SYSTEM NAME:

178 AFCC A—Center Automated Manpower and Update System (CAMPUS)

SYSTEM LOCATION:

Standard Systems Center (SSC), Gunter AFS AL 36114–6343.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel and civilian employees assigned to the SSC.

CATEGORIES OF RECORDS IN THE SYSTEM:

CAMPUS records contain data on SSC personnel nonavailable time (time in man-hours chargeable as SSC overhead for purposes of total man-hour accounting), personnel available time (time chargeable against a specific human resource package) and workload tracking data (data on project or task). Included in nonavailable time are leave, training, and all activities not related to the SSC's primary mission. Available time includes administrative duties, management/supervision functions, time spent in general support areas, and time devoted to developing new and/or maintaining existing computer software. Workload tracking includes data on pending, active, and completed activities as to estimated/actual resources required, estimated/actual dates, and identification data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

CAMPUS provides information to SSC management personnel about manpower utilization within the organization. Specific uses of the system by all management levels include monitoring of manpower resources expended on ADP projects, validating and defending the SSC manpower posture with workload and man-hour expenditure data, and distributing workloads between and within the SSC directorates.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Records can be retrieved by any element contained in the CAMPUS data base.

SAFEGUARDS:

The personnel data maintained in CAMPUS is subject to protection and restrictions in accordance with Air Force Regulation 300–13 and the Privacy Act of 1974.

RETENTION AND DISPOSAL:

Hard-copy listings are retained in office files until superseded, obsolete, or no longer needed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Standard Systems Center, Gunter Air Force Station, AL 36114–6343.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for contesting contents and for appealing initial determinations are contained in Air Force Regulation 12–35. Specific procedures may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information for CAMPUS is obtained from the individuals assigned to the SSC.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F213 AFWB A

SYSTEM NAME:

213 MPC A—Air Force Educational Assistance Loans.

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1961, 1962 and 1963 dependents of active duty Air Force military members who received educational assistance loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain loan agreement documents made with loan recipients, related documentation between Executive Secretariat/Air Force Welfare Board (AFWB) and college/university registrars, retained copies of documents and correspondence received from or sent to loan recipients; and individual ledger cards reflecting accounting data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Used for loan follow-up.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Files are retained until paid in full at which time the original loan agreement is returned to the loan recipient.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary, Air Force Welfare Board, Randolph Air Force Base, TX 78150–6001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Original loan agreements generated by the loan recipient; correspondence received from or sent to loan recipients; certifications from college/university registrars as to receipt of payment for tuition, school supplies and other educational expenses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F900 AF MP A

SYSTEM NAME:

900 AF MP A—Military Decorations.

SYSTEM LOCATION:

Directorate of Personnel Program Management, Headquarters Air Force Military Personnel Center, Randolph AFB TX 78150–6001. Headquarters of major commands and at all levels down to and including Air Force installations. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel. Air Force Reserve personnel. Air National Guard personnel. Army, Navy, Air Force and Marine Corps active duty military and civilian Personnel assigned to HQ USSPACECOM.

CATEGORIES OF RECORDS IN THE SYSTEM:

Supervisory evaluation of duty performance with comments by commanders at intermediate levels.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 857, Decorations and Awards; as implemented by Air Force Regulation 900–48, Decorations, Service and Achievement Awards, Unit Awards, Special Badges, and Devices.

PURPOSE(S):

Award of military decorations—used by award approval authorities to determine qualification for recognition through award of a decoration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Destroyed 1 year after completion by tearing into pieces shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief of Staff/Personnel for Military Personnel, Randolph AFB, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Or individuals may contact agency officials at respective locations in order to exercise their rights under the act.

RECORD ACCESS PROCEDURES:

Same procedures as for notification.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Supervisors' evaluations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86-27635 Filed 12-8-86; 8:45 am]
BILLING CODE 3810-01-M

Department of the Army

Privacy Act of 1974; New Record System

AGENCY: Department of the Army (DA), DoD.

ACTION: Notice of a new record system.

SUMMARY: The purpose of this document is to provide information for public comment concerning the Army's proposed new record system subject to the Privacy Act of 1974, (5 U.S.C. 552a) by adding a new system of records identified as A1012-03pDAPE, entitled: Army Training Requirements and Resources (ATRRS).

DATES: This proposed action will be effective without further notice on January 8, 1987, unless comments are received which result in a contrary determination.

ADDRESS: Send comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Cliff Jones, HQDA DAIM-FAR-RI, Room 1138, Hoffman Building I, Alexandria, VA 22331-0301. Telephone: (202) 325-6044, Autovon: 221-6044.

SUPPLEMENTARY INFORMATION: The Army's systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a) have been published to date in the **Federal Register** as follows:

FR Doc. 85-10237 (50 FR 22090) May 29, 1985 (Compilation)
FR Doc. 86-14667 (51 FR 23576) June 30, 1986
FR Doc. 86-19534 (51 FR 30900) August 29, 1986
FR Doc. 86-25274 (51 FR 40478) November 7, 1986

A new system report as required by 5 U.S.C. 552a(o) of the Privacy Act of 1974 was submitted on November 25, 1986, pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 4, 1986.

A1012-03pDAPE

SYSTEM NAME:

Army Training Requirements and Resources System (ATRRS).

SYSTEM LOCATION:

Headquarters, Department of the Army, Office, Deputy Chief of Staff for Personnel, Pentagon, Washington, DC; Schools, Army Training Centers, throughout the United States.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Army, Navy, Air Force, Marine Corps, Reserve Officers' Training Corps students, Department of Defense civilian employees and approved foreign military personnel attending a course of instruction conducted under the auspices of a DoD School.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records pertaining to course administrative data, course scope and pre-requisites, course training requirements, course equipment, personnel and facilities constraints, requirements for instructors, class schedules, class quotas, prioritized order of merit list for input into NCOES training, by name reservations, limited individual personnel data, and course input and completion data by name/Social Security Number. Data related to an individual is as follows:

1. Training course completion data and reason codes for attrition are maintained for an individual, as well as training seat reservations.

2. Limited personnel data is maintained on an individual as long as the individual has a valid reservation for training, or is currently in the training base.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. section 301; 10 U.S.C. section 3012, 4301.

PURPOSE:

The Army Training Requirements and Resources System (ATRRS) supports institutional training missions. The system integrates requirements for individuals to be trained with the process by which the training establishment is resourced and class schedules developed. By name reservations are made for training in Army Formal Schools, and other service schools, and other service schools input and course completion statistics are maintained.

1. The Mobilization Training Planning System (MTPS) provides resourcing information to training and personnel managers in a mobilization environment.

2. The Personnel Training Management System (PTMS) monitors the flow of trainees through the accession, training and distribution process.

3. The Quota Management System provides the US Army Military Personnel Center, its Reserve Component counterparts, and other agency's who have an input to training missions, the vehicle to manage individuals and training course seats/quotas through the training base for officers and skill level 2 and above.

4. The ATRRS System provides the Army's schools and training Centers with the data necessary to manage resources associated with instructors, equipment and facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See "blanket routine uses" set forth at the beginning of the Army's listing of record system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, Computer Discs, and limited paper printouts.

RETRIEVABILITY:

By Social Security Number.

SAFEGUARDS:

An employee badge and visitor registration system is in effect. Hard copy records which contain data by Social Security Number are maintained with an Official Use Only Cover. Access to the ATRRS system is limited to those who have a need to access the data as determined by the System Manager.

RETENTION AND DISPOSAL:

Records are kept on the individual only as long as the individual is actively seeking training.

SYSTEM MANAGER AND ADDRESS:

Headquarters, Department of the Army, Office, Deputy Chief of Staff for Personnel, DAPE–MP–TR, Washington, DC 20310–0300.

NOTIFICATION PROCEDURES:

Individuals desiring to know whether this system contains information about them should contact the Local Commander providing full name, SSN, and military status or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals desiring to know whether this system contains information about them should contact the Local Commander providing full name, SSN, and Military status or other information required.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing determinations are contained in AR 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Information is received from DoD staff, field installations, and automated systems.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86–27580 Filed 12–8–86; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Conduct of Employees; Supervisory Waivers; Conflict of Interest

Section 602(a) of the Department of Energy Organization Act (Pub. L. 95–91, hereinafter referred to as the "Act") prohibits a "supervisory employee" (defined in section 601(a) of the Act) of the Department from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any "energy concern" (defined in section 601(b) of the Act).

Section 602(c) of the Act authorizes the Secretary of Energy to waive the requirements of section 602(a) in cases of exceptional hardship or where the interest is a pension, insurance, or other similarly vested interest.

Mr. James C. Bresee is under consideration for the position of Director of Repository Coordination in the Office of Civilian Radioactive Waste Management of the Department of Energy. Mr. Bresee has a vested pension interest in the Retirement Program Plan for Employees of Martin Marietta Energy Systems, Inc., as a result of his past employment at Oak Ridge National Laboratory.

It has been established to my satisfaction that requiring Mr. Bresee to divest his interest in the Retirement Program Plan for Employees of Martin Marietta Energy Systems, Inc., would impose an exceptional hardship on him and that such interest is a vested pension interest, within the meaning of section 602(c) of the Act. Accordingly, I have granted Mr. Bresee a waiver of the divestiture requirements of section 602(a) of the Act, for the duration of his employment with the Department, with respect to his interest in the Retirement Program Plan for Employees of Martin Marietta Energy Systems, Inc.

In accordance with section 208 of Title 18, United States Code, Mr. Bresee will be directed not to participate personally and substantially, as a government employee, in any particular matter the outcome of which could have a direct and predictable effect upon Martin Marietta Energy Systems, Inc., or its parent, Martin Marietta Corporation, unless his supervisor and the Counselor agree that his financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him

Dated: December 2, 1986.

John S. Herrington,

Secretary of Energy.

[FR Doc. 86–27596 Filed 12–8–86; 8:45 am]

BILLING CODE 6450–01–M

Certification of the Radiological Condition of Thirty-Two Private Properties Located in Middlesex and Piscataway, NJ

AGENCY: Office of Remedial Action and Waste Technology, OE.

ACTION: Notice of certification.

SUMMARY: The Department of Energy has completed radiological surveys and taken remedial actions to decontaminate twenty-five properties in Middlesex, New Jersey. The properties were found to contain small quantities of naturally occurring radioactive material resembling the residue from uranium ore processing conducted at the nearby Middlesex Sampling Plant when it was operated under contract to the Manhattan Engineer District and the Atomic Energy Commission. In addition, there were seven designated properties previously thought to be contaminated where no remedial action took place.

FOR FURTHER INFORMATION CONTACT: E. Delaney, Director, Division of Facility and Site Decommissioning, Office of Remedial Action and Waste Technology, U.S. Department of Energy, Washington, DC 20545, (301) 353–2802.

SUPPLEMENTARY INFORMATION: The Department of Energy had established a program to characterize and, where necessary, correct the radological conditions at sites formerly used by the Army Corps of Engineers' Manhattan Engineer District and the Atomic Energy Commission during the early years of nuclear research, development and production. The ultimate objective of the program is to ensure that formerly utilized sites and any associated properties in their vicinity can be certified within current radiological guidelines and applicable standards established to protect the general public. The former Middlesex Sampling Plant in Middlesex, New Jersey, is one of the formerly utilized sites

The Middlesex Sampling Plant began operations in November 1943 and, under various contracts, continued operation until February 1968 when it was declared excess to program needs by the Atomic Energy Commission. Over the years, the naturally occurring radioactive minerals were inadvertently transported to nearby and remote properties which they contaminated. Initially, the wastes from cleanup of this contamination on these properties is being stored on an interim basis on the Middlesex Sampling Plant site. Ultimately it is the Department of Energy's plan to remove these wastes to a permanent disposal site.

Radiological surveys completed at the site in 1976 revealed the presence of off-site contamination on nearby properties. An aerial radiological survey conducted in 1978 revealed the presence of contamination on two non-contiguous properties as well. In 1980, five properties were decontaminated and post-remedial surveys were conducted before and after backfill of the excavated areas. Radon monitoring of the affected areas continued before, during, and after remedial action to verify safe conditions.

The Department of Energy coordinated its activities with the New Jersey Department of Environmental Protection, the Borough of Middlesex, and the Township of Piscataway. Remedial action criteria were agreed upon by DOE, the Department of Environmental Protection, and the Borough of Middlesex. The New Jersey Department of Environmental Protection verified Department of Energy results through independent analysis of soil samples.

On November 18, 1982, the Department of Energy certified, on the basis of post-remedial action surveys, that radiological conditions at the five sites were within criteria established for the remedial action and released them from the Formerly Utilized Sites Remedial Action Program. These findings are supported by the Department of Energy "Certification Docket for Five Vicinity Properties Associated with the Former Middlesex Sampling Plant, Middlesex, New Jersey," (see 48 FR 326, January 4, 1983). This Certification Docket will again be available for review in the DOE Public Reading Room along with the Certification announced today.

From July 1981 to May 1982, twenty-five additional properties were decontaminated. In addition, there were seven designated properties previously thought to be contaminated where no remedial action took place. Post-remedial action surveys have demonstrated and the Department of Energy has certified that radiological conditions on the affected properties are consistent with applicable criteria agreed upon by the New Jersey Department of Environmental Protection and the Borough of Middlesex and that the unrestricted use of the thirty-two properties presents no radiological hazards to the general public or to site occupants. These findings are supported by the Department of Energy "Certification Docket for Phase II Vicinity Properties Associated with the Former Middlesex Sampling Plant, Middlesex, New Jersey." Accordingly, these properties are released from the Formerly Utilized Sites Remedial Action Program.

This certification docket will be available for review between 9:00 a.m. and 4 p.m., Monday through Friday (except Federal holidays), in the Department of Energy Public Reading Room located in Room 1E-190 of the Forrestal Building, 1000 Independence Avenue, SW., Washington, DC.

The Department, through the Oak Ridge Operations Office, Technical Services Division, has issued the following statement:

STATEMENT OF CERTIFICATION: THIRTY-TWO PROPERTIES ASSOCIATED WITH THE FORMER MIDDLESEX SAMPLING PLANT

The Oak Ridge Operations Office, Technical Servics Division, has reviewed the radiological data obtained following remedial action at twenty-five properties that were contaminated by material similar to that processing at the former Middlesex Sampling Plant in Middlesex, New Jersey. The radiological data of seven other designated properties previously thought to be contaminated but where no remedial action took place were also reviewed. Based on this review and the concurrence of the New Jersey Department of Environmental Protection, the Department of Energy has certified that the properties listed below are in compliance with all applicable decontamination criteria and standards. This certification of compliance provides assurance that unrestricted use of any of the properties will result in no radiological exposure above applicable criteria and standards to members of the general public or to site occupants. Accordingly, the following properties are released from the Formerly Utilized Sites Remedial Action Program:

Parcel 1 (C. & H. Ianiero property) located on Mountain Avenue, Borough of Middesex, identified as Block 318, Lots 1–6.

Parcel 2 (E.M. Kisaday property) located on Mountain Avenue, Borough of Middlesex, identified as Block 318, Lots 7–9.

Parcel 3 (K.C. Kohl property) located on Mountain Avenue, Borough of Middlesex, identified as Block 318, Lot 10.

Parcel 4 (J. & M. Volgey property) located on Mountain Avenue, Borough of Middlesex, identified as Block 318, Lots 11–12.

Parcel 5 (S. Garcia property) located on Mountain Avenue, Borough of Middlesex, identified as Block 318, Lots 13–15.

Parcel 6 (R. & J. Smith and P. & A. Vastano property) located on Mountain Avenue, Borough of Middlesex, identified as Block 318, Lots 16–18.

Parcel 7 (M. & M. Vastano property) located on Mountain Avenue, Borough of Middlesex, identified as Block 318, Lots 19–20.

Parcel 9 (W. & V. Drake property) located on Wood Avenue, Borough of Middlesex, identified as Block 319, Lots 34–35.

Parcel 10 (Doe Realty Corp., Inc. property) located on Wood Avenue, Borough of Middlesex, identified as Block 319, Lots 36–37.

Parcel 11 (DeAngelis Builders, Inc. property) located on Wood Avenue, Borough of Middlesex, identified as Block 319, Lot 38.

Parcel 12 (Borough of Middlesex property) located on Wood Avenue, Borough of Middlesex, identified as Block 319, Lots 39–44.

Parcel 13 (Lori Construction Co. property) located on William Street, Borough of Middlesex, identified as Block 319, Lots 19–22.

Parcel DA (DeAngelis property) bounded on the west by Parcel 13, the north by Parcel 9, and the South by William Street, Borough of Middlesex.

Parcel 14 (DeAngelis property) located on William Street, Borough of Middlesex, identified as Block 319, Lots 23–25.

Parcel 15 (Borough of Middlesex property) located on William Street, Borough of Middlesex, identified as Block 319, Lots 26–29.

Parcel 16 (P. Smith property) located on William Street, Town of Piscataway, identified as Block 389, Lots 40–43.

Parcel 17 (R. & E. Reefer property) located on William Street, Town of Piscataway, identified as Block 389, Lots 44–50.

Parcel 18 (Borough of Middlesex property) located on Wood Avenue, Borough of Middlesex, identified as Block 319, Lots 47.

Parcels 19 and 19a (Adams Corp. property) located on Wood Avenue, Town of Piscataway, identified as Block 395, Lots 25–27 and Railroad Avenue, Town of Piscataway, identified as Block 395, Lots 1–24.

Parcel 20 (F. Pasek property) located on Wood Avenue, Borough of Middlesex, identified as Block 318, Lot 43.

Parcel 21 (Borough of Middlesex property) located on Wood Avenue, Borough of Middlesex, identified as Block 318, Lots 44–45A.

Parcel 22 (Adams Corp., P. Goldman, Inc., and R. Segal Assoc. property) located on Wood Avenue, Town of Piscataway, identified as Block 396, Lots 17–18.

Parcel 22a (Adams Corp., P. Goldman, Inc., and R. Segal Assoc. property) located on Moore Avenue, Town of Piscataway, identified as Block 396, Lots 1–16.

Parcel 23 (Wood Industries property) located on Cedar Avenue, Borough of Middlesex, identified as Block 318, Lot 50.

Parcel 23a (Wood Industries property) located on Moore Avenue, Town of Piscataway, identified as identified as Block 413, Lot 1, and Parcel 22b (Adams Corp., P. Goldman, Inc., and R. Segal Assoc. property) located on Moore Avenue, Town of Piscataway, identified as Block 412, Lots 1–14.

Parcel 23b (Wood Industries property) located on Cedar Avenue, Borough of Middlesex, identified as Block 345, Lot 1.

Parcel 24 (F. Zatika property) located on Mountain Avenue, Borough of Middlesex, identified as Block 318, Lots 38A–41A, 48, 49.

Parcel 25 (Lehigh Valley Railroad property) located on Mountain Avenue, Borough of Middlesex, identified as Block 371, Lot 4.

Parcel 28 (Mack Affiliates property) located on Cedar Avenue, Borough of Middlesex, identified as Block 318, Lot 50A.

Parcel 29 (Borough of Middlesex property) located on Cedar Avenue, Borough of Middlesex, identified as Block 345, Lot 1B.

Parcel 30 (E.H. Phillips property) located on Cedar Avenue, Borough of Middlesex, identified as Block 344, Lot 1.

Parcel 33 (W. Williams property) located on Mountain Avenue, Borough of Middlesex, identified as Block 287, Lot 2A.

Dated: October 27, 1986.

W.R. Voight, Jr.,

Director, Office of Remedial Action and Waste Technology.

[FR Doc. 86–27587 Filed 12–8–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 10058–000, et al]

Hydroelectric Applications (Elaine Hitchcock et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are availble for public inspection:

1 a. Type of Application: Preliminary Permit.

b. Project No.: 10058–000.

c. Date Filed: August 8, 1986.

d. Applicant: Elaine Hitchock.

e. Name of Project: Sheboygan Falls.

f. Location: On the Sheboygan River near Sheboygan Falls, Sheboygan County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person; ELaine Hitchock, Hitchock and Associates, 423 Green Tree Road, Kohler, WI 53044, (414) 452–2624.

i. Comment Date: January 26, 1987.

j. Description of Project: The proposed project would consist of: (1) an existing reinforced concrete dam approximately 100 feet long and 10 feet high; (2) an existing reservoir with approximately 3.75 acres of surface area and a storage capacity of 15 acre-feet at a normal maximum surface elevation of about 105 feet local datum; (3) two existing intake channels approximately 14 feet long, 6 feet wide, and 15 feet high; (4) an existing concrete and brick powerhouse containing a proposed 12-kW hydropower unit; (5) a proposed 4.16–kV transmission line 30 feet long; and (6) appurtenant facilities. The applicant estimates that the average annual energy generation would be 525 MWh, and that the cost of the work to be performed under the preliminary permit would be negligible. The dam is owned by the City of Sheboygan Falls, Wisconsin. The project energy is anticipated to be sold to Sheboygan Falls Utility Association.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

2 a. Type of Application: Preliminary Permit.

b. Project No.: 10112–000.

c. Date Filed: October 3, 1986.

d. Applicant: Aero Construction Inc.

e. Name of Project: Upper Mississippi River-Lock & Dam No. 24.

f. Location: On the Mississippi River in Calhoun County, Illinois and Pike County, Missouri.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ralph L. Laukhuff, Jr., Forte and Tablada, Inc., P.O. Box 64844, Baton Rouge, LA 70896, Phone: 504–927–9321.

i. Comment Date: January 5, 1987.

j. Competing Application: Project No.: 10109–000. Date Filed: October 1, 1986. Due Date: January 5, 1987.

k. Description of Project: The applicant proposes to utilize an existing dam under the jurisdiction of the U.S. Army Corps of Engineers. The proposed project would consist of: (1) a proposed intake channel; (2) a proposed powerhouse containing four generating units related at 10.5 MW each; (3) a proposed outlet channel; (4) a proposed transmission line; and (5) appurtentant facilities. The estimated average annual energy output is 175,000,000 kWh. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $30,000.

l. Purpose of Project: Energy produced at the project would be sold to Missouri Edison Company or to local municipalities.

m. This notice also consists of the following standard paragraphs: A8, A10, B, C, & D2.

3 a. Type of Application: Preliminary Permit.

b. Project No.: 10114–000.

c. Date Filed: October 3, 1986.

d. Applicant: Aero Construction, Inc.

e. Name of Project: Upper Mississippi River-Lock & Dam No. 25.

f. Location: On the Mississippi River in Calhoun County, Illinois and Lincoln County, Missouri.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Ralph L. Laukhuff, Jr., Forte and Tablada, Inc., P.O. Box 64844, Baton Rouge, LA 70896, Phone: 504–927–9321.

i. Comment Date: January 5, 1987.

j. Competing Application: Project No. 10110–000. Date Filed: October 1, 1986. Due Date: January 5, 1987.

k. Description of Project: The applicant proposes to utilize an existing dam under the jurisdiction of the U.S. Army Corps of Engineers. The proposed project would consist of: (1) a proposed inlet channel; (2) a proposed powerhouse containing four generating units rated at 10.5 MW each; (3) a proposed outlet channel; (4) a proposed transmission line; and (5) appurtenant facilities. The estimated average annual energy output for the project is 175,000,000 kWh. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $30,000.

l. Purpose of Project: Energy produced at the project would be sold to the Missouri Edison Company or local municipalities.

m. This notice also consists of the following standard paragraphs: A8, A10, B, C, & D2.

4 a. Type of Application: Preliminary Permit.

b. Project No.: 10134–000.

c. Date Filed: October 27, 1986.

d. Applicant: Huntington Hydro Associates.

e. Name of Project: Huntington Dam Hydropower Project.

f. Location: On the Wabash River in Huntington County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Ms. Judith A. Kelley Synergics Inc., 410 Severn Avenue, Suite 313, Annapolis, MD 21403 (301) 268–8820.

i. Comment Date: January 26, 1987.

j. Description of Project: The applicant proposes to utilize an existing dam under the jurisdiction of the U.S. Army Corps of Engineers. Competing Application: Project No. 10110–000. Date Filed: October 1, 1986. Due Date: January 5, 1987. The proposed project would consist of: (1) a proposed intake channel; (2) a proposed power conduit: (3) proposed penstocks; (4) a proposed Powerhouse containing to generating units rated at 1,550 kW each; (5) a proposed tailrace: (6) a proposed transmission line; and (7) appurtenant facilities. The estimated average annual energy output for the project is 19,500,000 kWh. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $50,000.

k. Purpose of Project: Energy produced at the project is proposed to be sold to the Indiana and Michigan Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C. and D2.

3 a. Type of Application: Preliminary Permit.

b. Project No.: 101135–000.

c. Date Filed: October 27, 1986.

d. Applicant: Salamonie Hydro Associates.

e. Name of Project: Salamonie Hydropower Project.

f. Location: On the Salamonie River in Wabash County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Ms. Judith A. Kelley, Synergics, Inc., 410 Severn Avenue, Suite 313, Annapolis, MD 21403 (301) 268–8820.

i. Comment Date: January 23, 1987.

j. Description of Project: The applicant proposes to utilize an existing dam under the jurisdiction of the U.S. Army Corps of Engineers. The proposed project would consist of: (1) a proposed intake channel; (2) a proposed power conduit; (3) proposed penstocks; (4) a proposed powerhouse containing two generating units rated at 1,550 kW each; (5) a proposed tailrace; (6) a proposed transmission line; and (7) appurtenant facilities. The estimated average annual energy output for the project would be 9,000,000 kWh. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $50,000.

k. Proposed of Project: Energy produced at the project is proposed to be sold to the Indiana and Michigan Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

6a. Type of Application: Preliminary Permit.

b. Project No: 10137–000.

c. Date Filed: October 27, 1986.

d. Applicant: Monoroe Hydro Associates.

e. Name of Project: Monroe Dam Hydropower Project.

f. Location: On Salt Creek in Monroe County, Indiana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Judity A. Kelley, Synergics, Inc., 410 Severn Avenue, Suite 313, Annapolis, MD 21403 (303) 268–8820.

i. Comment Date: January 26, 1987.

j. Description of Project: The applicant proposes to utilize an existing dam under the jurisdiction of the U.S. Army Corps of engineers. The proposed project would consist of: (1) a proposed intake structure; (2) a proposed conduit; (3) proposed penstocks; (4) a proposed powerhouse containing two generating units rated at 1,900-kW each; (5) a proposed transmission line; (6) a proposed tailrace; and (7) appurtenant facilities. The estimated average annual energy output for the project would be 10,600,000 kWh. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $40,000.

k. Purpose of Project: Energy produced at the project would be sold to the Public Service Company of Indiana.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

7a. Type of Application: Preliminary Permit.

b. Project No: 10138–000.

c. Date Filed: October 27, 1986.

d. Applicant: Patoka Hydro Associates.

e. Name of Project: Patoka Dam Hydropower Project.

f. Location: On Salt Creek in Dubois County, Indiana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Judith A. Kelley, Synergics, Inc., 410 Severn Avenue, Suite 313, Annapolis, MD 21403 (301) 268–8820.

i. Comment Date: January 26, 1987.

j. Description of Project: The applicant proposes to utilize an existing dam under the jurisdiction of the U.S. Army Corps of engineers. The proposed project would consist of: (1) a proposed intake channel; (2) a proposed conduit; (3) proposed penstocks; (4) a proposed powerhouse containing two generating units rated at 425-kW each; (5) a proposed tailrace; (6) a proposed transmission line and (7) appurtenant facilities. The estimated average annual energy output for the project would be 5,100,000 kWh. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $30,000.

k. Purpose of Project: Energy produced at the project would be sold to the Public Service Company of Indiana.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

8a. Type of Application: Transfer of License.

b. Project No: 602–002.

c. Date Filed: September 26, 1986.

d. Applicant: ConAgra, Inc. (successor by merger to Alaska Packers Association, Inc.), licensee and Aleutian Dragon Fisheries, transferee.

e. Name of Project: Chignik Hydroelectric.

f. Location: On Indian Creek in Chignik, Alaska.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Lee H. Hamann, McGrath, North, O'Malley & Kratz, P.C., Suit 1100 One Central Park Plaza, 222 South 15th St., Omaha, NE 68102.

Ms. Kathleen M. Doyle, Bogle & Gates, 1900 Bank of California Center, Seattle, WA 98164 (206) 682–5151.

i. Comment Date: January 9, 1987.

j. Description of Transfer: On April 11, 1979, a new license was issued to Alaska Packers Association, Inc. (now ConAGra, Inc.) for the operation and maintenance of the Chignik Hydrolectric Project No. 620. It is proposed to transfer the license to Aleutian Dragon Fisheries. The licensee and transferee have jointly and severally applied for the transfer of the license to the transferee.

The transferee is an Alaska joint venture organized under the laws of the state of Alaska.

The licensee certifies that it has fully complied with the terms and conditions of its license and obligates itself to pay all annual charges accrued under the lilcense to the date of transfer. The transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it was the original licensee.

k. This notice also consists of the following standard paragraphs: B, and C.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 10136–000.

c. Date Filed: October 27, 1986.

d. Applicant: Harden Hydro Associates.

e. Name of Project: Harden Dam Hydropower Project.

f. Location: On the Big Raccoon River in Parke County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ms. Judith A. Kelley, Synergics, Inc., 410 Severn Avenue, Suite 313, Annapolis, MD 21403 (301) 268–8820.

i. Comment Date: January 28, 1987.

j. Description of Project: The applicant proposes to utilize an existing dam under the jurisdiction of the U.S. Army Corps of Engineers. The proposed project would consist of: (1) a proposed penstock connected to the existing Corps' conduit; (2) a proposed powerhouse containing one generating unit rated at 1,000 kW; (3) a proposed tailrace; (4) a proposed transmission line; and (5) appurtenant facilities. The estimated average annual energy output for the project would be 6,400,000 kWh. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $30,000.

k. Purpose of Project: Energy produced at the project is proposed to be sold to the Public Service Company of Indiana.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 9989–001.

c. Date Filed: September 16, 1986.

d. Applicant: Potomac Hydropower Company.

e. Name of Project: Little Falls Dam.

f. Location: On the Potomac River in Montgomery County, Maryland.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Barry Thomas, P.O. Box 15312, Chevy Chase, MD 20815–0442 (202) 244–1523.

i. Comment Date: January 30, 1987.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Little Falls Dam and Reservoir and would consist of: (1) a proposed powerhouse to contain two new turbine/generators for an installed capacity of 8,000 kW with flows discharging into the Potomac River; (2) a 23-kV transmission line approximately one mile long; and (3) appurtenant facilities. The estimated average annual energy produced by the project would be 38 million kWh operating under a net hydraulic head of 11 feet. The Applicant estimates that the cost of the work to be performed under the preliminary permit would be $2,000.

k. Purpose of Project: Project power will be sold to the electrical utilities in the project area and the U.S. Government.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs:

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the intitial preliminary permit application, which has already been given, established the due data for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing application may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments,

protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: December 4, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–27616 Filed 12–8–86; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Cases Filed During Week of October 17 Through October 24, 1986

During the Week of October 17 through October 24, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 26, 1986.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Oct. 17 through Oct. 24, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 20, 1986	Sumter Petroleum Co., Sumter, SC	KEE-0077	Exception to the reporting requirements. If granted: Sumter Petroleum Co. would not be required to file Form EIA-782B, Reseller/Retailers' Monthly Sales Report.
Oct. 21, 1988	Caleb D. Glass, Rockville, MD	KFA-0059	Appeal of an information request denial. If granted: Caleb D. Glass would receive access to certain material of the Department of Energy.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Oct. 17 through Oct. 24, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 23, 1986	Joshua Handler, Washington, DC	KFA-0060	Appeal of an information request denial. If granted: The September 8, 1986 Freedom of Information Request Denial issued by the Deputy Administrative Assistant would be rescinded and Joshua Handler would receive access to the Air Force's Special Weapons Overflight Guide (SWOG).

REFUND APPLICATIONS RECEIVED

[Week of Oct. 17 to Oct. 24, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
10/20/86	Conoco/5 Minit Wash & Gas, Inc	RF220-431
10/20/86	Conoco/Dan's Conoco	RF220-432
10/20/86	Conoco/Frank's Conoco Service	RF220-433
10/20/86	Conoco/Norman's Conoco Service	RF220-434
10/20/86	Conoco/Super Flame Gas Co., Inc	RF220-435
10/20/86	Conoco/Hybiak Conoco	RF220-436
10/20/86	Conoco/Hofer's Conoco Service	RF220-437
10/20/86	Conoco/Clark's Car Service	RF220-438
10/20/86	Conoco/Lee's Conoco	RF220-439
10/20/86	Conoco/Paul's Conoco	RF220-440
10/20/86	Conoco/Bear Valley Conoco, Inc	RF220-441
10/20/86	Conoco/Robinson's Conoco Service	RF220-442
10/23/86	Howel Oil/Kent Oil & Trading Co	RF245-14
10/23/86	Aminoil/Ellison Enterprises	RF139-161
10/23/86	Aminoil/Howard's Butane Propane Co	RF139-160
10/23/86	Northeast Petroleum/Raymond Mireault	RF264-2
10/20/86	Arkansas Louisiana/Parker Solvents Company	RF154-28
10/20/86	Arkansas Louisiana/Clark Equipment Company	RF154-29
10/20/86	Arkansas Louisiana/Wilkerson Diesel, Inc	RF154-30
10/20/86	Arkansas Louisiana/Culverhouse Station of Baltimore	RF154-31
10/20/86	Arkansas Louisiana/H&R Oil Co	RF154-32
10/20/86	Arkansas Louisiana/A.L.&W. Moore Trucking	RF154-33
10/20/86	Arkansas Louisiana/North Little Rock Soft Water	RF154-34
10/20/86	Conoco/Monaco Service Center	RF220-423
10/20/86	Conoco/University Hills Conoco	RF220-424
10/20/86	Conoco/H&H Conoco	RF220-425
10/20/86	Conoco/Marian's Service Station	RF220-426
10/20/86	Conoco/Whitman Conoco Service	RF220-427
10/20/86	Conoco/Hymun's Conoco	RF220-428
10/20/86	Conoco/Austin's Conoco	RF220-429
10/20/86	Conoco/Larry's Conoco	RF220-430
10/20/86	APCO/Joslin Tire Service	RF83-154
10/20/86	APCO/Murphy's APCO Service	RF83-153
10/20/86	LaGloria/Javes Oil	RF263-5
10/20/86	Dorchester Gas/H&R Oil Company	RF253-9
10/20/86	Crystal/H&R Oil Company	RF233-43
10/20/86	Eastern NJ/Westmont Country Club	RF232-424
10/20/86	Eastern NJ/Cong. B'Nai Jeshuron	RF232-423
10/20/86	Petrolane-Lamita/Wade Sales and Service	RF208-9
10/20/86	Mapco/Steenson Gas and Electric	RF108-22
10/20/86	Ensearch/Blackburn Propane	RF58-3
10/20/86	Pioneer/Blackburn Propane	RF52-6
10/20/86	Husky Oil/Gordon's Husky Service	RF161-98
10/20/86	Larco/Morris Sinclair Station	RF112-200
10/20/86	Brent Liquid Transport, Inc	RF271-39
10/20/86	Greenville Equipment Co., Inc	RF271-38
10/20/86	Brent Towing Co., Inc	RF271-37
10/20/86	Brent Marine Transportation Co	RF271-36
10/20/86	Missouri/Kansas/Texas Railroad Co	RF271-35
10/20/86	Kingman Lines, Inc	RF271-34
10/20/86	Madison Metro Transit	RF272-15
10/20/86	Marine/Marine Petroleum Station	RF257-10
10/20/86	Tenneco Oil Co./Reinauer Petroleum Company	RF7-151
10/20/86	Mapco/Kennedy Lumber Company	RF108-21
10/20/86	Husky Oil/Crestview Service	RF161-97
10/20/86	Apco/Behren's Apco	RF83-155
10/20/86	Arkla Chemical/Wilkerson Diesel, Inc	RF153-30
10/20/86	Arkla Chemical/Culverhouse Station & Bait	RF153-31
10/20/86	Arkla Chemical/H&R Company	RF153-32
10/20/86	Arkal Chemical/A.L. & W. Moore Trucking Co., Inc	RF153-33
10/20/86	Arkla Chemical/North Little Rock Soft Water, Inc	RF153-34
10/20/86	Arkla Chemical/Parker Solvents Co	RF153-35
10/20/86	Arkla Chemical/Clark Equipment Co	RF153-36
10/23/86	Keystone Shipping Company	RF271-40
10/23/86	Oregon, California & Eastern Railway Company	RF271-41
10/23/86	LaGloria/Swifty Oil Company	RF263-6
10/23/86	Tenneco/Hastings & Co., Inc	RF7-152
10/23/86	Marine/Leonard Oil Company	RF257-11
10/23/86	Marine/Flash Oil Company	RF257-12
10/23/86	Marine/Sirocco Oil Co., Inc	RF257-13
10/23/86	Marine/Site Oil Co. of Missouri	RF257-14
10/24/86	Eastern NJ/J. Reibel	RF232-425
10/24/86	Kansas Nebraska/Sterling Oil & Gas Company	RF113-7

REFUND APPLICATIONS RECEIVED—Continued

[Week of Oct. 17 to Oct. 24, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
10/24/86	Martin/Carson Petroleum Company	RF240-22
10/24/86	Devon Corp/Fuller Butane Co., Inc	RF267-1
10/24/86	Gull/D&D Discount	RF260-7
10/24/86	Gull/D&D Discount	RF259-9
10/24/86	LaGloria/F. L. N. Corondolet	RF263-7
10/24/86	Tenneco/Battle Oil Company	RF7-153
10/24/86	Eastern NJ/Artley Inc	RF232-426
10/17/86	Mobil Refund Applications	RF225-10366 to RF225-10386
10/17/86	Gulf Refund Applications	RF40—3495 to RF40-3531
10/17/86	Marathon Refund Applications	RF250-1596 to RF250-1663
10/17/86	H.C. Lewis Refund Applications	RF266-13 to RF266-23
10/17/86	Surface Transporters Refund App	RF270-233 to RF270-262

[FR Doc. 86-27597 Filed 12-8-86; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed During Week of October 24 Through October 31, 1986

During the Week of October 24 through October 31, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 25, 1986.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Oct. 24 through Oct. 31, 1986]

Date	Name and location of applicant	Case No.	Type of Submission
Feb. 26, 1985	Brownlee, Wallace, Armstrong & Bander, Inc., Washington, DC	KFX-0127	Supplemental order. If granted: Crude oil overcharge funds involved in this case would be subject to claims under Subpart V.
Do	Cordele Operating Co., Washington, DC	KFX-0128	Supplemental order. If granted: Crude oil overcharge funds involved in this case would be subject to claims under Subpart V.
Do	H.H. Gungoll & Associates, Washington, DC	KFX-0129	Supplemental order. If granted: Crude oil overcharge funds involved in this case would be subject to claims under Subpart V.
Apr. 12, 1985	Juniper Petroleum Corp., Washington, DC	KFX-0130	Supplemental order. If granted: Crude oil overcharge funds involved in this case would be subject to claims under Subpart V.
Oct. 28, 1986	Gibbons Oil Co., Bethany, IL	KEE-0078	Exception to the reporting requirements. If granted: Gibbons Oil Company would not be required to file Form EIA-782B, "Reseller/Retailer Monthly Petroleum Products Sales Report."
Do	Mehta Tech, Inc., Portland, OR	KFA-0061	Appeal of a freedom of information denial. If granted: The Oct. 17, 1986 Freedom of Information Request Denial issued by the Bonneville Power Administration would be rescinded and Mehta Tech, Inc. would receive access to certain DOE information.
Oct. 29, 1986	Torch Oil Co., Rockford, IL	KEE-0079	Exception to the reporting requirements. If granted: Torch Oil Company would not be required to file Form EIA-782B, "Reseller/Retailer Monthly Products Sales Report."
Oct. 30, 1986	Spreeman Oil Co., Downers Grove, IL	KEE-0080	Exception to the reporting requirements. If granted: Spreeman Oil Company would not be required to file Form EIA-782B, "Reseller/Retailer Monthly Products Sales Report."
Oct. 31, 1986	Dickerson Oil Co., Murphysboro, IL	KEE-0082	Exception to the reporting requirements. If granted: Dickerson Oil Company would not be required to file Form EIA-782B, "Reseller/Retailer Monthly Petroleum Product Sales Report."
Do	Vincent J. Kiernan, Dublin, CA	KFA-0062	Appeal of an information request denial. If granted: The October 22, 1986 Freedom of Information Request Denial issued by the Office of Classification and Technical Information Division would be rescinded, and Vincent J. Kiernan would receive access to the contractor salary increase fund report filed by Sandia National Laboratories-Livermore
Do	River Valley Oil Co., Spring Green, WI	KEE-0083	Exception to the reporting requirements. If granted: River Valley Oil Co. would not be required to file EIA-782-B, "Reseller/Retailer Monthly Petroleum Product Sales Report.
Do	Valley City Oil Co., Valley City, ND	KEE-0081	Exception to the reporting requirements. If granted: Valley City Oil Co. would not be required to file Form EIA-782-B, "Reseller/Retailers Monthly Petroleum Product Sales Report."

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund applicant	Case No.
10/28/86	Pentran	RF272-17
10/28/86	City of Sturgis, Michigan	RF272-16
10/27/86	Wisconsin Barge Line	RF271-42

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/name of refund applicant	Case No.
10/9/86	H.C. Lewis/Matney Junk Company	RF266-22
10/29/86	Transit Authority of River City	RF272-18
10/30/86	Amoco/Indiana	RQ21-330
10/30/86	Ozona Gas Processing I/Ozona Butane Company	RF27-9
10/30/86	Ozona Gas Processing Co./Ozona Butane Company	RF28-8
10/29/86	Marine/J.D. Street & Co.	RF27-15
10/30/86	Sandersville Railroad Co.	RF271-43
10/30/86	La Gloria/Little Champ Oil, Inc.	RF263-8
10/30/86	Little Amonza/Mountain View Oil Co.	RF112-201
10/30/86	Beacon Oil/Wallace Transport	RF238-76
10/30/86	Conoco/Metcalfe Oil Co.	RF220-444
10/30/86	Marine/Tenneco Oil Co.	RF257-16
10/30/86	Conoco/A.J. Stassi Coal & Oil	RF220-443
10/30/86	Chessie System Railroads	RF271-44
10/30/86	Gull/Digas Oil	RF258-6
10/30/86	Gull/Digas Oil	RF259-10
10/30/86	Gull/Star Oil	RF260-8
10/29/86	Lockhead/Aspen Airway	RF269-1
4/22/86	Martin/Minuteman Gas & Pantry	RF240-23
10/31/86	Mobil/Tony's Mobil	RF225-10387
10/24/86 to 10/31/86	Marathon Refund Applications	RF250-1664 to RF250-1714
10/24/86 to 10/31/86	Surface Transporters	RF270-263 to RF270-351

[FR Doc. 86-27598 Filed 12-8-86; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders During Week of October 20 Through October 24, 1986

During the week of October 20 through October 24, 1986, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

The Spokesman-Review, 10/21/86, KFA-0056

The Spokesman-Review/Spokane Chronicle (The Spokesman) filed an Appeal from a determination issued by the Upper Columbia Area Manager (Manager) of the Bonneville Power Administration in response to a Request for Information which The Spokesman had submitted under the Freedom of Information Act. Specifically, The Spokesman challenged the adequacy of the DOE's search for responsive documents. In considering the Appeal, the DOE determined that responsive documents do in fact exist and that, therefore, the determination was inadequate. Accordingly, the case was remanded to the Manager for a further search and determination.

Request for Exception

Perry Bros. Oil Co., Inc., 10/23/86, KEE-0027

Perry Bros. Oil Co., Inc. filed an Application for Exception from the requirement to file Form EIA-821, entitled "Annual Fuel Oil and Kerosene Sales Report." In evaluating the request, the DOE found that the firm had made no showing that it faced a greater burden in filing the EIA-821 form than other reporting firms. Accordingly, exception relief from filing Form EIA-821 was denied.

Motion for Discovery

Listo Petroleum, Inc., 10/20/86, KRD-0140, KRH-0140

Listo Petroleum, Inc. (Listo) filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with a Proposed Remedial Order (PRO) issued to it by the Economic Regulatory Administration (ERA) on September 26, 1985. In the PRO, the ERA alleges that Listo violated the "anti-layering" provisions of 10 CFR Part 212, Subpart L, and that it also violated 10 CFR 210.62(c) and 205.202. In its Motion for Discovery, Listo sought information regarding (1) the audit of the firm, (2) the administrative records of various regulations applicable to crude oil resellers, and (3) the DOE's contemporaneous construction of those regulations. Listo's Motion for Evidentiary Hearing requested that OHA convene an evidentiay hearing regarding the services that the firm provided in connection with crude oil sales that are the subject of the PRO. The DOE determined that Listo's Motion for Discovery was identical to discovery motions submitted by other crude oil resellers in similar layering cases. Those requests were denied because they would not elicit relevant and material factual evidence. Since Listo presented no new arguments to challenge the DOE's determinations in those cases, its discovery motion was similarly denied. However, the DOE found that a genuine factual dispute exists that relates to the resller services performed by Listo. Accordingly, Listo was permitted to present evidence concerning the exact services performed in connection with the transactions set forth in the PRO.

Implementation of Special Refund Procedures

Getty Oil Company, 10/24/86, HEF-0209

The DOE issued a Decision and Order implementing a plan for the distribution of $25 million received through a Consent Order entered into by Getty Oil Company and its affiliate, Skelly Oil Company, and the DOE. The DOE determined that the Getty settlement fund should be distributed to customers that purchased refined petroleum products from Getty during the period August 19, 1973 through December 31, 1978. In order to facilitate the distribution of refunds, the DOE adopted a small claims presumption of injury for applicants whose volumetrically allocated refund is below $5,000. For large claims above the $5,000 threshold, the DOE adopted level-of-distribution presumptions of injury. Under these latter presumptions, and applicant is presumed to have incurred a specific level of injury in its purchases from Getty and, as such, evidence of the applicant's purchase volumes will suffice to document its claim. However, applicants whose refund exceeds $50,000, as well as applicants who do not elect the level-of-distribution presumption for establishing injury, must provide a detailed demonstration of injury. Finally, end users of all Getty products will be eligible to receive 100 percent of their volumetrically allocated

share, provided they file an application documenting their Getty purchases. The specific information required in Applications for Refund ios set forth in the Decision.

Refund applications

A. Tarricone, Inc./Hays, Bleakley & Tobin, Inc., 10/20/86, RF155–3

The DOE issued a Decision and Order concerning an Application for Refund filed by Hays, Bleakley & Tobin, Inc. (HBT), a retailer of Tarricone No. 2 heating oil. Although the firm's purchases of No. 2 heating oil from Tarricone during the consent order period exceeded the threshold level established in *Seminole Refining, Inc.*, HBT elected to file its refund application in accordance with procedures for filing small claims based upon the presumption of injury outlined in the Seminole decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that HBT should receive a refund of $5,000 in principal and $3,909.63 in accrued interest.

A. Tarricone, Inc./Tenneco Oil Company, 10/20/86, RF155–1

Tenneco Oil Company (Tenneco) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with A. Tarricone, Inc. (Tarricone). The DOE found that Tenneco had purchased Tarricone No. 2 heating oil during the consent order period, and was injured by those purchases. The DOE, therefore, concluded that a refund of $8,512.62 would equitably compensate Tenneco for any injury experienced as result of Tarricone's alleged overcharges. In addition, the firm received accrued interest of $6,656.42 for a total refund of $15,169.04.

E.B. Lynn Oil Company/Chubby's Garage, 10/24/86, RF246–9

Chubby's Garage (Chubby's) filed an Application for Refund for a portion of the fund obtained through a consent order entered into with E.B. Lynn Oil Company. Chubby's was a retailer of Lynn motor gasoline whose purchases from Lynn during the consent order period entitled it to a refund under the $5,000 small claims threshold. The Application was granted under the standards specified in *E.B. Lynn Oil Co.*, 14 DOE ¶ 85,228 (1986). The total amount of refund approved in this decision is $629, representing $464 in principal and $165 in interest.

Erie Sand Steamship Co., 10/23/86, RF271–1

The DOE issued a Decision and Order in connection with its administration of the $9,750,000 escrow fund established for rail and water transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the gallonage to be used as a basis for the refund which will ultimately be issued to a water transporter applicant, Erie Sand Steamship Company. The DOE stated that since the size of a rail and water transporter applicant's refund will depend upon the total number of gallons that are ultimately approved for refund, the actual amount of Erie's refund would be determined at a later date.

Gas Systems, Inc./Odessa L.P.G. Transport Company, Inc., 10/21/86, RF162–1

Odessa L.P.G. Transport Co., Inc. (Odessa) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Gas Systems, Inc. (GSI). Odessa demonstrated that it purchased 6,425 gallons of propane from GSI during the consent order period. Using a volumetric methodology, the DOE determined that Odessa's claim was below the presumption of injury threshold refund level of $5,000. The DOE therefore granted Odessa a refund of $189.27, representing $111.53 in principal and $77.74 in interest.

Gulf Oil Corporation/Arnold P. Freedman, et al., 10/23/86, RF4040–63 et al.

The DOE issued a Decision and Order concerning 11 Applications for Refund filed in the Gulf Oil Corporation special refund proceeding. All of the applicants were end-users of petroleum products purchased directly from Gulf. In its Decision, the DOE granted the 11 applications under the standards specified in *Gulf Oil Corp.*, 12 DOE ¶85,048 (1984). The refunds granted total $49,012, representing $39,339 in principal and $9,673 in interest.

Gulf Oil Corporation/Standerfer's Gulf Service, et al., 10/21/86, RF40–3316 et al.

The DOE issued a Decision and Order concerning 21 Applications for Refund filed by retailers that were direct purchasers of Gulf Oil Corporation petroleum products. Each firm applied for a refund based upon the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶85,048 (1984), governing the disbursement of settlement funds received from Gulf pursuant to a 1978 consent order. In accordance with those procedures, each applicant demonstrated that it would not have been required to pass through to customers a cost reduction equal to the refund claimed. After examining the Applications and supporting documentation submitted by the applicants, the DOE concluded that each should receive a refund. The total amount of refunds approved in this decision is $27,640, representing $22,628 in principal and $5,012 in interest.

Marathon Petroleum Company/Airco Speer Carbon-Graphite, et al., 10/21/86, RF250–1321 et al.

The DOE issued a Decision and Order concerning 31 Applications for Refund filed by end-users of products covered by a consent order that the agency entered into with Marathon Petroleum Company. The Applications were evaluated in accordance with the procedures set forth in *Marathon Petroleum Co.*, 14 DOE ¶85,269 (1986). The sum of the refunds approved in this Decision is $93,170, representing $88,537 in principal and $4,633 in interest.

Marathon Petroleum Company/Dry Ridge Marathon, 10/20/86, RF250–1009

The DOE issued a Decision and Order concerning an Application for Refund filed by Dry Ridge Marathon, a purchaser of product covered by a consent order that the agency entered into with Marathon Petroleum Company. The applicant demonstrated a volume of Marathon purchases, and did not request a refund greater than the $5,000 small claims refund amount. The refund approved in this Decision is $660, representing $627 in principal and $33 in interest.

Marathon Petroleum Company/Economy Service Station, et al., 10/20/86, RF250–1035 et al.

The DOE issued a Decision and Order concerning seven Aplications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated a volume of Marathon purchases, and none requested a refund greater than 35 percent of its allocable share. The sum of the refunds approved in this Decision is $45,319 in principal and $2,372 in interest.

Marathon Petroleum Company/Vanguard Petroleum Corporation, 10/23/86, RF250–1169

The DOE issued a Decision and Order concerning an Application for Refund filed by Vanguard Petroleum Corporation for a refund from a consent order fund made available by Marathon Petroleum Company. In its application,

Vanguard claimed to have purchased 18,447,073 gallons of NGLs from Marathon during the consent order period. In reviewing Vanguard's application and a subsequent supplemental submission, the DOE determined that only a small portion of the applicant's original purchase claim qualified for a refund. The DOE determined that Vanguard could not be granted a refund on the basis of volumes that the firm received through exchange transactions with Marathon, since it had not shown that a violation occurred in those transactions which resulted in injury to Vanguard. The DOE found, however, that Vanguard did demonstrate actual purchases of 2,100,000 gallons of product from Marathon during the consent order period, and therefore approved a refund of $882 in principal and $46 in interest, based on that volume. In light of a gross discrepancy between Vanguard's original application, and the supplemental documentation it submitted, the DOE indicated that the privilege of the applicant and its representative to practice before the OHA would be jeopardized by any similarly spurious filings in the future.

Marathon Petroleum Company/W.D. Oil Co., et al., 10/20/86, RF250–1278 et al.

The DOE issued a Decision and Order concerning six Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $2,517 in principal and $126 in interest.

Mobil Oil Corporation/Allan H. Casinelli, et al., 10/23/86, RF250–1193 et al.

The DOE issued a Decision granting 49 Aplications for Refund from the Mobil Oil Corporation escrow account filed by retailers, resellers, and end-users of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of refunds granted was $51,005, representing $42,628 in principal and $8,377 in interest.

Mobil Oil Corporation/Arthur F. Rogers, et al., 10/21/86 RF225–4264 et al.

The DOE issued a Decision granting 58 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of refunds granted was $18,279, representing $15,309 in principal and $2,970 in interest.

Mobil Oil Corporation/Atlas Truck Rental Corporation, et al., 10/20/86 RF225–5678 et al.

The DOE granted 24 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to their full allocable shares pursuant to the provisions set forth in the *Mobil Oil Corp.*,13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $2,048, representing $1,712 in principal and $336 in interest.

Mobil Oil Corporation/Baker Petroleum, et al., 10/22/86 RF225–8317 et al.

The DOE issued a Decision granting 71 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each Applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*,13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $56,165, representing $46,940 in principal and $9,225 in interest.

Navajo Refining Company/Tesoro Petroleum Corporation, 10/24/86, RF203–6

Tesoro Petroleum Corporation (Tesoro) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Navajo Refining Company (Navajo). Tesoro demonstrated that is purchased 1,639,815 gallons of No. 2 diesel fuel from Navajo during the consent order period. Using a volumetric methodology, the DOE determined that Tesoro's claim was below the presumption of injury threshold refund level of $5,000. The DOE therefore granted Tesoro a refund of $494.10, representing $319.76 in principal and $174.34 in interest.

Petrolane-Lomita Gasoline Company/ Atlantic Richfield Company, 10/21/86, RF208–1

Atlantic Richfield Company (Arco) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Petrolane-Lomita Gasoline Company (Petrolane). Arco demonstrated that is purchased 3,150,000 gallons of propane from Petrolane during the consent order period. Using a volumetric methodology, the DOE determined that Arco's claim was below the presumption of injry threshold refund level of $5,000. The DOE therefore granted Arco a refund of $1,953.65, representing $1,449 in principal and $504.65 in interest.

Petrolane-Lomita Gasoline Company/ Chevron U.S.A. Inc., 10/23/86, RF208–2

Chevron U.S.A. Inc. filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Petrolane-Lomita Gasoline Company (Petrolane). Chevron demonstrated that it purchased 3,150,000 gallons of propane from Petrolane during the consent order period. Using a volumetric methodology, the DOE determined that Chevron's claim was below the presumption of injury threshold refund level of $5,000. The DOE therefore granted Chevron a refund of $2,428.02, representing $1,806.42 in principal and $621.60 in interest.

Quaker State Oil Refining Corporation/ Highway Services, Inc., 10/24/86, RF213–0012

The DOE issued a Decision and Order concerning an Application for Refund filed by a reseller of Quaker State Oil Refining Corporation refined petroleum products. The applicant's level of purchases resulted in a potential refund in excess of the $5,000 small claims threshold amount. According to the methodology set forth in *Quaker State Oil Refining Corp.*, 13 DOE ¶ 85,211 (1985), an applicant who claims a refund above the threshold amount must demonstrate that it was injured by Quaker State's alleged overcharges. Despite being given repeated opportunities to do so, the applicant failed to submit any specific information which would support its claim. The DOE therefore determined to limit the firm's refund to the $5,000 threshold amount. The refund approved in this Decision totaled $7,009, including interest.

Union Texas Petroleum Corporation/ Graf Petroleum, Inc., Chilton Metal Products, 10/22/86, RF140–48, FR140–49

The DOE issued a Decision and Order concerning two Applications for Refund filed by resellers of Union Texas Petroleum Corporation (UTP) petroleum products. The Decision and Order corrected an error in the refund amounts

set forth in an earlier decision issue in the UTP refund proceeding, *Union Texas Petroleum Corp./Graf Petroleum, Inc.*, 14 DOE ¶ 85,511 (1986), but did not alter the total refund amount approved in the prior decision.

Dismissals

The following submissons were dismissed:

Company Name and Case No.

Aerojet-General Corporation, RF225–6306
Allegheny Power System, RF225–6295
Allied Container Corporation, RF225–6068; RF225–6069
Appex Machine Tool Company, RF225–5641
Aptec Machine & Tool, RF225–5643
Akron Shipping Agencies, RF225–6302
Avoset Food Corporation, RF225–5946; RF225–5947
B.L. Kozera, RF225–6000; RF225–6001
Baptist Memorial Hospital, RF225–6311
Bernard Epps & Company, RF225–6123; RF225–6124
Caleb D. Glass, KFA–0059
Drexel University, RF225–6166; RF 2256166;
Ex-Cello–O Corporation, RF225–6287
Foster Wheeler Corporation, RF225–8960
Frank Newman, RF225–225
G&K Services, RF225–6308
Glitsch, Inc., RF225–6110; RF225–6111
Goodyear Aerospace Corporation, RF225–6309
Guttman Oil Company, RF225–1527
H. Brent Associates, Inc., RF225–6279
Handi-Ad Printing Company, RF225–6292
Hercules Cement Company, RF225–6314
Home Petroleum Corporation, RF248–3
Hydromatic Sales & Service Corporation, RF225–6315
Indiana & Michigan Electric Company, RF225–5672
J.E. Hoffman & Company, RF225–6286
Kenraid Nash, RF225–6097; RF225–6098
King Winch, Inc., RF225–5675
Lancaster Towing Co., Inc., RF225–5610
M&M Minerals Corporation, *et al.*,HRO–0018
McDonald Strosnider Transmissions, Inc., RF225–5635
Mills Products, Inc., RF225–6117
National Fuel Gas Distributing Corporation, RF225–6283
Neward Printing Company, RF225–5660
New York State Office of Mental Health, RF225–6291
North Star Steel Texas, RF225–6322
Otten Screw Products Company, RF225–6280
Peerless Precision, Inc., RF225–5613
Pittsburgh Press Company, RF225–6319
Roquemore Oil Company, RF213–10
Royal Continental Box Company, RF225–6312
Sargent and Company, RF225–6324
Schenectady Chemicals, Inc., RF225–6125; RF225–6126
Smith Construction Company Inc,, RF225–6289
Square D Company, RF225–6293
Teempco Manufacturing Company, Inc., RF225–6297
Texas Department of Public Safety, RF225–6305
The American Welding & Manufacturing Company, RF225–6310
The Christian Science Publishing Society, RF225–6316
The Plank Company, RF225–5650
The Rexroth Corporation, RF225–6313
Town of New Windsor, RF225–5614
United Tool & Die Company, RF225–6294
Van Dorn Company, RF225–6131; RF225–6132
Voltex Inc., RF225–5639
Westfield Gage Company, Inc., RF225–6325
Wisconsin Aluminum Foundry Company, Inc., RF225–6119; RF225–6120

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leafe reporter system.

November 25, 1986.

George B. Breznay,
Director, Office of Hearings and Appeals.

[FR Doc. 86–27600 Filed 12–8–86; 8:45 am]
BILLING CODE 6450–01–M

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces proposed procedures for distributing $16 million obtained from 10 firms. The OHA has tentatively determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Comments must be filed in duplicate on or before January 8, 1987, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a reference to Case No. HEF–0488.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC. 20585 (202) 252–2383.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth the procedures that the DOE has tentatively formulated to distribute funds obtained from 10 firms to settle possible violations of DOE regulations in their sales of crude oil. The funds are being held in an interest-bearing escrow account pending distribution by the DOE.

We propose to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the States, the Federal government, and eligible purchasers of crude oil and refined products. Refunds to the states would be distributed in proportion to each State's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers would be based on the number of gallons of refined products which they purchased and the extent to which they can demonstrate injury.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Reference room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: Novemer 20, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 20, 1986.

Proposed decision and Order; Implementation of Special Refund Procedures

Names of Cases: Andrus Interest, Inc., *et al.*

Dates of Filing: March 20, 1984, *et al.*

Case Numbers: HEF–0483, *et al.*

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. *See* 10 CFR Part 205, Subpart V. Such procedures enable the DOE to refund monies to those injured by alleged violations of the DOE pricing regulations.

The ERA has filed 10 Petitions for the Implementation of Special Refund Procedures with respect to crude oil overcharge funds obtained from the firms whose names and OHA case numbers appear in the Appendix. To date, these 10 firms have remitted to the DOE a total of $16,393,691.85, pursuant to consent orders, Remedial Orders or Supplemental Orders issued by the OHA.[1] Over $3 million in interest has accrued on that amount as of October 31, 1986. This Proposed Decision sets forth the OHA's tentative plan to distribute these funds. Comments are solicited.

The general guidelines which the OHA may use to formulate and implement a plan to distribute funds are set forth in 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of alleged or adjudicated violations or cannot ascertain the amount of each person's injury. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

We have considered the ERA's requests to implement Subpart V procedures with respect to the monies received from the 10 firms listed in the appendix and have determined that such procedures are appropriate.

These 10 cases involve alleged violations of the regulations which governed the first sale of crude oil, 10 CFR Part 212, Subpart D, the crude oil reseller regulations, 10 CFR Part 212, Subparts F and L, or the entitlements regulations, 10 CFR 211.66, 211.67 and 211.69. They are therefore subject to the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, issued on July 28, 1986. 51 FR 27,899 (August 4, 1986) (hereinafter referred to as the "MSRP"). The MSRP was issued in conjunction with the approval of the United States District Court for the District of Kansas of a settlement agreement in *The DOE Stripper Well Litigation*, M.D.L. 378.[2] On August 8, 1986, the OHA announced its intention to follow the MSRP. 51 Fed. Reg. 29686 (August 20, 1986).[3]

The MSRP provides that a refund process will be employed for restitution of alleged crude oil violation amounts held in escrow by the DOE or received in the future, using the special refund procedures codified at 10 CFR Part 205, Subpart V. Under that process, the OHA will accept and process refund applications from persons who claim they were injured by alleged crude oil violations. Up to 20 percent of the alleged crude oil violation amounts may be reserved initially for refunds to claimants who prove injury. The MSRP calls for the remaining 80 percent of the funds to be disbursed to the State and Federal governments for indirect restitution. After all valid claims are paid, any remaining funds from the reserve will also be divided between the State and Federal governments. The Federal government's share of the funds will ultimately be deposited into the general fund of the Treasury of the United States.

The OHA will institute a claims process, pursuant to the MSRP, for the $19.4 million involved in these proceedings. We have decided to reserve initially the full 20 percent of the alleged crude oil violation amounts for direct refunds to claimants, in order to ensure that sufficient funds will be available for refunds to injured persons. The amount of the reserve may be adjusted later if circumstances warrant such action. In order to receive a refund from the crude oil funds involved in this Decision, we propose that a claimant will be required to file an application for refund. The application should be clearly labelled "Application for Crude Oil Refund" and should contain: (1) The name or names of the applicant's business and a short description of the applicant's use of petroleum products; (2) a statement identifying the petroleum products which the applicant purchased during the period of crude oil price controls (August 19, 1973 through January 27, 1981), the number of gallons of each product purchased, and the total number of gallons on which the applicant bases its claim; (3) a description of the method by which the applicant determined its purchase volumes, and a description of its method of estimation if the applicant used estimates to determine its purchase volumes; (4) a showing that the applicant was injured by the alleged overcharges; and (5) a statement that neither the applicant, its parents, subsidiaries, affiliates, successors nor assigns has waived any right it may have to receive a refund in this case.[4] *MAPCO, Inc.*, 15 DOE ¶ ——, No. HEF–0577 (November 7, 1986).

The OHA will evaluate applications for refund from purchasers of refined petroleum products using methods similar to those which the OHA has used to evaluate claims based on refined product overcharges pursuant to 10 CFR Part 205, Subpart V. *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 at 88,869 (1986). As in non-crude oil cases, applicants will be required to document their purchase volumes and to prove that they were injured by the alleged overcharges (i.e., that they did not pass the overcharges on to their own customers). *Id.* However, end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to be injured. *Greater Richmond Transit Company*, 15 DOE ¶ 85,028 (1986). The standards for showing injury which the OHA has developed in analyzing and deciding non-crude oil claims will also apply to claims based on crude oil overcharges. *See, e.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 (1986).

Refunds will be calculated on the basis of a per gallon refund amount derived by dividing the crude oil overcharge monies received to date in these 10 cases ($16,393,691.85) by the total U.S. consumption of petroleum products during the period of price control.[5] *Mountain Fuel* 14 DOE at 88,867–68. The volumetric refund amount in each of these 10 proceedings is set out in the Appendix. The total refund amount is $.0000081117 per gallon, to which interest will be added.

We propose that the remaining 80 percent of the funds—$13,114,953.48—be immediately disbursed to the State and Federal governments for indirect restitution. We propose to direct the DOE's Office of the Controller to segregate this amount and distribute $3,278,738.37 plus appropriate interest to the states and $9,836,215.11 plus appropriate interest to the Federal government.[6] The share or ratio of the funds in the State account which each State will receive if these procedures are adopted, based on each state's consumption of petroleum products during the period of price control, is listed in Exhibit H to the Final Settlement Agreement in the *Stripper Well Litigation*, reprinted at 6 Fed. Energy Guidelines ¶ 90,509 at 90,687.

Before taking the action we have proposed in this Decision, we intend to publicize our proposal and solicit comments on it. Comments regarding the tentative distribution process set forth in this Proposed

[1] Three firms, noted in the Appendix, which are making yearly payments to the DOE have an outstanding liability of $31,428,316.52. We propose that these funds, when remitted to the DOE, be disbursed pursuant to the procedures proposed in this Decision.

[2] For a detailed discussion of the events in the Stripper Well Litigation which brought about the MSRP, see *Stripper Well Exemption Litigation*, 14 DOE ¶ 85,382 (1986).

[3] The OHA is evaluating comments to that notice.

[4] Pursuant to the Settlement Agreement, escrow funds were established for refiners, resellers, retailers, agricultural cooperatives, airlines, privately owned utilities, surface transporters, and rail and water transporters. Firms which claim refunds for crude oil overcharges from those escrow funds waive their rights to receive refunds from Subpart V cases based on alleged crude oil overcharges.

[5] It is estimated that 2,020,997,335,000 gallons of petroleum products were consumed in the United States during the period August 1973 through January 1981. *Mountain Fuel* 14 DOE at 88,868 n.4 (1986).

[6] This distribution reflects a ratio of 25 percent to the State governments and 75 percent to the Federal government. Under the terms of the Stripper Well Settlement Agreement, the States received an advance of $200 million from funds which would otherwise have been disbursed to the DOE. In order to reimburse the DOE for this advance, the Settlement Agreement provides that for amounts which the OHA transfers to the State and Federal governments in excess of $100 million, the DOE shall receive 75 percent and the States shall receive 25 percent. This arrangement shall continue until the OHA has distributed the next $400 million under the 75/25 arrangement. Settlement Agreement, Paragraph II.B.3.c.ii.

Decision should be filed with the OHA within 30 days of publication in the Federal Register.

It is Therefore Ordered That:

The refund amounts remitted by the firms identified in the appendix to this Decision and Order shall be distributed in accordance with the foregoing Decision.

Appendix

ANDRUS INTEREST, INC., ET AL. CASE NOS. HEF-0488 ET AL.

OHA case No.	Name of firm	Consent order No.	Date of filing	Principal remited as of Oct. 31, 1986	Volumetric refund
HEF-0488	Andrus Interest, Inc	650X00340Z	3/20/84	[1] $1,590,000.00	.0000007867
KEF-0078	City of Long Beach, Cal	999C90018Z	9/18/86	1,006,090.86	.0000004978
HEF-0498	Crysen Corp	940X00234Z	3/26/84	[2] 4,500,000.00	.0000022266
KEF-0037	Energy Reserves Group	740C01203Z	5/13/86	488,515.85	.0000002417
KEF-0043	Giant Industries, Inc	N00S90049Z	6/30/86	354,927.11	.0000001756
KEF-0035	Grigsby Oil & Gas	641C00011Z	4/29/86	1,148,189.55	.0000005681
HEF-0295	Langham Petroleum and Development, Inc.	640X00433Z	10/13/83	[3] 6,895,986.48	.0000034122
KEF-0079	Liberty Trading Co., Inc	6C0X00275Z	9/19/86	100,000.00	.0000000495
HEF-0576	McTan Corp	6A0X00266Z	4/3/85	100,000.00	.0000000495
HEF-0569	Pyro Energy Corp	610C00052Z	3/11/885	210,000.00	.0000001839
Total				[4] 16,393,691.85	.0000081117

[1] Total liability for Andrus is $5,300,000.00. Amount still owed is $3,710,000.00.
[2] Total liability for Crysen is $7,114,287.00. Amount still owed is $2,614,287.00.
[3] Total liability for Langham is $32,000,000.00. Amount still owed is $25,104,031.52.
[4] Total amount still owed by Andrus, Crysen and Langham is $31,428,318.52.

[FR Doc. 86-27599 Filed 12-8-86; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59235; FRL-3125-4]

Phosphine Oxide, Diphenyl(2,4,6-Trimethylbenzoyl); Test Market Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discusssed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of an application for exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: December 24, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-59235]" and the specific TME number should be sent to:

Document Control Officer (TS-790). Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794) Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: Effective with this notice, a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act. Toxicity data will only appear in the notice when submitted with the TME application. Exposure and environmental release/disposal information will no longer be published in the notice. The following notice contains information extracted from the non-confidential version of the TME application received by EPA. The complete non-confidential application are available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 87-4

Close of Review Period. January 9, 1987.

Importer. BASF Corporation.

Chemical. (S) Phosphine oxide, diphenyl(2,4,6-trimethylbenzoyl)-.

Use/Import. (S) Industrial catalyst for ultra-violet curable lacquers. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Slight, Eye—Non-irritant; Inhalation: Slight; Ames test: Non-mutagenic.

Dated: December 1, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-27659 Filed 12-8-86; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59796; FRL-3125-3]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984 (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from

certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of six such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 87–51—December 11, 1986.

Y 87–52, 87–53 and 87–54—December 15, 1986.

Y 87–55 and 87–56—December 16, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: Effective with this notice, a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act. Toxicity data will only appear in the notice when submitted with the PMN. Exposure and environmental release/disposal information will no longer be published in the notice. The following notice contains information extracted from the non-confidential version of the PMNs received by EPA. The complete non-confidential PMNs are available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 87–51

Manufacturer. Confidential.

Chemical. (G) Modified soya fatty acid isophthalic alkyd.

Use/Production. (S) Consumer polymer for architectural coating. Prod. range: Confidential.

Y 87–52

Importer. Hitachi Chemical Company, America Ltd.

Chemical. (G) Polyesterimide polymer B.

Use/Import. (S) Insulation of magnet wire. Import range: Confidential.

Y 87–53

Importer. Hitachi Chemical Company, America Ltd.

Chemical. (G) Polyester polymer.

Use/Import. (S) Insulation of magnet wire. Import range: Confidential.

Y 87–54

Importer. Hitachi Chemical Company, America Ltd.

Chemical. (G) Polyesterimide polymer A.

Use/Import. (S) Insulation of magnet wire. Import range: Confidential.

Y 87–55

Manufacturer. Confidential.

Chemical. (G) Silicone modified alkyd resin.

Use/Production. (S) Component to industrial coating for implement. Prod. range: 18,500 to 37,000 kg/yr.

Y 87–56

Manufacturer. Confidential.

Chemical. Acrylic polymeric resin.

Use/Production. (G) Polymer for inks. Prod. range: 5,000 to 20,000 kg/yr.

Dated: December 1, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86–27660 Filed 12–8–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51652; FRL–3125–2]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-two such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 87–250, 87–251, 87–252 and 87–253—February 21, 1987.

P 87–254, 87–255, 87–256, 87–257, 87–258, 87–259, 87–260, 87–261, 87–262, 87–263, 87–264, 87–265, 87–266, 87–267 and 87–268—February 22, 1987.

P 87–269, 87–270, 87–271, 87–272, 87–273, 87–274, 87–275, 87–276, 87–277, 87–278, 87–279, 87–280, and 87–281—February 23, 1986.

Written comments by:

P 87–250, 87–251, 87–252, and 87–253—January 22, 1987.

P 87–254, 87–255, 87–256, 87–257, 87–258, 87–259, 87–260, 87–261, 87–262, 87–263, 87–264, 87–265, 87–266, 87–267 and 87–268—January 23, 1987.

P 87–269, 87–270, 87–271, 87–272, 87–273, 87–274, 87–275, 87–276, 87–277, 87–278, 87–279, 87–280, and 87–281—January 24, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS–51652]" and the specific PMN number should be sent to:

Document Control Officer (TS–790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M Street, SW., Washington, DC 20460, (202) 382–3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: Effective with this notice, a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act. Toxicity data will only appear in the notice when submitted with the PMN. Exposure and environmental release/disposal information will no longer be published in the notice. The following notice contains information extracted from the non-confidential version of the PMNs received by EPA. The complete non-confidential PMNs are available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 87–250

Manufacturer. Confidential.

Chemical. (G) Modified phthalic anhydride diol polymer.

Use/Production. (S) Industrial plasticizer for elastomers, including nitrile rubber and chloroprene. Prod. range: Confidential.

P 87–251

Manfacturer. Confidential.

Chemical. (G) Acrylic acid, bicyclohetene diester with a linear alkane.

Use/Production. (G) A formulation component for open, non-dispersive use. Prod. range: Confidential.

P 87–252

Manufacturer. Confidential.

Chemical. (G) Gationic acrylic polymer.

Use/Production. (G) Additive for cellulose-open, non-dispersive degree of containment. Prod. range: Confidential.

P 87–253

Manufacturer. Confidential.

Chemical. (G) Aqueous acrylic latex polymer.

Use/Production. (G) Chemical intermediate in a destructive use. Prod. range: Confidential.

P 87–254

Manufacturer. Confidential.
Chemical. (G) Amine acid ester.
Use/Production. (G) Dispersively used industrial coating. Prod. range: 10,000 to 52,000 kg/yr.

P 87–255

Manufacturer. Confidential.
Chemical. (G) Epoxy liquid polysulfide.
Use/Production. (G) Reactive binder. Prod. range: Confidential.

P. 87–256

Manufacturer. Confidential.
Chemical. (G) Ployesterimide resin.
Use/Production. (G) Intermediate for electrical insulation coatings. Prod. range: Confidential.

P 87–257

Manufacturer. Confidential.
Chemical. (G) Polyesterimide resin.
Use/Production. (G) Intermediate for electrical insulation coating. Prod. range: Confidential.

P 87–258

Importer. Confidential.
Chemical. (G) Polymer of carboxyterminated acrylonitrile/ butadiene reacted with an epoxy ester, mono—and dibastic fatty acids and polyalkylene polyamines.
Use/Import. (S) Curing agent for epoxy adhesive systems and for epoxy coating systems. Import range: Confidential.

P 87–259

Manufacturer. Degussa Corporation.
Chemical. (S) Octadecyltrimethoxysilane.
Use/Production. (G) Rubber additive water proofing agent coupling agent, and chromatraphic column reagent. Prod. range: Confidential.

P 87–260

Manufacturer. Hercules Incorporated.
Chemical. (G) Surface modified inorganic compound.
Use/Production. (G) The material will be used to remove moisture from HCl gas. Prod. range: Confidential.

P 87–261

Manufacturer. Confidential.
Chemical. (G) Methyl methacrylate copolymer.
Use/Production. (G) Industrially used material having a dispersive use. Prod. range: 25,000 to 50,000 kg/yr.

P 87–262

Manufacturer. Confidential.
Chemical. (G) Phthalic polyester.
Use/Production. (G) Industrially used polymer having a dispersive use. Prod. range: 50,000 to 200,000 kg/yr.

P 87–263

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (G) Intermediate for electrical insulation coatings. Prod. range: Confidential.

P 87–264

Manufacturer. Confidential.
Chemical. (G) Acrylic emulsion polymer.
Use/Production. (G) Adhesive additive in an open, non-dispersive use. Prod. range: Confidential.

P 87–265

Importer. Nagase America Corporation.
Chemical. (S) 7-[Diethylamino)-2-hexyloxyphenyl]7-(1-ethyl-2-methyl-1H-indol-3-yl)-furo][3,4-b] pyridin-5(7H)-one.
Use/Import. (S) Industrial color former for pressure sensitive paper (carbonless copy paper) and thermal copy paper. Import range: Confidential.

P 87–266

Importer. Nagase America Corporation.
Chemical. (S) 6'-(N-ethylhexylamino)-2'-(N-methylphenylamino)-spiro [isbenzofuran-1 (3H), 9'-[9H]xanthen]-3-one.
Use/Import. (S) Industrial color former for pressure sensitive paper (carbonless copy paper) and thermal copy paper. Import range: Confidential.

P-87–267

Importer. Nagase America Corporation.
Chemical. (S) 9-ethyl(3-methylbutyl)amino-spiro[12H-benzo[a]xanthene-12,1'(3'H)isobenezofuran]-3'-one.
Use/Import. (S) Industrial color-former for pressure sensitive paper (carbonless copy paper) and thermal copy paper. Import range: Confidential.

P–87–268

Importer. Nagase America Corporation.
Chemical. (S) 6'-(N-ethylhexylamino-2'-(phenylamino)-spiro[isobenzofuran-1(3H)-9'-[9H]xanthene]-3-one.
Use/Import. (G) Color-former. Import range: Confidential.

P 87–269

Manufacturer. Confidential.
Chemical. (G) Rosin and phenolic modified alkyd resin.
Use/Production. (G) Resin is converted to paint. Prod. range: Confidential.

P 87–270

Manufacturer. Confidential.
Chemical. (G) Polyetheramine.
Use/Production. (G) Industrial coating polymer. Prod. range: 30,000 to 520,000 kg/yr.

P 87–271

Manufacturer. Confidential.
Chemical. (G) Inert perfluorocarbon liquid.
Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.

P 87–272

Manufacturer. Confidential.
Chemical. (G) Inert perfluorocarbon liquid.
Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.

P 87–273

Manufacturer. Confidential.
Chemical. (G) Inert perfluorocarbon liquid.
Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.

P 87–274

Manufacturer. Confidential.
Chemical. (G) Inert perfluorocarbon liquid.
Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.

P 87–275

Manufacturer. Confidential.
Chemical. (G) Inert perfluorocarbon liquid.
Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.

P 87–276

Manufacturer. Confidential.
Chemical. (G) Inert perfluorocarbon liquid.
Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.

P 87–277

Manufacturer. Confidential.
Chemical. (G) Inert perfluorocarbon liquid.
Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.

P 87–278

Manufacturer. Confidential.
Chemical. (G) Inert perfluorocarbon liquid.
Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.

P 87-279

Manufacturer. Confidential.

Chemical. (G) Inert perfluorocarbon liquid.

Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.

P 87-280

Manufacturer. Rohm and Haas Company.

Chemical. (G) Modified polyacrylate polymer.

Use/Production. (G) Polymeric dispersant. Prod. range: Confidential.

P 87-281

Manufacturer. Confidential.

Chemical. (G) Acrylated alkyd resin.

Use/Production. (S) Resin is used in making high quality inks. Prod. range: Confidential.

Dated: December 1, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-27661 Filed 12-8-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

BankEast Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 24, 1986.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *BankEast Corporation,* Manchester, New Hampshire; to acquire 100 percent of the voting shares of BankEast Savings Bank and Trust, Rochester, New Hampshire.

B. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Yasuda Trust and Banking Co., Ltd.,* Tokyo, Japan; to become a bank holding company by acquiring 100 percent of the voting shares of Yasuda Bank and Trust Company (U.S.A.), New York, New York, a *de novo* bank.

C. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Turbotville National Bancorp, Inc.,* Turbotville, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Turbotville National Bank, Turbotville, Pennsylvania, a *de novo* bank.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Empire Banc Corporation,* Traverse City, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of The Empire National Bank of Traverse City, Traverse City, Michigan.

Board of Governors of the Federal Reserve System, December 3, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-27570 Filed 12-8-86; 8:45 am]

BILLING CODE 6210-01-M

Bank of San Francisco Company Holding Co.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 30, 1986.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Bank of San Francisco Company Holding Company,* San Francisco, California; to acquire Embarcadero Mortgage Corporation, San Francisco, California, and thereby engage in the business of making, acquiring, and servicing loans and in brokering and selling loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 3, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-27569 Filed 12-8-86; 8:45 am]

BILLING CODE 6210-01-M

The First National Agency at St. James, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies, and Acquisitions of Nonbanking Companies

The companies listed in this notice have 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 companies have 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 applications are 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 or the offices of the Board of Governors not later than December 29, 1986.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *The First National Agency at St. James, Inc.*, St. James, Minnesota; to become a bank holding company by acquiring 85.8 percent of the voting shares of The First National Bank at St. James, St. James, Minnesota.

In connection with this application, Applicant also proposes to engage in general insurance agency activities in a community with a population of less than 5,000 pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities will be conducted in St. James, Minnesota.

2. *The First National Bank at St. James Employee Stock Ownership Plan and Trust*, St. James, Minnesota; to become a bank holding company by acquiring 30.58 percent of the voting shares of The First National Agency at St. James, Inc., St. James, Minnesota.

In connection with this application, Applicant also proposes to acquire The First National Agency at St. James, Inc., St. James, Minnesota, and thereby indirectly engage in general insurance agency activities in a community with a population of less than 5,000 pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities will be conducted in St. James, Minnesota.

Board of Governors of the Federal Reserve System, December 3, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-27572 Filed 12-8-86; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and section 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 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 24, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Zell Miller*, Matthew Miller, Murphy Miller, J. Mack Robinson, Harriet J. Robinson, Harriet J. Robinson (custodian for Robin Robinson and Jill Robinson), Delta Life Insurance Company, and Delta Fire & Casualty Insurance Company, all of Atlanta, Georgia; to acquire 42.63 percent of the voting shares of Mountain Bank of Georgia, Hiawassee, Georgia.

Board of Governors of the Federal Reserve System, December 3, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-27573 Filed 12-8-86; 8:45 am]

BILLING CODE 6210-01-M

United Missouri Bancshares, 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 29, 1986.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Missouri Bancshares, Inc.*, Kansas City, Missouri; to acquire 100 percent of the voting shares of FCB Corporation, Collinsville, Illinois, and thereby indirectly acquire The First National Bank of Collinsville, Collinsville, Illinois; First County Bank, Maryville, Illinois; and The First State Bank of Morrisonville, Morrisonville, Illinois. Comments on this application must be received by December 26, 1986.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Cattlemen's Financial Services, Inc.*, Austin, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Cattlemen's State Bank, Austin, Texas, a *de novo* bank.

2. *Cooper Lake Financial Corporation*, Cooper, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank in Cooper, Cooper, Texas.

Board of Governors of the Federal Reserve System, December 3, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-27571 Filed 12-8-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Additions to Senior Executive Service Performance Review Board Membership

Title 5, U.S.C. 4314(c)(4), of the Civil Service Reform Act of 1978, Public Law 95-454, requires that the appointment of Performance Review Board members be published in the **Federal Register.**

On October 2, 1986, the Department of Health and Human Services' PRB membership was published in the **Federal Register.** The following members are hereby added to that membership:

Thomas R. Burke
Dennis J. Fischer

Dated: December 2, 1986.

Thomas S. McFee,

Assistant Secretary for Personnel Administration.

[FR Doc. 86-27603 Filed 12-8-86; 8:45 am]

BILLING CODE 4110-60-M

Food and Drug Administration

[Docket No. 86E-0460]

Determination of Regulatory Review Period for Purposes of Patent Extension; Duromedics Cardiac Valve Prosthesis

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for the Duromedics Cardiac Valve Prosthesis and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

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

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 158(g)(3)(B).

FDA recently approved for marketing the Duromedics Cardiac Valve Prosthesis, which is indicated for use as a replacement for diseased, damaged, or malfunctioning natural or prosthetic aortic or mitral heart valves. Based on this approval, Hemex, Inc., now seeks patent term restoration.

FDA has determined that the applicable regulatory review period for the Duromedics Cardiac Valve Prosthesis is 864 days. Of this time, 651 days occurred during the testing phase of the regulatory review period, while 213 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a clinical investigation involving this device was begun:* April 19, 1984. FDA has verified the applicant's claim that a clinical investigation for the product was begun on April 19, 1984.

2. *The date an application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act:* January 29, 1986. The applicant claims the premarket approval application (P850006) was initially submitted on February 4, 1985. However, the application did not contain sufficient information to permit substantive review by FDA until receipt of an amendment on January 29, 1986.

3. *The date the application was approved:* August 29, 1986. FDA has verified the applicant's claim that P850006 was approved on August 29, 1986.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, the applicant requests an extension until August 29, 2000.

Anyone with knowledge that any of the dates as published is incorrect may, on or before February 9, 1987, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before June 7, 1987, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 3, 1986.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 86-27551 Filed 12-8-86; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Health Resources and Services Administration; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (47 FR 38409-24, August 31, 1982, as amended most recently at 51 FR

27916, August 4, 1986) is amended to reflect the abolishment of the division structure for the Office of Associate Director for Health Planning in the Bureau of Resources Development.

Under HB–10, Organization and Functions, amend the functional statements for the *Bureau of Resources Development (HBH)* by deleting the functional statements for the *Division of Analysis and Assistance (HBHB2), the Division of Agency Operations and Management (HBHB3), and the National Health Planning Information Center (HBHB4)* in their entirety.

The abolishment of the division structure for the Office of Associate Director for Health Planning is effective September 30, 1986.

Dated: September 30, 1986.

David N. Sundwall,

Administrator, Health Resources and Services Administration.

[FR Doc. 86–27552 Filed 12–8–86; 8:45 am]

BILLING CODE 4160–15–M

Health Resources and Services Administration

Final Special Considerations for Fiscal Year 1987 for Advanced Nurse Education Grants, Nurse Practitioner and Nurse Midwifery Grants, and Nursing Special Project Grants

The Health Resources and Services Administration announces final special considerations which will be applied in the distribution of grant awards in Fiscal Year 1987 for Advanced Nurse Education Grants, Nurse Practitioner and Nurse Midwifery Grants, and Nursing Special Project Grants.

Advanced Nurse Education Grants

Section 821 of the Public Health Service Act, and 42 CFR Part 57, Subpart Z, authorize assistance to meet the costs of projects to (a) plan, develop and operate, (b) expand, or (c) maintain programs which lead to masters' and doctoral degrees and which prepare nurses to serve as nurse educators, administrators, or researchers or to serve in clinical nurse specialties determined by the Secretary to require advanced education.

Section 821(a), as amended by Pub. L. 99–129, requires that the Secretary shall give priority in geriatric and gerontological nursing. (Catalog of Federal Domestic Assistance No. 13.299.)

Nurse Practitioner And Nurse Midwidfery Grants

Section 822(a), of the Public Health Service Act, and 42 CFR Part 57, Subpart Y, authorize assistance to plan, develop and operate, expand or maintain programs for the education of nurse practitioners and nurse midwives.

In accordance with the statute, the Secretary will give special considerations to applications for grants for programs for the training of nurse practitioners and nurse midwives who will practice in health manpower shortage areas (designated under section 322) and for programs for the education of nurse practitioners which emphasize education with respect to the special problems of geriatric patients (particularly problems in the delivery of preventive care, acute and long-term care; including home health care and institutional care to such patients) and education to meet the particular needs of nursing home patients and patients who are confined to their homes.

(Catalog of Federal Domestic Assistance No. 13.298)

Nursing Special Project Grants

Section 820 of the Public Health Service Act, and 42 CFR Part 57, Subpart T, authorize assistance in meeting the costs of special projects to carry out the following designated purposes:

(1) To increase nursing education opportunities for individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary of Health and Human Services, by:

(A) Identifying, recruiting, and selecting such individuals,

(B) Facilitating the entry of such individuals into schools of nursing,

(C) Providing counseling or other services designed to assist such individuals to complete successfully their nursing education,

(D) Providing, for a period prior to the entry of such individuals into the regular course of education at a school of nursing, preliminary education designed to assist them to complete successfully such regular course of education,

(E) Paying such stipends (including allowances for travel and dependents) as the Secretary may determine for such individuals for any period of nursing education, and

(F) Publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid available to persons enrolled in schools of nursing or who are undertaking training necessary to qualify them to enroll in such schools;

(2) To provide continuing education for nurses;

(3) To provide appropriate retraining opportunities for nurses who (after periods of professional inactivity) desire again actively to engage in the nursing profession;

(4) To demonstrate improved geriatric training in preventive care, acute care and long term care (including home health care and institutional care);

(5) To help to increase the supply or improve the distribution by geographic area or by specialty group of adequately trained nursing personnel (including nursing personnel who are bilingual) needed to meet the health needs of the Nation, including the need to increase the availability of personal health services and the need to promote preventive health care; or

(6) To provide training and education to upgrade the skills of licensed vocational practical or vocational nurses, nursing assistants, and other paraprofessional nursing personnel.

Under Pub. L. 99–92, funds appropriated for special project grants are earmarked as follows: 20 percent for projects to increase education opportunities for individuals from disadvantaged backgrounds (which may include stipends) (Purpose 1); 20 percent to demonstrate improved geriatric training (Purpose 4); and 10 percent to help increase the supply or improve the distribution by geographic area or by specialty groups of adequately trained nursing personnel (Purpose 5). The remaining 50 percent of appropriate funds are for Purposes (2), (3) and (6). (Catalog of Federal Domestic Assistance No. 13.359.)

Proposed special considerations were published in the **Federal Register** of August 11, 1986 (51 FR 28777) for each of these programs for public comment and no comments were received during the 30 day comment period. In addition to the special considerations which are statutory requirements, the final special considerations are:

Advanced Nurse Education Grants and Nurse Practitioner and Nurse Midwifery Grants

Special consideration will be given to applicants that indicate a clear financial need, plan to sustain programs beyond the period during which Federal assistance is available, and have either a 3-year average enrollment of minority students in graduate nursing education in excess of the national average or have proposed new projects aimed at attracting minority students. The current national average of graduate minority students in nursing is four percent.

Nursing Special Project Grants

Special consideration will be given to those projects under Purpose 1 (to increase nursing education opportunities

for individuals from disadvantaged backgrounds) that propose to use at least 20 percent of grant funding as stipends given directly to nursing students.

In addition, special consideration will be given to special projects under Purposes 1 through 6 that plan to continue beyond the period in which Federal funding is available and meet a clear, financial need.

These programs are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Dated: November 12, 1986.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 27553 Filed 12-8-86; 8:45 am]

BILLING CODE 4160-15-M

Final Funding Preference for Grants for Establishment of Departments of Family Medicine

The Health Resources and Services Administration announces the final funding preference which will be applied in the distribution of grant awards in Fiscal Year 1987 for Grants for Establishment of Departments of Family Medicine, section 780, of the Public Health Service Act, as amended by Pub. L. 99-129.

Section 780 authorizes Federal support to medical and osteopathic schools to assist developing and existing family medicine units in achieving administrative status equal to that of other major clinical units. Funds awarded will be used to strengthen the administrative base and structure that is responsible for planning, directing, organizing, coordinating, and evaluating all undergraduate and graduate family medicine activities. Funds are to complement rather than duplicate programmatic activities for the operation of family medicine training programs under Section 786(a), Title VII, of the Public Health Service Act.

Section 780, as amended by Pub. L. 99-129, requires that the Secretary shall give priority to applicants that demonstrate to the satisfaction of the Secretary a commitment to family medicine in thier medical education training programs.

A proposed funding preference was published in the **Federal Register** of September 26, 1986 (51 FR 34259) for public comment and no comments were received during the 30-day comment period.

Therefore, the final funding preference for this program, in addition to the statutory requirements for Fiscal Year 1987 is:

To give preference to applicants that:

(1) Demonstrate a commitment to increased enrollment and retention of minority and disadvantaged students in their programs or show evidence of efforts to recruit minority and disadvantaged students; and

(2) demonstate the potential to continue the projects on a self-sustaining basis.

Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental review of Federal Programs, or 45 CFR Part 100.

Dated: November 28, 1986.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 86-27554 Filed 12-8-86; 8:45 am]

BILLING CODE 4160-15-M

Final Special Consideration for Grants for Graduate Training in Family Medicine

The Health Resources and Services Administration announces the final special consideration which will be applied in the distribution of grant awards in Fiscal Year 1987 for Grants for Graduate Training in Family Medicine, section 786(a) of the Public Health Service Act, as amended by Pub. L. 99-129.

Section 786(a) authorizes the Secretary to make grants to public or nonprofit private hospitals, accredited schools of medicine or osteopathy, and other public or private nonprofit entities to assist in meeting the cost of planning, developing and operating or participating in approved graduate training programs in the field of family medicine. In addition, section 786(a) authorizes assistance in meeting the cost of supporting trainees in such programs who plan to specialize or work in the practice of family medicine.

A proposed special consideration was published in the **Federal Register** of September 19, 1986 (51 FR 33302) for public comment and no comments were received during the 30-day comment period.

In addition to the funding preferences set forth in 42 CFR Part 57, Subpart Q, special consideration will be given to applicants where applications indicate substantial efforts to recruit and retain minorities.

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Dated: November 12, 1986.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 86-27555 Filed 12-8-86; 8:45 am]

BILLING CODE 4160-15-M

Final Special Consideration for Grants for Predoctoral Training in Family Medicine

The Health Resources and Services Administration announces the final special consideration which will be applied in the distribution of grant awards in Fiscal Year 1987 for Grants for Predoctoral Training in Family Medicine, section 786(a) of the Public Health Service Act, as amended by Pub. L. 99-129.

Section 786(a) authorizes the award of grants to assist in meeting the cost of planning, developing and operating or participating in approved predoctoral training programs in the field of family medicine. Grants may include support for the program only or support for both the program and the trainees.

A proposed special consideration was published in the **Federal Register** of September 19, 1986 (51 FR 33302 and 33303) for public comment and no comments were received during the 30-day comment period.

In addition to the funding preferences set forth in 42 CFR Part 57, Subpart Q, special consideration will be given to applicants where applications indicate substantial efforts to recruit and retain minorities.

This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Dated: November 12, 1986.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 86-27556 Filed 12-8-86; 8:45 am]

BILLING CODE 4160-15-M

Final Funding Preference for Grants for Faculty Development in General Internal Medicine and/or General Pediatrics

The Health Resources and Services Adminstration announces the final funding preference which will be applied in the distribution of grant awards in Fiscal Year 1987 for Grants for Faculty Development in General Internal Medicine and/or General Pediatrics, section 784 of the Public Health Service Act, as amended by Pub. L. 99-129.

Section 784 authorizes Federal assistance to schools of medicine and

osteopathy, public or private nonprofit hospitals or other public or private nonprofit entities for planning, developing and operating programs for the training of physicians who plan to teach in general internal medicine or general pediatrics training programs. These grants are intended to promote the development of faculty skills in physicians who are currently teaching or who plan teaching careers in general internal medicine and/or general pediatrics training programs. These grants also provide direct support in the form of traineeships to physicians in training.

In addition, section 784 authorizes the award of grants to support general internal medicine or general pediatrics residency training programs. A separate grant program exists for this purpose.

Section 784, as amended by Pub. L. 99–129, requires that the Secretary shall give priority to applicants that demonstrate to the satisfaction of the Secretary a commitment to general internal medicine and general pediatrics in their medical education programs.

A proposed funding preference was published in the **Federal Register** of September 26, 1986 (51 FR 34259 and 34260) for public comment and no comments were received during the 30-day comment period.

In addition to the statutory requirement stated above for this program, preference will be given to applicants that demonstrate a commitment to increase participation by minority physicians in their programs or show evidence of efforts to recruit minority physicians.

This program is not subject to the provisions of Executive Order 12372 Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Dated: November 28, 1986.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 86–27557 Filed 12–8–86; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

FY 87 Indian Child Welfare Act Grant Program; Availability of Title II Funds

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Notice.

SUMMARY: This is an announcement of grant funds available from the Bureau of Indian Affairs, Department of the Interior. These funds are for the purpose of improving child welfare services to Indian children and families.

DATE: The closing date for receipt of applications for this program is January 23, 1987.

ADDRESS: Bureau of Indian Affairs' area offices are listed in Part IV of this announcement. BIA/Division of Social Services, Code 450, Rm. 310–S, 1951 Constitution Ave., NW., Washington, DC 20245.

FOR FURTHER INFORMATION CONTACT: The Bureau of Indian Affairs' area office nearest to the applicant, or Larry R. Blair, Acting Chief, Division of Social Services, address given above; telephone (202) 343–6434.

SUPPLEMENTARY INFORMATION: The Assistant Secretary—Indian Affairs is announcing procedures necessary to apply for grant funds under Title II of the Indian Child Welfare Act. Applications for single-year programs as well as renewal applications for existing multi-year projects will be accepted. The available funding for all applications is $6.1 million. This includes approximately $1 million for new single year applications.

Authority: Indian Child Welfare Act, Pub. L. 95–608 authorizes the utilization of funds for grants to Indian tribes, organizations, and multi-service Indian centers.

Part I. General Information

(a) Background

This announcement provides information on opportunities to apply for Indian Child Welfare Act gant funds for FY 87. The policies established by the Indian Child Welfare Act of 1978 (ICWA Pub. L. 95–608, 25 U.S.C. 1902, 25 U.S.C. 1931 and 1982), for which these grant funds may be used are:

(1) To prevent separation of Indian children from their families when possible;

(2) When separation is necessary, to reunite Indian children with their familes as soon as possible;

(3) When reunification is not possible, to find permanent families through permanent placement with extended familes our through adoption; and

(4) To carry out work with Indian children and their familes in accordance with the preferences of the ICWA, following procedures and practices which reflect the unique values of Indian culture.

An applicant for an Indian Child Welfare Act Grant may submit only *one* grant application for this program during this application period (refer to 25 CFR 23.21(b)).

(b) BIA Indian Child Welfare Grant Program Purpose

The purposes of Bureau of Indian Affairs' Indian Child Welfare grants as specifically stated in the law are:

(1) The establishment and operation of Indian child and family service programs with promote the stability of Indian families, and

(2) The provision of non-Federal matching shares for other Federal financial assistance programs for "on or near" reservation programs which contribute to that same purpose.

These purposes are further defined in Pub. L. 95–608 section 201 and 202 or 25 U.S.C. 1931 and 1932, or 25 CFR 23.22. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families, and insure that the permanent removal of an Indian child from the custody of his/her parent or Indian custodian shall be a last resort.

(c) Eligible Applicants

The governing body of any tribe or tribes, or any nonproft off-reservation Indian organization or multi-service Indian center, may apply individually or as a consortium for a grant.

A consortium is an agreement or association of two or more eligible applicants.

New applications for projects of one year durantion, as well as renewal applications for multi-year applications originally funded in FY 86 may be submitted in response to this announcement.

Part II. Available Funds

The appropriation for this program this year is $6.1 million. This includes funding for existing multi-year programs.

Approximately one million dollars will be available for single year grant applications nationwide this funding period. Grants will be awarded to individual tribes, organizations, or to consortia of tribes and organizations within the following categories:

(a) A maximum of up to $50,000 for eligible applicants with a total service area population of 2,500 or less;

(b) A maximum of up to $75,000 for eligible applicants with a total service area population greater than 2,500 but less than 5,000;

(c) A maximum of up to 100,000 for eligible applicants with a total service area population greater than 5,000 but less than 7,500;

(d) A maximum of up to $150,000 for eligible applicants with a total service area population of 7,500 but less than 15,000;

(e) A maximum of $300,000 for eligible applicants with a total service area of greater than 15,000.

Applicants in the State of Alaska will be allowed a 25 percent cost of living adjustment to the total maximum amount for which they may apply.

Notwithstanding the above grant guidelines, consortia having a total service area population of 5,000 or less, may apply for a maximum grant of up to $100,000 because of the greater administrative costs associated with operating a small consortium. Consortia with service area populations greater than 5,000 must comply with the grant guidelines set above.

Service area population means the total number of Indians eligible for service under 25 CFR 23.2(d)(2) and/or (3) in the geographical area to which the tribe, or organization, or multi-service center can realistically provide the services proposed in the application. The service area population is used only to determine maximum grant allocations that a tribe, multi-service center, or organization may be eligible to receive. These population figures must be based on identifiable statistical resources.

In lieu of an indirect cost rate, all costs associated with the administration of proposed projects shall be line itemed. Due to the limited amount of program funds, administrative costs will be carefully scrutinized in relation to proposed funds used for direct services.

Applicatons not complying with this requirement will not be accepted for review.

In accordance with 25 CFR 23.25(a)(8), the reasonableness and relevance of the estimated costs for the project are considered in the rating of all project applications. Administrative costs are only allowable within the funding specified by the grant formula, and limitations specified in this announcement. Applicants will not be funded for more than their demonstrated need, as specifically addressed in 25 CFR 23.24 and 23.25. The statistical requirements established in these regulations, as well as the tribe's multi-service center's, or organization's prior service record will be used in determining need. Examples of necessary data included the number of actual or estimated Indian family breakups, and the number of persons who will receive direct services from any portion of the proposed program, by program area.

In accordance with 25 CFR 23.27(c)(3), if an applicant has been a grantee during the preceding fiscal year and proposes to continue essentially the same service program, the applicant, at the time of application, must provide satisfactory evaluations from the area office along with the other materials required in this subsection. At no time may any Indian tribe, organization, or multi-service center which is either an eligible individual applicant in accordance with 25 CFR 23.21 or a member of a consortium receive Indian Child Welfare Act grant funds greater than a maximum grant of $3,000,000 through a direct grant or through subgranting procedures with approved applicants.

Part III. Application and Selection Criteria

(a) Statutory Authority

The Indian Child Welfare Program from the Bureau of Indian Affairs is authorized by Title II of Pub. L. 95–608, The Indian Child Welfare Act (25 U.S.C. 1901 et seq., 25 CFR Part 23). The appropriation for the grant program is $6,100,000. The central office will retain 30 percent of the available one year funds, to assure funding for any applicant who may appeal a denial at the area office level. If these funds are not utilized for appeals they will be redistributed to the area offices.

(b) The Closing Date for Receipt of Applications

The closing date for receipt of all applications under this Program Announcement is January 23, 1987. Applications for Indian Child Welfare Act Grants must be received in the appropriate Bureau of Indian Affairs' Social Services Area/Agency Office, as specified in 25 CFR 23.28, on or before 4:15 p.m., or the applicable close of business for that office on the closing date of the application period. The names and addresses of Bureau Social Service Area Offices and staff are listed at the end of this announcement. Hand delivered applications are accepted during the normal working hours Monday through Friday.

Applications which do not meet this criteria are considered late applications and will not be considered in the current competition.

(c) Program Priorities

Indian Child Welfare Act grants are for the purpose of:

(1) Establishment and operation of Indian children and family service programs. In accordance with the policy in 25 CFR 23.2 to emphasize the design and funding of programs to promote the stability of Indian families, program priorities have been established to be utilized by area offices in the competitive review process when more than one application obtains the same competitive score. These priorities re-emphasize the programmatic interest in maintaining the family and preventing out-of-home placements. Program priorities are listed below in descending order:

(a) Operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children.

(b) Family assistance (including homemaker and home counselors), day care, after school care, recreational activities, respite care, and employment.

(c) A system for tribes or Indian organizatons to license or otherwise regulate Indian foster and adoptive homes or the preparation and implementation of child welfare codes within their legal jurisdictional authority, or pursuant to a state-tribal and/or Indian organization agreement.

(d) Guidance, legal representation, and advice to Indian families involved in tribal, state or federal child custody proceedings.

(e) Employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters.

(f) Education and training of Indians (including tribal court judges and staff) in skills relating to child and family assistance and service programs.

(g) Subsidy programs under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate state standards of support for maintenance and medical needs.

(h) Home improvement programs.

(i) Other programs designed to meet the purpose of the Act. Planning or feasibility grants may be undertaken for any one of the above listed program purposes. These applications will be ranked according to the priority of the program under consideration.

(2) Providing non-Federal matching shares for other Federal financial assistance programs as prescribed in 25 CFR 23.43. The order of priority of matching share grants will correlate with the purpose of the program receiving the match.

(d) Content of the Application

The application shall be no longer than 40 pages, double spaced excluding the appendix, and shall include standard form 424 and the following information:

(1) Name and address of Indian tribal governing body(s) or Indian organization applying for a grant,

(2) Descriptive name of project,

(3) Grant funds requested,
(4) The unduplicated client service population directly benefiting from the project,
(5) Length of project,
(6) Beginning date,
(7) Project budget categories or items,
(8) Program narrative statement (including third year plans if appropriate),
(9) Certification or evidence of request by Indian tribe or board of Indian organization (preferably covering the duration of the proposed project),
(10) Evidence of substantial community support for the proposed program. This request may be in the form of a tribal resolution, an endorsement incuded in the grant application or such other forms as the tribal constitution or current practice requires,
(11) Name and address of the Bureau office to which an application is submitted,
(12) Date application is submitted to the Bureau, and
(13) Additional information pertaining to grant applications for funds to be used as matching shares.

Information included in the appendix should relate specifically to the application. The appendix may include, but is not limited to, the following: Resolutions, support letters, position descriptions, fiscal management/accounting certification, operational monitoring system, non-profit status documentation.

(e) Evaluation Criteria

The content of the application and the following factors are considered in the competitive review of these grant applications:

(1) The degree to which an applicant demonstrates in the program narrative an understanding of the social service problems or issues impacting the client population which the applicant proposes to serve. (If an applicant identifies alcohol or drug abuse as a major problem or issue impacting Indian children and families, they must also clearly address current efforts to coordinate existing resources to attack this problem. This may include information on the development or contents of the Tribal Action Plan specified under section 4206 of the Anti-Drug Abuse Act of 1986.)

(2) The degree to which and the methods by which the applicant intends to fulfill the purpose of the grant, specifically relating to goals and the objectives of the program to the issues and problems impacting the client population. (The proposed methods outlined in the application should have an established basis for operation, e.g., a tribal placement program requires tribally established licensing or placement standards on which to operate, or a program to assist the tribal court requires a tribal code and a tribal court with which to work, etc.)

(3) Whether the applicant presents, narrative, quantitative data, and demographics of the client population to be served. Examples of such data include:

(a) The number of actual or estimated Indian child placements outside the home;

(b) The number of actual or estimated Indian family breakups; and

(c) the need for a directly related preventive program.

(4) The relative accessibility which the Indian population to be served under a specific proposal already has to existing child and family service programs emphasizing prevention of Indian family breakup.

Factors to be considered in determining accessibility include:

(a) Cultural barriers;

(b) Discrimination against Indians;

(c) Inability of potential Indian clientele to pay for services;

(d) Lack of programs which provide free service to indigent families;

(e) Technical barriers created by existing public or private programs;

(f) Availability of transportation to existing programs;

(g) Distance between the Indian community to be served under the proposal and the nearest existing programs;

(h) Quality of service provided to Indian clientele; and

(i) Relevance of service provided to specific needs of Indian clientele.

(5) The proper justification of the extent to which the proposed program would duplicate any existing child and family service program emphasizing prevention of Indian family breakup, taking into consideration all of the factors listed in paragraphs (1), (2), (3), and (4) of this section. Proper justification must be given for any duplication of services.

(6) Evidence of substantial community support for the proposed program from the Indian community or communities to be served. Such support may be evidenced by:

(a) Letters of support from individuals and families to be served;

(b) Local Indian community representation in and control over the Indian entity requesting the grant;

(c) Letters from local social service or social service related agencies familiar with the applicant's past work experience.

(7) The explanation of proposed facilities and of the structure of the tribal or Indian organization including the structure of the particular unit within the organization requesting grant funds, and the position description of any position to be funded with grant funds, identifying qualifications, responsibilities, and lines of supervision.

(8) The reasonableness and relevance of the estimated costs of the proposed program or service.

An application shall not receive a preliminary approval unless a review of the application determines that it:

(a) Contains all the information required in "D. Content of an Application,"

(b) Receives at least the minimum score of 85 in a competitive review under the scoring process using the selection criteria established in regulation,

(c) If an applicant has been a grantee during the year immediately preceding the year for which an application is being made, and has made an application to continue essentially the same service program, satisfactory evaluation(s) from the Area office review of the program must be provided in addition to the other materials required in this subsection.

(f) Single Year Grant Review Process

The BIA's Assistant Secretary of his/her designated representative shall select for grants under the Indian Child Welfare Act those proposals which will in his/her judgment best promote the purposes of the Act. Such selection will be made through a review process in which each application will be scored competitively using the BIA review criteria listed above at the appropriate Bureau Social Service Office referred to in 25 CFR 23.30, 23.31, or 23.33. Grant applications will be reviewed by a panel of reviewers qualified by training and/or experience in human services to Indian populations. These recommendations will be used by the Assistant Secretary's designated representative to preliminarily approve or disapprove all single year grant applications, and make funding recommendations to the Central Office. The Assistant Secretary has final funding authority.

(g) Procedures for Submission of Multi-Year Renewal Applications

The Assistant Secretary may award grants for the second year of approved multi-year project proposals as authorized in 25 CFR 23.37. *No new multi-year projects shall be considered in the FY 87 applications period.*

Funding of projects is subject to the availability of funding in accordance with 25 CFR 23.27(e). Only current grantees who have FY 86 approved multi-year projects may submit renewal applications.

Three copies of the following information must be submitted to the appropriate agency or area office by current multi-year project grantees in the renewal application:

(1) New SF–424.

(2) Updated information required in 25 CFR 23.24, 23.25, 23.26, and 23.27(c)(3).

(3) Updated Operational Monitoring System (OMS).

(4) Proposed budget.

Grantees must have a satisfactory evaluation of the current year of their multi-year project from the Area Office in order to be considered for funding for subsequent project years (25 CFR 23.27(c)(3)).

As stated in 25 CFR 23.27(e), requests (e.g. resolutions) from tribal governing bodies or Indian organizations which cover the duration of the multi-year project will fulfill the requirements specified 25 CFR 23.26 and do not need to be resubmitted on an annual basis. Resolutions that were only for one year of the project must be updated for the year which the grantee is submitting a renewal application.

Grantees must comply with 25 CFR Part 276 in terms of both financial and performance reporting requirements. Failure to meet and comply with regulatory requirements can result in suspension, cancellation and/or termination of program funds. The OMS for a multi-year renewal application must demonstrate a developmental approach to the delivery of the proposed child and family service project (25 CFR 23.37(d)(2)). In revising or updating the OMS, renewal applicants should submit an OMS–2. Please note in your renewal application if you are *not* submitting a revised OMS–2.

(h) Renewal Application Review

Upon submission of the initial application and the renewal application, the revised area/agency certification form will be completed by the appropriate area/agency office specified in 25 CFR 23.30 or 23.31. The applicant must include a satisfactory evaluation of their existing ICWA program (25 CFR 23.27(c)(3)) to include with their renewal application.

Materials submitted for renewal shall not be subject to competitive review. The Area social worker or designated social services staff shall review renewal applications for compliance with 25 CFR Parts 23 and 276. The Area social worker or designated social services staff shall make recommendations based on this review.

(i) Renewal Application Funding

Funding shall be in accordance with the formula published in the **Federal Register** (25 CFR 23.27(e)(1)). Funding after the first year of a multi-year project will depend upon the grantee's progress in achieving the objectives in the project according to the approved work plan submitted in the previous year(s) of the project (25 CFR 23.37(f)), and the availability of funds.

Part IV. List of BIA Area Offices–BIA Area Offices; Area Social Workers

Aberdeen—Dean Krahulec, 115 4th Avenue, SE., Aberdeen, SD 57401, 605–225–0250, extension 351.

Albuquerque—Robert C. Carr, P.O. Box 26567, Albuquerque, NM 87125–6567, 505–766–3321.

Anadarko—Jerry Bridges, P.O. Box 368, Anadarko, OK 73005, 405–247–6673, extension 257.

Billings—Bill Weber, 316 N. 26th Street, Billings, MT 59101, 406–657–6651.

Juneau—Bill Petillo, P.O. Box 3–8000, Juneau, AK 99802–1219, 907–586–7611.

Minneapolis—Tom Lindbom, Chamber of Commerce Building, 15 South Fifth Street, 10th Floor, Minneapolis, MN 55402, 612–349–3614.

Muskogee—Jimmie Clemmons, Old Federal Building, Muskogee, OK 74401, 918–687–2507.

Navajo—Nancy Evans, P.O. Box M, Window Rock, AZ 86515, 602–871–5151.

Phoenix—Elizabeth Black Owl, 3030 North Central, P.O. Box 7007, Phoenix, AZ 85011, 602–241–2261.

Portland—Karen Grey Eyes, 1425 NE., Irving St., Portland, OR 97208, 503–231–6783/6785.

Sacramento—Charles Toyebo, Community Service Officer, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825, 916–978–4691.

Eastern—Alice Luna, Division of Social Services, 1951 Constitution Avenue, NW., Code 1000, Washington, DC 20245, 703–235–3179.

Ronald L. Esquerra,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 86–27586 Filed 12–8–86; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[U–40429]

Utah; Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease U–40429 for lands in Uintah County, Utah, was timely filed and required rentals and royalties accruing from August 1, 1986, the date of termination, have been paid.

The lessees have agreed to new lease terms for rentals and royalties at rates of $7 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessees have reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of lease U–40429 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective August 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–27565 Filed 12–8–86; 8:45 am]

BILLING CODE 4310–DQ–M

[CO–940–87–4111–15; C–42132]

Colorado: Proposed Reinstatement of Oil and Gas Lease

December 1, 1986.

Notice is hereby given that a petition for reinstatement of oil and gas lease C–42132 for lands in Moffat county, Colorado, was timely filed and was accompanied by all the required rentals and royalties accuring from July 1, 1986, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective July 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may b directed to Karen Purvis of the Colorado State Office at (303) 236–1772.

Richard E. Richards,

Supervisor, Oil and Gas/Geothermal Leasing Unit.

[FR Doc. 86–27560 Filed 12–8–86; 8:45 am]

BILLING CODE 4310–JB–M

[ES–030–07–4212–11; ES–00157–002]

Realty Action; Land Classification for Recreation and Public Purposes, Nicollect County, MN, ES–31827

Summary: The following described parcel has been classified as suitable for disposal to the State of Minnesota by conveyance pursuant to the provisions of the Recreation and Public Purposes Act of 1926 (44 Stat. 741) as amended (43 U.S.C. 869):

Fifth Principal Meridian, Minnesota

1. ES–31827, Nicollet County: T.110N., R.29W., Sec. 23 and 26, Tracts 37 and 38, total of 7.63 acres

The purpose of the conveyance is the preservation of a Wildlife Management Area.

Any patent issued under this notice shall be subject to the provisions in 43 CFR 2741.8. In the event of noncompliance with the terms of the patent, title to the land shall revert to the United States.

Classification of this land will segregate it from all appropriation except as to applications under the mineral leasing laws and the Recreation and Public Purposes Act. This segregation will terminate upon issuance of a patent, or eighteen (18) months from the date of this Notice, or upon publication of a notice of termination.

Comments: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to: District Manager, Milwaukee District Office, Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201–0631.

For Further Information: Detailed information concerning this application is available for review at the Milwaukee District Office, Suite 225, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53201, or by calling Larry Johnson at (414) 291–4413.

Bert Rodgers,

District Manager.

[FR Doc. 86–27561 Filed 12–8–86; 8:45 am]

BILLING CODE 4310–PN–M

[ES–030–07–4212–11; ES–00157–003]

Realty Action; Land Classification for Recreation and Public Purposes, Cass County, MN, ES–36268 and ES–36267

Summary: The following described parcels have been classified as suitable for disposal to the State of Minnesota by conveyance pursuant to the provisions of the Recreation and Public Purposes Act of 1926 (44 Stat. 741) as amended (43 U.S.C. 869):

Fifth Principal Meridian, Minnesota

1. ES–36268, Cass County: T.134N., R.30W., Sec. 32, Lot 8, total of 10 acres
2. ES–36267, Cass County: T.136N., R.31W., Sec. 4, NW¼SE¼, total of 40 acres

The purpose of the conveyance is the preservation of a Wildlife Management Area.

Any patent issued under this notice shall be subject to the provisions in 43 CFR 2741.8. In the event of noncompliance with the terms of the patent, title to the land shall revert to the United States.

Classification of this land will segregate it from all appropriation except as to applications under the mineral leasing laws and the Recreation and Public Purposes Act. This segregation will terminate upon issuance of a patent, or eighteen (18) months from the date of this Notice, or upon publication of a notice of termination.

Comments: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to: District Manager, Milwaukee District Office, Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201–0631.

For Further Information: Detailed information concerning these applications are available for review at the Milwaukee District Office, Suite 225, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53201, or by calling Larry Johnson at (414) 291–4413.

Bert Rodgers,

District Manager.

[FR Doc. 86–27562 Filed 12–9–86; 8:45 am]

BILLING CODE 4310–PN–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31000; Sub–No. 1]

Union Pacific Corp.; Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Union Pacific Corporation (UPC) from the requirements of 49 U.S.C. 11301 with respect to the issuance of securities in a principal amount not to exceed $1.2 billion. The securities will be issued to facilitate the acquisition by UPC of control of Overnite Transportation Company (Overnite). Approval for that acquisition will be sought in an application under 49 U.S.C. 11344 to be filed on or after November 25, 1986. Until the control transaction is approved, the stock of Overnite will be held in a voting trust.

DATES: This exemption will be effective December 12, 1986. Petitions to reopen must be filed by December 29, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 31000 (Sub-No. 1) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: William J. McDonald, 345 Park Avenue, New York, NY 10154.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: December 2, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley dissented in part with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 86–27575 Filed 12–8–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collection(s) Under OMB Review

December 4, 1986.

The Office of Management and Budget (OMB) has been sent 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. Entries are grouped into submission categories. Each entry contains the following information: (1) The name and telephone number of the Agency Clearance Officer (from whom a

copy of the form/supporting documents is available); (2) the office of the agency issuing the form; (3) the title of the form; (4) the agency form number, if applicable; (5) how often the form must be filled out; (6) who will be required or asked to report; an estimate of the number of responses; (7) an estimate of the total number of respondents; (8) an estimate of the total number of hours needed to fill out the form; (9) an indication of whether Section 3504(h) of Pub. L. 96–511 applies; and, (10) the name and the telephone number of the person or office responsible for the OMB review. Copies of the proposed form(s) and the supporting documentation may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions regarding the item(s) contained in this list should be directed to the reviewer listed at the end of each entry *and* to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer *and* the Agency Clearance Officer of your intent as early as possible.

DEPARTMENT OF JUSTICE

Agency Clearance Officer: Larry E. Miesse, 202/633–4312

New Collection

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Applicaton for status as a temporary resident under sections 201, 202 and 210 of the Immigration Reform and Control Act of 1986
(4) I–687
(5) One-time
(6) Individuals or households. Form is required to collect information necessary to determine if an applicant is eligible to adjust their illegal immigration status to a temporary, legal status.
(7) 4,000,000 respondents
(8) 4,000,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Special agricultural worker program preapplicaton claim to eligibility
(4) I–735
(5) One-time
(6) Individuals or households. Form is required to collect information necessary to determine if an applicant is eligible to adjust their illegal immigration status to a legal status, and to establish their intent to do so.
(7) 1,000,000 respondents
(8) 500,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Petition to employ intracompany transferee
(4) I–129L
(5) On occasion
(6) Individuals or households, businesses or other for-profit. Used by employer to apply for an L–1 visa (labor) nonimmigrant classification for a foreign employee to come temporarily into the U.S. as an intracompany transferee.
(7) 15,000 respondents
(8) 15,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Intracompany transferee certificate of eligibility (blanket petitions only)
(4) I–129S
(5) On occasion
(6) Businesses or other for-profit. Completed by an organization which has an approved blanket petition to certiify the eligibility of an employee outside the U.S. for an L–1 visa (Labor) classification.
(7) 5,000 respondents
(8) 2,500 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

Larry E. Miesse,

Clearance Officer.

[FR Doc. 86–27547 Filed 12–8–86; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M–86–168–C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, P.O. Box 7, Dante, Virginia 24237 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Splashdam Mine (I.D. No. 44–00269) located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all belt entries used as intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. The Splashdam Mine was initially started in the 1930's and has miles of intake airways with mining heights as low as thirty-six inches, which puts restrictions on the intake airways.

3. As an alternate method, petitioner proposes to use the belt entry as an intake airway as the mine expands. In support of this request, petitioner proposes to install an early warning fire detection system. A low-level carbon monoxide (CO) detection system will be installed in all belt entries used as intake aircourses and at each belt drive and tailpiece located in intake air courses. The monitoring devices will be capable of giving warning of a fire for four hours should the power fail; a visual alert signal will be activated when the CO level is 10 parts per million (ppm) above ambient air and an audible signal will sound at 15 ppm above the ambient air. All persons will be withdrawn to a safe area at 10 ppm and evacuated at 15 ppm. The fire alarm signal will be activated at an attended surface location where there is two-way communication. The CO system will be capable of identifying any activated sensor and monitoring electrical continuity to detect any malfunctions.

4. The CO monitoring system will be visually examined at least once each coal producing shift and tested for functional operation weekly to insure the system is functioning properly. The monitoring system will be calibrated with known concentrations of CO and air mixtures at least monthly.

5. If the CO monitoring system is deenergized for routine maintenance or for failure of a sensor unit, the belt conveyor will continue to operate and qualified persons will patrol and monitor the belt conveyor using hand-held CO detecting devices.

6. The permanent stoppings separating the conveyor belt entries from the intake escapeway will be specifically approved in the Ventilation System and Methane Control Plan for the mine.

7. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office

of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 8, 1987. Copies of the petition are available for inspection at that address.

Dated: November 25, 1986.

Patricia W. Silvey,

Assistant Associate Secretary for Mine Safety and Health.

[FR Doc. 86-27616 Filed 12-8-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-169-C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, P.O. Box 7, Dante, Virginia 24237 has filed a petition to modify the application of 30 CFR 75.1103-4(a)(1)(automatic fire sensor and warning device systems; installation; minimum requirements) to its Splashdam Mine (I.D. No. 44-00269) located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. In a separate petition (M-86-168-C), petitioner proposes to use belt air to ventilate active working places.

3. As an alternate method, petitioner proposes to install an early warning fire detection system with specific conditions as outlined in the petition and M-86-168-C.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 8, 1987. Copies of the petition are available for inspection at that address.

Dated: November 25, 1986.

Patricia W. Silvey,

Assistant Associate Secretary for Mine Safety and Health.

[FR Doc. 86-27618 Filed 12-8-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-170-C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, P.O. Box 7, Dante, Virginia 24237 has filed a petition to modify the aplication of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Splashdam Mine (I.D. No. 44-00269) located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that high voltage vacuum breakers and transformers are located in the belt entry splits of air. The transformers are dry-type containing no flammable hydraulic oil except for capacitors in power centers which may contain up to a total of three gallons of fammable liquid.

3. In a separate petition (M-86-168-C), petitioner proposes to install an early warning fire detection system, using a low-level carbon monoxide detection system, in all belt entires used as intake aircourses.

4. As an alternate method of compliance with § 75.1105, petitioner proposes to locate the transformers and vacuum breakers in the belt entry splits of air, and maintain the carbon monoxide detection system in the belt entries.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 8, 1987. Copies of the petition are available for inspection at that address.

Dated: November 25, 1986

Patricia W. Silvey,

Assistant Associate Secretary for Mine Safety and Health.

[FR Doc. 86-27619 Filed 12-8-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-154-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, 1951 Barrett Court, Henderson, Kentucky 42420 has filed a petition to modify the application of 30 CFR 75.200-14 (criteria—roof support recovery) to its Camp No. 1 Mine (I.D. No. 15-02709) located in Union County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that any operator who intends to recover roof support should submit a detailed roof control plan that includes certain criteria.

2. Two or three rows of timbers are set along the length of the entry when used. As an alternate method, petitioner proposes the following:

(a) Timber recovery:

(1) One row of timbers will be recovered by advancing along the entry. The removal of this row will allow access for the scoop;

(2) When the miners advance to the end of the entry, where practical to stop, or where there are indications of the roof being structurally weak, the recovery operation will stop on the advance. The remaining timbers will be recoverd remotely on the retreat by means of cable, rope chain. The rope, cable, etc., will be attached to the scoop and the timber to be recovered. The scoop or jeep will tram in reverse pulling the timber to an area where only the one row of timbers have been recovered. Temporary screw safety jacks will also be recovered remotely;

(3) Timber or arch recovery will only be performed in areas of the mine where production has ceased, and where once they are removed, no further work or travel will be required;

(4) The supervisor will mark (by engineer's tape or flagging) any timber or props which he or she deems should not be removed; and

(5) No props or timbers will be removed from areas which have not previously been roof bolted.

(b) Arch recovery:

(1) All arch recovery will be carried out from under remaining arches on the retreat;

(2) The first set will be removed while miners are beneath the second set. The second set of arches and lagging will be removed while miners remain under the third set, and so on;

(3) All material reclaimed will be recovered through the remaining arch sets;

(4) At no time will anyone travel past the last arch set under an area where arches have been removed;

(5) No arches or steel sets will be removed which are under load (directly or indirectly); and

(6) No archs will be removed where the roof above has not been roof bolted.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 8, 1987. Copies of the petition are available for inspection at that address.

Dated: November 25, 1986.

Patricia W. Silvey,

Assistant Associate Secretary for Mine Safety and Health.

[FR Doc. 86-27622 Filed 12-8-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-174-C]

Shannon Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Shannon Coal Company, Inc., P.O. Box 576, McDowell, Kentucky 41647 has filed a petiton to modify the application of 30 CFR 75-1710 (cabs and canopies) to its No. 2 Mine (I.D. No. 15-15631) located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs and canopies be installed on the mine's electric face equipment.

2. Petitioner states that application of the standard would result in a diminution of safety for the miners affected. Due to uneven rolls and uneven bottom, placement of the canopies on the equipment would knock out roof support. The canopies would impair the operator's vision and cause cramped and uncomfortable seating positions for the operator. The canopies would also cut or damage cables on the floor and those that are hung from the roof, creating an electrical hazard.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 8, 1987. Copies of the petition are available for inspection at that address.

Dated: November 25, 1986.

Patricia W. Silvey,

Assistant Associate Secretary for Mine Safety and Health.

[FR Doc. 86-27623 Filed 12-8-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-162-C]

Southern Oil Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Ohio Coal Company, P.O. Box 552, Fairmont, West Virginia 26554 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems; installation; minimum requirements) to its Martinka No. 1 Mine (I.D. No. 46-03805) located in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, petitioner proposes to install a low-level carbon monoxide (CO) detection system in all belt entries used as intake air courses and at each belt drive and tailpiece located in intake air courses. The monitoring devices will be capable of giving warning of a fire for four hours should the power fail; a visual alert signal will be activated when the CO level is 10 parts per million (ppm) above ambient air, and an audible signal will sound at 15 ppm above ambient air. All persons will be withdrawn to a safe area at 10 ppm and evacuated at 15 ppm. The fire alarm signal will be activated at an attended surface location where there is two-way communication. The CO system will be capable of identifying any activated sensor and for monitoring electrical continuity to detect any malfunctions.

3. The CO system will be visually examined at least once each coal producing shift and tested for functional operation weekly to insure the monitoring system is functioning properly. The monitoring system will be calibrated with known concentrations of CO and air mixtures at least monthly.

4. If the CO monitoring system is deenergized for routine maintenance or for failure of a sensor unit, the belt conveyor will continue to operate and qualified persons will patrol and monitor the belt conveyor using hand-held CO detecting devices.

5. The permanent stoppings separating the conveyor belt entries from the intake escapeway will be specifically approved in the Ventilation System and Methane and Dust Control Plan for the mine.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 8, 1987. Copies of the petition are available for inspection at that address.

Dated: November 21, 1986.

Patricia W. Silvey,

Assistant Associate Secretary for Mine Safety and Health.

[FR Doc. 86-27624 Filed 12-8-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-163-C]

Southern Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Ohio Coal Company, P.O. Box 552, Fairmont, West Virginia 26554 has filed a petition to modify the application of 30 CFR 75.1103-10(c) (fire suppression systems; additional requirements) to its Martinka No. 1 Mine (I.D. No. 46-03805) located in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the maximum distance between sensors along the belt haulageway shall be 40 percent of those distances specified or established in accordance with § 75.1103-4(a) (1) or (2) and shall be installed and put in operation within the period of time specified in § 75.1103-4(a)(3).

2. As an alternate method, petitioner proposes to install a low-level carbon monoxide (CO) detection system in all belt entries used as intake air courses and at each belt drive and tailpiece located in intake air courses. The monitoring devices will be capable of giving warning of a fire for four hours should the power fail; a visual alert signal will be activated when the CO level is 10 parts per million (ppm) above ambient air, and an audible signal will sound at 15 ppm above ambient air. All persons will be withdrawn to a safe area at 10 ppm and evacuated at 15 ppm. The fire alarm signal will be activated at an attended surface location where there is two-way communication. The CO system will be capable of identifying any activated sensor and for monitoring electrical continuity to detect any malfunctions.

3. The CO system will be visually examined at least once each coal producing shift and tested for functional operation weekly to insure the monitoring system is functioning properly. The monitoring system will be calibrated with known concentrations of CO and air mixtures at least monthly.

4. If the CO monitoring system is deenergized for routine maintenance or for failure of a sensor unit, the belt conveyor will continue to operate and qualified persons will patrol and monitor the belt conveyor using hand-held CO detecting devices.

5. The permanent stoppings separating the conveyor belt entries from the intake escapeway will be specifically approved in the Ventilation System and Methane and Dust Control Plan for the mine.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 8, 1987. Copies of the petition are available for inspection at that address.

Dated: November 21, 1986.

Patricia W. Silvey,

Assistant Associate Secretary for Mine Safety and Health.

[FR Doc. 86-27625 Filed 12-8-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-164-C]

Southern Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Ohio Coal Company, P.O. Box 552, Fairmont, West Virginia 26554 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Martinka No. 1 Mine (I.D. No. 46-03805) located in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use the air from the belt haulage entries to assist in ventilating the active working places.

3. In a separate petition (M-86-162-C), petitioner proposes to install a carbon monoxide (CO) belt fire detection system.

4. Petitioner states that ultilizing the air of the belt haulage entries to assist in the ventilation of active working places will increase air quantity on the section which will result in better dilution of methane and respirable dust.

5. Access from the track entry to the belt is provided by mandoors in ventilation stoppings. The use of air from the belt haulage entries to ventilate the face would negate the need for this stopping line and reduce exposure time to injury.

6. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 8, 1987. Copies of the petition are available for inspection at that address.

Dated: November 21, 1986.

Patricia W. Silvey,

Assistant Associate Secretary for Mine Safety and Health.

[FR Doc. 86-27626 Filed 12-8-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-165-C]

Fife Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Fife Coal Company, Inc., Route 3, Box 594-C, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-02218) located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because due to the uneven rolls and uneven bottom, the equipment would knock out roof support if canopies were installed. The canopies would also impair the operator's vision and cause cramped and uncomfortable positions for the operator. The canopies on the equipment could also cut or damage cables hanging from the roof, thereby creating an electrical hazard.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and

Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 8, 1987. Copies of the petition are available for inspection at that address.

Dated: November 24, 1986.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 86-27620 Filed 12-8-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-166-C]

Neumeister Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Neumeister Coal Company, R.D. #1, Box 327D, Ashland, Pennsylvania 17921 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its No. 2 Slope (I.D. No. 36-07166) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps be housed in fireproof structures.

2. Petitioner states that application of the standard would result in a diminution of safety for the miners affected due to the space and clear area available.

3. The charging station is located at the bottom of the slope in the West Gangway turn-out section. It is located and designed to afford access to the equipment and not present an obstruction in the turn-out area.

4. The mine is operated on one shift. The charging station is never activated during working hours. The charging cycle is always completed a minimum of 5 hours prior to anyone re-entering the mine. Additionally, a sign "Do Not Activate While Workers Are Present" is posted on the charging station.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards. Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 8, 1987. Copies of the petition are available for inspection at that address.

Dated: November 24, 1986.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 86-27621 Filed 12-8-86; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

4,4'-Methylenedianiline Mediated Rulemaking Advisory Committee; Cancellation of Meeting

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of cancellation of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L., 92-463, as amended), notice is hereby given of cancellation of the December 9, 1986, meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW, Washington, DC 20210; Telephone (202) 523-8615.

SUPPLEMENTARY INFORMATION: On October 6, 1986, OSHA published a notice which gave the dates and locations of the remaining MDA Mediated Rulemaking Advisory Committee meetings (51 FR 35571). Due to the illness of one of the Committee members and difficulties meeting quorum requirements, OSHA is cancelling the December 9, 1986 meeting.

Signed in Washington, DC, this 8th day of December 1986.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 86-27786 Filed 12-8-86; 11:00 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted by December 30, 1986.

ADDRESSES: Send comments to Mrs. Judy Egan, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503; (202-395-6880). In addition, copies of such comments may be sent to Ms. Marianna Dunn, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5464).

FOR FURTHER INFORMATION CONTACT: Ms. Marianna Dunn, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5464) from whom copies of the document are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the reinstatement of two previously approved collections for which approval has expired. The entry is issued by the Endowment and contains the following information: (1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Design Arts Application Guidelines FY 1988.
Frequency of Collection: One-time.
Respondents: Individuals, state or local governments, non-profit institutions.
Use: Guideline instructions and applications elicit relevant information from individual artists, nonprofit organizations and state or local arts agencies that apply for funding under specific Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.
Estimated Number of Respondents: 713
Estimated Hours for Respondents to Provide Information: 24,436.

Title: Media Arts: Film/Radio/Television Application Guidelines FY 1988.
Frequency of Collection: One-time.

Respondents: Individuals, nonprofit institutions, state or local governments.
Use: Guideline instructions and applications elicit relevant information from individual artists, nonprofit organizations and state or local arts agencies that apply for funding under specific Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.
Estimated Number of Respondents: 1,200
Estimated Hours for Respondents to Provide Information: 42,250

Murray R. Welsh,
Director, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 86-27594 Filed 12-8-86; 8:45 am]
BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On October 31, 1986, the National Science Foundation published a notice in the Federal Register of permit applications received. On December 2, 1986 permits were issued to:

Donald Wiggin.
CDR R.M. Harler, USN.

Charles E. Myers,
Permit Office, Division of Polar Programs.

[FR Doc. 86-27604 Filed 12-8-86; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-454 and STN 50-455]

Commonwealth Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-37 and NPF-60 issued to Commonwealth Edison Company (the licensee), for operation of Byron Station, Units 1 and 2, respectively, located in Ogle County, Illinois.

The licensee requested the amendment including associate changes in the combined Technical Specifications for Units 1 and 2 in a letter dated September 3, 1986, supplemented by letters dated November 7, 1986 and November 24, 1986.

The amenment would authorize the licensee to increase the spent fuel pool storage capacity from 1060 to 2869 storage locations in the common pool shared by both units at Byron Station.

The high density spent fuel racks consist of individual cells with 8.85-inch by 8.85-inch (nominal) square cross-section, each of which accommodates a single Westinghouse PWR fuel assembly or equivalent. A total of 2869 cells are arranged in 23 distinct modules of varying sizes in two regions. Region 1 is designed for storage of new fuel assemblies with enrichments up to 4.2 weight percent U-235. Region 1 is also designed to store fuel assemblies with enrichments up to 4.2 weight percent U-235 that have not achieved adequate burnup for Region 2. The Region 2 cells are capable of accommodating fuel assemblies with various initial enrichments which have accumulated minimum burnups within an acceptable bound.

The amenment would change Technical Specification Section 5.6 to reflect a small increase in the pool reactivity, the decrease in distance between fuel assemblies, and the increase in storage capaicty, and incorporate a curve entitle "Minimum Burnup versus Initial Enrichment for Region 2 Storage."

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By January 8, 1987, the licensee may file a request for hearing with respect to issuance to the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petition 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 to 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 of 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 paticularly 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 is required to 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, pursuant to 10 CFR 2.714(b). 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.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 143 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 143 of the NWPA, the Commission, at the request of any party to the proceeding, is authorized to use hybrid hearing procedures with respect to "any

matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 143 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 (October 15, 1985). 10 CFR 2.1101 et seq. Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commissioner's rules in 10 CFR Part 2. Subpart G, and § 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer may grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit to time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

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 Sreet, 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 Steven A. Varga: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael Miller, Isham, Lincoln & Beal, One First National Plaza, 42nd floor, Chicago, Illinois 60603.

Nontimely findings 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 the factors specified in 10 CFR 2.714(a0(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 3, 1986 supplemented November 7, 1986 and November 24, 1986, that is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

Dated at Bethesda, Maryland, this 4th day of December, 1986.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Acting Director, Project Directorate No. 3, Division of PWR Licensing–A.

[FR Doc. 86–27611 Filed 12–8–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp. et al., Crystal River Unit 3 Nuclear Generating Plant; Environmental Assessment and Finding of No Significant Impact

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of a partial exemption from the requirements of Appendix J to 10 CFR Part 50 to Florida Power Corporation, et al., (the licensee) for Crystal River Unit No. 3 Nuclear Generating Plant, located in Citrus County, Florida.

Environmental Assessment

Identification of the Proposed Action: The proposed exemption would relieve the licensee from the requirement of conducting a full pressure airlock leakage test, pursuant to Paragraph III.D.2(b)(ii) of Appendix J to 10 CFR Part 50, whenever airlocks are opened during periods when containment itegrity is not required and no maintenance has been performed on the airlock that affect its sealing capabilities. The licensee would rely, instead, on the seal leakage test described in Paragraph III.D.2(b)(iii) when reactor is in cold shutdown (Mode 5) or refueling (Mode 6) and when no maintenance has been performed on the airlock.

The licensee's request for exemption and the bases therefor are contained in a letter dated December 1, 1986.

The Need for the Proposed Action: The proposed exemption is from performance of the leakage rate test required by Paragraph III.D2.(b)(ii) of the 10 CFR Part 50, Appendix J, which requires at least 28 man-hours per airlock. Exemption from full pressure leakage tests on airlocks opened during a period when containment integrity is not required would provide the licensee with greater plant availability over the lifetime of the plant.

Environmental Impact of Proposed Action: The proposed exemption would permit the substitution of an airlock seal leakage test (Paragraph III.D.2(b)(iii) of Appendix J of 10 CFR Part 50) for the full pressure airlock test otherwise required by Paragraph III.D.2(b)(ii) when the airlock is opened while the reactor is in cold shutdown or refueling mode. If the tests required by Paragraph III.D.2(b)(i) and (iii) are current, no maintenance having been performed on the airlock, then there will be adequate assurance of continued leak tight integrity of the airlock, and this exemption will not affect containment integrity and does not affect the risk of facility accidents. Thus, post-accident radiological releases will not be greater than previously determined, nor does the proposed exemption otherwise affect radiological plant effluents, nor result in any significant occupational exposure. Likewise, the exemption does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiologial or non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action: Because it has been concluded that

there is no measurable impact associated with the proposed exemption, any alternatives to the exemption will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. Such action would not reduce environmental impacts of Crystal River Unit 3 operations and would result in reduced operational flexibility or unwarranted delays in power ascension.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Proposed Crystal River Unit 3" dated May 1973.

Agencies and Persons Consulted: The Commission's staff reviewed the licensee's request that supports the proposed exemption. The staff did not consult other agencies or persons.

Finding of No Significant Impact

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. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to the proposed action, see the licensee's request for exemption dated December 1, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida 32629.

Dated at Bethesda, Maryland, this 4th day of December, 1986.

For the Nuclear Regulatory Commission.

Gordon E. Edison,

Acting Director, PWR Project Directorate No. 6, Division of PWR Licensing-B.

[FR Doc. 86-27610 Filed 12-8-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power and Light Co. et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to the facility operating license no NPF-29 and issuance of its consent to transfer control of licensed activities for the Grand Gulf Nuclear Station (GGNS) Unit 1, located in Claiborne County, Mississippi. Mississippi Power and Light Company (MP&L), Middle South Energy, Inc., (MSE) and the South Mississippi Electric Power Association (SMEPA) are the current joint licensees for the GGNS. MP&L has heretofore been licensed to operate the GGNS Unit 1 pursuant to license no. NPF-29. MP&L has acted as an agent to MSE and SMEPA in the operation of GGNS Unit 1. MSE and SMEPA own 90% and 10%, respectively, of the GGNS. The name of the company Middle South Energy, Inc. has recently been changed to System Energy Resources, Inc. (SERI). The proposed amendment and transfer of control would transfer responsibility and authority for operation and control of licensed activities from MP&L to MSE (now SERI).

Environmental Assessment

Identification of Proposed Action

The proposed action would: (1) Amend the Unit 1 operating license NPF-29 and the facility Technical Specifications to reflect a change in the title of the chief management official, and to reflect a change in the name of one of the joint licensees, Middle South Enegy, Inc., to System Energy Resources, Inc. (SERI) and (2) authorize a transfer of control of licensed activities for GGNS Unit 1 from MP&L to SERI. The ownership of the GGNS and SMEPA's role as a joint licensee are not changed by the proposed action.

The proposed action is being reviewed by the Commission in several parts: a technical and financial review of the transfer of control and an amendment to reflect the transfer of authority for control of operation of Unit 1 from MP&L to SERI and to reflect a change in the name of one of the joint licensees, Middle South Energy, Inc. to System Energy Resources Inc. (SERI) and an additional review dealing with the antitrust conditions currently included in the operating license. The Commission's initial review and this assessment deal only with the amendment, transfer of control and non-antitrust related issues; a later review will deal with the antitrust aspects. Pending the completion of this later review the amended license will hold MP&L and SERI to the terms of the existing antitrust conditions.

Consistent with the above, the revised joint licensees will be MP&L, SERI and SMEPA with authority for control of licensed activities concerning the operation of Unit 1 transferred from MP&L to SERI. The transfer of control and amendments herein reviewed are in accordance with the joint licensees' request dated September 2, 1986 as amended on October 4, 13, and 24, and as supplemented on November 20, 21, and December 2 and 3, 1986.

The Need for the Proposed Action

The transfer of operational authority and responsibility to SERI is necessary to allow the nuclear activities now performed by MP&L to be shifted to SERI (formerly MSE) which heretofore was limited to owning 90% of the GGNS but will now also be the operating entity for the GGNS.

The joint licensees indicate that the organizational changes which would be authorized by the proposed transfer of control and accompanying amendment will (1) enable management to focus its full attention on the GGNS versus also having responsibility for certain non-nuclear activities in the present organizational structure, (2) permit management to focus on the development of human resources needed for nuclear plant operations and construction, (3) enable certain corporate support functions to be more effectively focussed on the requirements of a nuclear generating company, and (4) will enable a consolidation of the responsibility for control of licensed activities to be brought within the organization which is also the principal owner of the GGNS rather than within a contracted agent.

Environmental Impacts of the Proposed Action

The joint licensees state that the MP&L nuclear organization (plant and headquarters) currently responsible for the GGNS will be transferred virtually intact to SERI. No change in the design or physical operation of the GGNS is involved in this proposed action. Except for the antitrust provisions, changes to the Unit 1 license, Technical Specifications (TSs) and to the Environmental Protection Plan are limited to changes in the titles for the chief management official shown in the TS and a modification to reflect a change in the name of the operating organization from MP&L to SERI. Two of the joint licensees, MP&L and SERI, will be held to the terms of the existing antitrust conditions pending completion of the review of the antitrust considerations of the amendment application. Since the proposed changes will not directly affect the design or physical operation of the GGNS but will only result in transfer of the performance by essentially the same people of the same functions the staff has concluded that there is no significant environmental impact associated with the proposed action.

Alternative to the Proposed Action

Because the staff has concluded that there is no measurable environmental impact associated with the proposed action any alternative to this proposed action will have either no environmental impact or greater environmental impact. The principal alternative would be to deny the requested changes. This would not accomplish any reduction in environmental impacts of plant operation and would deny the benefits discussed above to those responsible for the control of licensed activities at the GGNS, Unit 1.

Alternative Use of Resources

The proposed action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement related to the Operation of the grand Gulf Nuclear Station, Units 1 and 2," dated September 1981.

Agencies and Persons Contacted

The NRC staff reviewed the joint licensees' requests and did not consult other agencies or persons.

Finding of No Significant Impact

The staff has reviewed the proposed action relative to the requirements set forth in 10 CFR Part 51. Based on this assessment, the staff concludes that there are no significant environmental impacts associated with the proposed action and that the issuance of the proposed amendment to the license will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, an environmental impact statement need not be prepared for this action.

For further details with respect to this action, see the request for amendment and approval of transfer of control of the Unit 1 operating license and the Unit 2 construction permit dated September 2, as amended on October 4, 13 and 24, and as supplemented on November 20, 21, and December 2 and 3, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H St., NW., Washington, DC 20555 and at the Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Dated at Bethesda, Maryland this 5th day of December, 1986.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, BWR Project Directorate No. 4, Division of BWR Licensing.

[FR Doc. 86-27720 Filed 12-8-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-417]

Mississippi Power and Light Co. et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to the construction permit no. CPPR-119 and issuance of its consent to transfer control of licensed activities for the Grand Gulf Nuclear Station (GGNS) Unit 2, located in Claiborne County, Mississippi. Mississippi Power and Light Company (MP&L), Middle South Energy, Inc. (MSE) and the South Mississippi Electric Power Association (SMEPA) are the current joint licensees for the GGNS. MP&L has heretofore been authorized to construct the GGNS Unit 2 pursuant to construction permit no. CPPF-119. MP&L has acted as an agent for MSE and SMEPA in the construction of GGNS Unit 2. MSE and SMEPA own 90% and 10%, respectively, of the GGNS. The name of the company Middle South Energy Inc. has recently been changed to System Energy Resources, Inc. (SERI). The proposed amendment and transfer of control would transfer responsibility and authority for construction of GGNS Unit 2 from MP&L to MSE (now SERI).

Environmental Assessment

Identification of Proposed Action

The proposed action would amend the Unit 2 construction permit CPPR-119 to reflect a change in the name of one of the joint licensees, Middle South Energy, Inc. to System Energy Resources, Inc. (SERI), and to authorize a transfer of control of licensed activities for GGNS Unit 2 from MP&L to SERI. The ownership of the GGNS and SMEPA's role as a joint licensee are not changed by the proposed action.

The proposed action is being reviewed by the Commission in several parts: a technical and financial review of the transfer of control and an amendment to reflect the transfer of authority for control of construction of Unit 2 from MP&L to SERI and to reflect a change in the name of one of the joint licensees, Middle South Energy, Inc. to System Energy Resources Inc. (SERI) and an additional review dealing with the antitrust conditions currently included in the construction permit. The Commission's initial review and this assessment deal only with the amendment, the transfer of control and non-antitrust related issues; a later review will deal with the antitrust aspects. Pending the completion of this later review the amended construction permit will hold MP&L and SERI to the terms of the existing antitrust conditions.

Consistent with the above, the revised joint licensees will be MP&L, SERI and SMEPA with authority for control of licensed activities concerning the construction of Unit 2 transferred from MP&L to SERI. The transfer of control and amendments herein reviewed are in accordance with the joint licensees' request dated September 2, 1986 as amended on October 4, 13 and 24, and as supplemented on November 20, 21, and December 2 and 3, 1986.

The Need for the Proposed Action

The transfer of operational authority and responsibility to SERI is necessary to allow the nuclear activities now performed by MP&L to be shifted to SERI (formerly MSE) which heretofore was limited to owning 90% of the GGNS but will now also be the operating entity for the GGNS.

The joint licensees indicate that the organizational changes which would be authorized by the proposed transfer of control and accompanying amendment will: (1) Enable management to focus its full attention on the GGNS versus also having responsibility for certain non-nuclear activities in the present organizational structure, (2) permit management to focus on the development of human resources needed for nuclear plant operations and construction, (3) enable certain corporate support functions to be more effectively focused on the requirements of a nuclear generating company, and (4) will enable a consolidation of the responsibility for control of licensed activities to be brought within the organization which is also the principal owner of the GGNS rather than within a contracted agent.

Environmental Impacts of the Proposed Action

The joint licensees state that the MP&L nuclear organization (plant and headquarters) currently responsible for the GGNS will be transferred virtually intact to SERI. No change in the design or construction of the GGNS is involved in this proposed action. Except for the antitrust provisions, changes to the construction permit are limited to those which reflect a change in the name of the constructing organization from MP&L to SERI. Two of the joint licensees, MP&L and SERI, will be held to the terms of the existing antitrust conditions pending completion of the review of the antitrust considerations of the amendment application. Since the proposed changes will not directly affect the principal architectural and the

engineering criteria and environmental protection commitments set forth in the construction permit application, as amended, or change the construction impacts associated with the GGNS but will only result in transfer of the performance by essentially the same people of the same functions, the staff has concluded that there is no significant environmental impact associated with the proposed action.

Alternative to the Proposed Action

Because the staff has concluded that there is no measurable environmental impact associated with the proposed action any alternative to this proposed action will have either no environmental impact or greater environmental impact. The principal alternative would be to deny the requested changes. This would not accomplish any reduction in environmental impacts of plant operation and would deny the benefits discussed above to those responsible for the control of licensed activities at the GGNS, Unit 2.

Alternative Use of Resources

The proposed action does not involve the use of resources not previously considered in connection with the Final Environmental Statement—Construction Permit dated August 1973 or the "Final Environmental Statement related to the Operation of the Grand Gulf Nuclear Station, Units 1 and 2," dated September 1981.

Agencies and Persons Contacted

The NRC staff reviewed the joint licensees' requests and did not consult other agencies or persons.

Finding of No Significant Impact

The staff has reviewed the proposed action relative to the requirements set forth in 10 CFR Part 51. Based on this assessment, the staff concludes that there are no significant environmental impacts associated with the proposed action and that the issuance of the proposed amendment to the construction permit will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, an environmental impact statement need not be prepared for this action.

For further details with respect to this action, see the request for amendment of the Unit 2 construction permit dated September 2, as amended on October 4, 13 and 24, and as supplemented on November 20, 21, and December 2 and 3, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H St., NW., Washington, DC 20555 and at the Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Dated at Bethesda, Maryland this 5th day of December, 1986.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, BWR Project Directorate No. 4, Division of BWR Licensing.

[FR Doc. 86-27721 Filed 12-8-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Biotechnology Science Coordinating Committee; Meeting

AGENCY: Executive Office of the President, Office of Science and Techonology Policy.

ACTION: Announcement of open meeting; considerations related to definitions.

SUMMARY: This **Federal Register** notice announces an open meeting of the Federal Coordinating Council for Science, Engineering and Technology, Biotechnology Science Coordinating Committee (BSCC) and considerations related to certain definitions.

FOR FURTHER INFORMATION CONTACT: Dr. David T. Kingsbury, Assistant Director for Biological, Behavioral, and Social Sciences, National Science Foundation, 1800 G Street NW., Washington, DC 20550, (202-357-9854).

Jonathan F. Thompson,

Executive Assistant to the Director, Office of Science and Technology Policy.

December 5, 1986.

I. BSCC Public Meeting

Date and Time: January 5, 1987 at 3:30 PM.

Place: Second Floor Amphitheater, Federal Home Loan Bank Board Building, 1700 G Street NW., Washington, DC 20552.

Contact: Mary Gant, Executive Secretary, BSCC, Office of Science and Technology Policy, Room 5026, New Executive Office Building, Washington, DC 20506, (202-395-3952).

Tentative Agenda: Status of working groups, proposed working group on definitions, guidelines for agricultural research.

Public Participation: The meeting is open to the public. Members of the public who wish to make oral presentations pertaining to agenda items should contact Mary Gant at the above address or telephone number. Requests to speak including topic must be received 2 days prior to the meeting: reasonable provisions will be made to include the presentation on the agenda as time permits although the time available for each presentation may need to be limited.

II. Considerations Related to Definitions

The June 26, 1986 **Federal Register** notice in the Preamble (51 FR 23302) requested public comment related to definitions for "intergeneric organism," "pathogen," and "release into the environment." Because a large number of responses were received, the BSCC January 5, 1987 meeting agenda includes consideration of a proposed working group for these definitions.

Regarding the use of the definitions of intergeneric organism and pathogen, BSCC has been advised by the National Science Foundation (NSF), the Food and Drug Administration (FDA), and the Department of Agriculture (USDA) that certain portions in the Preamble [1] may be ambiguous. The NSF, although involved in the formulation of the definitions of intergeneric organism and pathogen, does not at present rely on the definitions in its activities. FDA endorsed the definitions, believing that they described in microorganisms appropriate for review when environmental or agricultural applications of microorganisms are contemplated (51 FR 23310, footnote 1). These definitions do not have specific regulatory significance for FDA although whether an organism is intergeneric or a pathogen is the kind of factor that FDA considers routinely in its evaluation of the safety of foods and food additives (51 FR 23313). FDA has not modified the way that it will regulate.

USDA, in the June 26, 1986 **Federal Register** (51 FR 23351), published proposed rules, "Plant Pests: Introduction or Organisms and Products Altered or Produced Through Genetic Engineering" that included the definition of pathogen. USDA is considering comments to the proposed plant pest rules.

USDA and NIH have advised the BSCC that USDA, along with other agencies dealing with research, will propose new provisions relating to agricultural research for inclusion in the *NIH Guidelines for Research Involving Recombinant DNA Molecules*, **Federal Register**, May 7, (51 FR 16958) in lieu of the USDA's Advanced Notice of Proposed Guidelines for Biotechnology Research" published in the June 26, 1986 **Federal Register** (51 FR 23367) that

[1] "EPA, APHIS, and S&E are using the definitions to identify levels of review for microbial products within their jurisdiction. EPA, APHIS, FDA, S&E, and NSF are using the definitions as factors to consider in the review of products or experiments." (51 FR 23307)

contained the definitions of intergeneric organism and pathogen. The new provisions will include agriculture related aspects of plant, animal and microbial research conducted under controlled conditions outside laboratories meeting physical and biological containment requirements described in the current *NIH Guidelines*, and will describe USDA's review of agricultural research.

[FR Doc. 86-27774 Filed 12-8-86; 9:30 am]
BILLING CODE 3170-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preference (GSP): Notification of Availability of U.S. International Trade Commission (USITC) Report to the President

Summary: The purpose of this notice is to announce the availability for public review and comment of the nonconfidential version of the USITC's report to the President on petitions accepted for review in the 1986 annual review of the GSP.

I. Availability of Nonconfidential USITC Report

Copies of the nonconfidential USITC report (Investigation #332-238—USITC Publication 1196) can be obtained on or after Monday, December 8 from the Office of the Secretary, U.S. International Trade Commission, 701 E St., NW., Washington, DC 20436. The **Federal Register** notice of July 18, 1986 (51 FR 26068) contains background information on the GSP annual review.

II. Receipt of Public Comment

All written comments with regard to the USITC's report to the President must be received no later than close of business, December 29, 1986 and should be addressed to: GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th St., Room 517, Washington, DC 20506. All such submissions should conform to 15 CFR 2007, particularly §§ 2007.0, 2007.1(a)(1), 2007.1(a)(2), and 2007.1(a)(3). Information submitted will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. Written comments will be accepted if submitted in twenty copies in English. If the comments contain business confidential information, twenty copies of a nonconfidential version of the comments along with twelve copies of the confidential version must be submitted. In addition, the submission containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the submission. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each and every page (either "public version" or "nonconfidential").

III. Communications

All communications with regard to the annual review should be addressed to the GSP Subcommittee at the address listed above. The telephone number of the GSP Information Center is (202) 395-6971. Questions on this notice or any other aspect of the annual review should be addressed to Fred Davidson at (202) 395-6971.

Donald M. Phillips,
Chairman, Trade Policy Staff Committee.

[FR Doc. 86-27592 Filed 12-8-86; 8:45 am]
BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-23856]

Municipal Bond Redemptions

AGENCY: Securities and Exchange Commission.

ACTION: Publication of a Letter Identifying Voluntary Minimum Standards for Processing Redemptions of Debt Securities.

SUMMARY: On November 14, 1986, representatives of industry organizations, self-regulatory organizations, and Federal regulatory agencies met to discuss problems associated with municipal bond call processing and reached a consensus that issuers and their agents, in processing municipal securities redemptions, should adhere to certain minimum standards as set forth in the text of the letter below. The Securities and Exchange Commission endorses those standards and encourages all municipal securities issuers and their agents to adhere to the standards in processing existing and future redemptions.

FOR FURTHER INFORMATION CONTACT: Jerry Greiner at 202/272-2066 or Ester Saverson, Jr. at 202/272-2826, Division of Market Regulation, Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") authorized the Division of Market Regulation to send the following letter discussing certain problems in processing redemptions of municipal bonds.[1] The letter identifies six steps issuers and their agents can take to reduce these problems.

I. Introduction

The Commission understands that recent interest rate declines have caused a significant increase in the incidence of full and partial redemptions of debt securities, particularly municipal securities. The Commission also understands that recent high redemption volume and the procedures used to initiate and complete redemptions have caused operational problems to financial intermediaries, delayed redemption processing, and resulted in financial loss to affected bondholders and intermediaries. The Commission believes the voluntary guidelines set forth below help ameliorate redemption processing problems and minimize adverse effects on bondholders. The Commission also intends to continue to monitor and evaluate bond redemptions.

II. Discussion

The Commission realizes that the endorsed standards primarily will affect issuers, their agents, and bond indenture trustees. The Commission encourages voluntary compliance, which should promote more efficient redemption processing for all persons involved, including issuers, agents, intermediaries, and bondholders. The Commission realizes that the six endorsed standards are minimum guidelines and encourages issuers and their agents to consider taking additional steps to promote maximum efficiency and safety in the bond redemption process.

In today's environment of securities immobilization and automated book-entry processing of securities transactions, a significant percentage, often a majority, of the ownership interests in a securities issue is held at central registered securities depositories through financial intermediaries. Because financial intermediaries and their beneficial owner customers must depend on the securities depositories, as registered owner or custodian, to receive notice of and process redemptions, the Commission urges cooperation and increased automation for depository-processed redemptions. Issuers, their agents, and trustees should review current procedures and consider certain additional steps to ensure timely completion of redemption processing by depositories and other custodians,

[1] The letter was sent to the organizations listed in footnote 1 of the letter below.

including automated tape transmission of redemption information to depositories, increased communication with depositories, and follow-up notices to depositories.

At the same time, however, the Commission also recognizes that many bondholders' certificates are not held by depositories, but are held individually or through other custodians. These bondholders, in the Commission's view, are often the least informed about the redemption process and bear significant financial loss due to missed redemptions and late redemption payments. The Commission, therefore, encourages voluntary efforts to improve the process by which these bondholders are informed of redemptions and are paid redemption proceeds. Issuers, their agents, and trustees should consider secured mailings to all registered bondholders, follow-up notices to bondholders who have failed to deliver called bonds, mailed notices to holders of bearer bonds who provide their names and addresses for that purpose, and redemption notice publication in sources most likely to reach bondholders.

Dated: December 3, 1986.

By the Commission.

Jonathan G. Katz,

Secretary.

Re: Processing Municipal Bond Calls

As you know, the recent decline in interest rates has resulted in a tremendous increase in redemptions of municipal securities. On November 14, 1986, representatives of several industry organizations met to discuss problems associated with municipal bond call processing, and reached unanimous agreement that issuers, trustees and their agents, in processing municipal securities redemptions, should be encouraged to adhere to the six minimum standards set forth below.[1]

These representatives agreed to distribute notice to these standards to their membership and to take appropriate steps to endorse the standards. Accordingly, please be advised that the Securities and Exchange Commisson ("Commission") endorses these standards and encourages all municipal securities issuers and their agents to adhere to these standards in processing existing and future redemptions.

I. Summary of the Standards

Representatives unanimously agreed with the following standards:

—Notice of muncipal bond redemptions should contain, at a minimum: CUSIP number; certificate numbers and called amounts of each certificate (for partial calls); publication date; redemption date; redemption price; redemption agent name and address; date of issue; interest rate; maturity date; and other descriptive information that accurately identifies the called security.

—All redemption notices should be sent, in a secure fashion (*e.g.*, registered or certified mail or overnight delivery service), at least to all four registered securities depositories and to national information services that disseminate redemption notices.

—Redemption notices should provide for 30 days from publication date to redemption date.

—Redemption notices should be sent to the registered securities depositories in advance of publication date.

—Second notices of advance refundings of municipal securities should be given 30 days prior to the redemption date.

—CUSIP number identification should accompany all redemption payments.

II. Need for the Standards

Custodians of called municipal bonds and National Clearance and Settlement System ("National System") processors stressed their need for early and complete notices of redemption to afford sufficient redemption processing time and to allow timely presentment of called securities to redemption agents. They also urged resolution of certain redemption payment problems.

A. Contents of Redemption Notices

Representatives stressed the need for inclusion of CUSIP numbers on all redemption notices. The CUSIP number is the unique identification number assigned to each maturity of an issue, which is usually printed on the face of each individual certificate of the issue. Because CUSIP numbers provide an efficient way to identify different issues and maturities, these numbers are used extensively in automated recordkeeping systems throughout the securities and banking industry. For example, ownership interests in municipal securities held by securities depositories are maintained exclusively by reference to CUSIP number. Thus, representatives agreed that redemption notices must contain, at a minimum: CUSIP number; certificate numbers and called amount for each certificate (for partial calls); publication date; redemption date; redemption price; redemption agent name and address; date of issue; interest rate; maturity date; and other identifying information.

B. Redemption Notices Should Be Sent to Depositories and to One or More National Information Services

Securityholders, depositories [2] and other custodians often have difficulty learning of redemptions, particularly when redemption notices for bearer bonds are published only in local newspapers that are not covered by national call dissemination services. Representatives stressed that it is crucial for issuers and trustees to send redemption notices to the four registered securities depositories, regardless of other publication or notice requirements specified in the indenture.[3] Moreover,

[1] Industry organizations represented at the meeting were: American Bankers Association; Dealer Bank Association; Government Finance Officers Association; National Association of Bond Lawyers; National Association of State Auditors, Comptrollers and Treasurers; Public Securities Association; Securities Industry Association; and the four registered securities depositories—Depository Trust Company; Midwest Securities Trust Company; Pacific Securities Depository Trust Company and Philadelphia Depository Trust Company. Staff members from the Securities and Exchange Commission; Municipal Securities Rulemaking Board; Office of the Comptroller of the Currency; Board of Governors of the Federal Reserve System; and Federal Deposit Insurance Corporation also attended the meeting.

The Investment Company Institute was not represented at the meeting but has agreed to distribute this letter to its members. The Securities Transfer Association, Inc., also not represented at the meeting, is considering whether to send this letter to its members.

[2] The four registered securities depositories are user-governed, not-for-profit corporations that provide safekeeping and other securities processing services. The securities depositories do not trade securities for their own accounts and are self-regulatory organizations registered with the Commission under the Securities Exchange Act of 1934. As members of the Federal Reserve System, they are also subject to examination by the Board of Governors of the Federal Reserve System. Approximately 47% of all municipal securities are held by securities depositories for their member banks and broker-dealers. Thus, notice to securities depositories will facilitate prompt notice to a significant proportion of bondholders.

[3] Redemption notices should be sent to:

(i) Corporate calls: The Depository Trust Company, 23rd Floor, 7 Hanover Square, New York, New York 10004, Fax-(212), 709–6895 or 6896.

Municipal calls: The Depository Trust Company, 711 Stewart Avenue, Garden City, New York 11530, Attention: Diana Difiglia, Fax-(516) 227–4039 or 4190.

(ii) Midwest Securities Trust Company, Capital Structures-Call Notification, 440 South LaSalle Street, Chicago, Illinois 6065, Fax-(312) 663–2343.

Continued

notices to depositories should be sent in a fashion more secure than first class mail, such as, registered or certified mail and overnight mail.[4] Representatives also agreed that, to ensure nationwide access to redemption notices,[5] trustees and issuers also should send redemption notices to one or more information services of national recognition that disseminate redemption information.[6]

C. The Standard Redemption Notice Period is 30 Days

Representatives agreed that 30 days from publication date to redemption date should be the standard notice period for municipal bond redemptions. Bond counsel and trustees at the meeting suggested that most trust indentures, even those specifying minimum notice of as little as ten days, provide the flexibility for 30 days notice. Representatives explained that 30 days notice of redemptions on municipal bonds is the minimum time frame within which they can prepare adequately for and complete municipal bond redemptions. Thirty days notice is critical because investors frequently own securities through several intermediaries including securities depositories and banks or broker-dealers, and each intermediary must allocate called certificates based on positions as of the close of business the day before the notice publication date.

Depository representatives emphasized the need for early notice of redemptions, especially with respect to partial calls of municipal bonds. Upon learning of a call, depositories must reconcile which among themselves is the net holder of the affected issue. The net holder must then run a lottery to allocate the call among participants having a petition in the affected issue. The lottery must be based on participants' positions as of record date, which is the close of business on the day before publication date. After the net holding depository's lottery has run, the other depositories can run their lotteries, also based on participants' positions as of record date. After the depositories' lotteries have been run, depository participants can run their own internal lotteries as necessary. This need for multiple, successive lotteries for partial calls means that sufficient processing time must be allowed.

D. Redemption Notices Should Be Sent to Depositories Two Business Days In Advance of Publication Date

As noted above, depositories run their lotteries based on participants' positions as of record date, the day before publication date. Thus, anytime a depository receives a redemption notice after its record date, the depository must reconstruct record date positions. This entails locating and reconstructing historical files, a time-consuming process that creates further delays. Moreover, the further from record date a lottery is run, the greater the chance that depository participants will have sold or transferred their record date holdings in the called issue. If a participant's position is inadequate to meet its call allotment, a short position is created and the participant must cover its delivery obligation with a cash deposit and often will need to buy securities in the open market. If the issue is thinly traded, significant financial losses can result. To avoid these problems, representatives agreed that issuers and trustees should send redemption notices to the depositories in advance of publication date whenever possible. All of the depositories have represented to the Commission that they would maintain confidentiality of the notices until publication date and would use their advance knowledge only to prepare timely lottery runs.

E. Second Notice of Advance Refunding of Bonds

Several representatives raised the concern that issuers will announce the refunding of a bond issue one to five years in advance of the redemption date without any other notice of the advance refunding. During the intervening years between the publication date and the redemption date, holders must keep track of bonds subject to the advance refunding and the date and price of the redemption. The representatives all concurred that a second notice, published and mailed 30 days prior to redemption date to all registered bondholders, including the four registered securities depositories, and to one or more of the national information services that disseminate redemption notices, would alleviate the processing problems that result from missed redemption dates.

F. CUSIP Number Identification of Redemption Payments

Depositories stressed the need for CUSIP number identification on redemption checks or wire payments to avoid delays caused by researching payments to participants. Depository participants face financial risks when they pay their customers on redemption date without having received redemption proceeds from the depository or the redemption agent. Representatives therefore agreed that CUSIP number identification should accompay redemption checks or wire payments to depositories.

The Securities and Exchange Commission today has issued a release encouraging all municipal securities issuers and their agents and National System processors to adopt these standards immediately. If you have questions or further suggestions about these standards, please contact Brandon Becker at 202/272-2866 or Jonathan Kallman at 202/272-2402.

Sincerely,

Richard G. Ketchum,

Director.

[FR Doc. 86-27644 Filed 12-8-86; 8:45 am]

BILLING CODE 8010-01-M

(iii) Registered bond calls: Pacific Securities Depository Trust Company, Pacific and Company, P.O. Box 7041, San Francisco, California 94120, Fax-(415) 393-4128.

Bearer bonds calls: Pacific Securities Depository Trust Company, Pacific and Company, P.O. Box 7042, San Francisco, California 94120, Fax-(415) 393-4128.

(iv) Philadelphia Depository Trust Company, Reorganization Division, 1900 Market Street, Philadelphia, Pennsylvania 19103, Attention: Bond Department, Dex-(215) 496-5058.

[4] All depositories have offered to pay the expense of overnight delivery of redemption notices. Telecopying notices to the depositories also is an acceptable method of delivery. (*See* note 3 for telephone numbers.)

[5] Although depositories are probably the largest recordholders of registered municipal securities and principal custodians of bearer municipal securities, some municipal issues, particularly those in bearer-form, are not eligible for depository services. Accordingly, special notice to information services appears to be particularly appropriate as a means of alerting securityholders to impending redemptions in a timely fashion.

[6] For example, some of these nationally-recognized services are: Financial Information, Inc.'s Financial Daily Called Bond Service; Interactive Data Corporation's Bond Service; Kenny Information Service's Called Bond Service; Moody's Municipal and Government; and Standard and Poor's Called Bond Record.

Self-Regulatory Organizations; Applications of Cincinnati Stock Exchange, Inc. for Unlisted Trading Privileges and Opportunity for Hearing

December 3, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Alberto-Culver Co.
Class B Common Stock, $0.22 Par Value (File No. 7-9414)
American Motors Corp.
$2.80 Class A Cumulative Preferred, $0.01 Par Value (File No. 7-9415)
CBI Industries, Inc.
Common Stock, $2.50 Par Value (File No. 7-9416)
Chesapeake Corp.
Common Stock, $1.00 Par Value (File No. 7-9417)
Corroon & Black Corp.
Common Stock, $0.25 Par Value (File No. 7-9418)
Cyclops Corp.
Common Stock, $1.00 Par Value (File No. 7-9419)
Fieldcrest Cannon, Inc.
Capital Stock, No Par Value (File No. 7-9420)
Flowers Industries, Inc.
Common Stock, $0.62½ Par Value (File No. 7-9421)
Hayes-Albion Corp.
Common Stock, $1.00 Par Value (File No. 7-9422)
Interlake Corp.
Common Stock, $1.00 Par Value (File No. 7-9423)
King World Productions, Inc.
Common Stock, $0.01 Par Value (File No. 7-9424)
The LTV Corp.
$1.25 Cumulative Convertible D Preferred, $1.00 Par Value (File No. 7-9425)
Lomas & Nettleton Financial Corporation
Common Stock, $2.00 Par Value (File No. 7-9426)
Meredith Corp.
Common Stock, $1.00 Par Value (File No. 7-9427)
NBD Bancorp, Inc.
Common Stock, $6.25 Par Value (File No. 7-9428)
National Convenience Stores, Inc.
Common Stock, $0.41⅔ Par Value (File No. 7-9429)
Norsk Hydro a.s.
Common Stock NQK, 25 Par Value (File No. 7-9430)
Standard Brands Paint Co.
Common Stock, $1.00 Par Value (File No. 7-9431)
Stone Container Corp.
Common Stock, $1.00 Par Value (File No. 7-9432)
Trinity Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7-9433)
Affiliated Publications, Inc.
Common Stock, $0.01 Par Value (File No. 7-9434)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 24, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-27645 Filed 12-8-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications of Philadelphia Stock Exchange, Inc., or Unlisted Trading Privileges and Opportunity for Hearing

December 3, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Colt Industries, Inc. (New)
Common Stock, $0.10 Par Value (File No. 7-9413)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 24, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-27647 Filed 12-8-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications of Philadelphia Stock Exchange, Inc. for Unlisted Trading Privileges and of Opportunity for Hearing

December 3, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Decision/Capital Fund, Inc.
Common Stock, $.001 Par Value (File No. 7-9435)
Kidde, Inc.
Warrants expiring November 15, 1987 (File No. 7-9436)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 24, 1986, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-27646 Filed 12-8-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15447; File No. 812-6437]

American Southwest Financial Corp.; Notice of Application

December 2, 1986.

Notice is hereby given that American Southwest Financial Corporation and American Southwest Finance Co., Inc. ("Applicants"), 15650 N. Black Canyon Highway; Phoenix, Arizona 85023, filed an application on July 18, 1986, and amendments thereto on September 3, 1986 and November 14, 1986, for a second order, pursuant to Section 6(c) of the Investment Company Act of 1940

("Act"), amending the terms of a prior order that exempted Applicants from all provisions of the Act in connection with their proposed issuance of mortgage-backed securities. Applicants previously received an exemptive order [Investment Company Act Release No. 12844 (November 23, 1982)] ("Prior Order"), pursuant to Section 6(c) of the Act, exempting them from all provisions of the Act and an order [Investment Company Act Release No. 14087 (August 7, 1984)] ("Amended Order") amending the terms of the prior order. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable provisions thereof.

According to the application, each Applicant is an Arizona corporation organized in 1982 by a number of then otherwise unrelated entities. Each Applicant was incorporated for the limited purpose of facilitating the financing of long-term residential mortgages on single family residences and does not engage in any other unrelated business or investment activities. Each Applicant issues securities (the "Bonds") and enters into funding agreements with respect to such securities as described in the applications for the Prior Order and the Amended Order. In their application for the Amended Order, Applicants represented, among other things, that at least 55% of the principal amount of the mortgage certificates securing their Bonds will represent the entire issue of the particular mortgage portfolios and that the pledged mortgages and the mortgages underlying the mortgage certificates securing each series of Bonds will consist of first mortgage loans on single-family residences, the majority of which will be constructed by affiliated builders. Applicants now request an order that would permit them to utilize as collateral for their Bonds (1) additional "partial pool" certificates and (2) collateral secured by homes of which less than a majority may have been constructed by affiliated builders.

Applicants state that the equity ownership of each Applicant presently is divided among 21 class A shareholders and 43 class B shareholders all of which are, or are affiliated with, one or more concerns engaged in the home-building business ("builders") or in providing mortgage banking or other services to builders, and participation in ownership of the Applicants is complementary to and in furtherance of their regular business activities. According to Applicants, such equity shareholders have been limited to home builders, mortgage bankers, thrift institutions, banks and other organizations the Applicants believe to be knowledgeable in construction or mortgage financing or finance companies organized or controlled by the foregoing. Applicants state that neither of them presently propose to offer equity securities to more than one hundred shareholders, and each Applicant further proposes to limit any sale of its equity securities (whether or not held by more than one hundred persons) to purchasers who are similarly qualified and also propose to actively participate in financing construction of homes or qualified mortgages in one or more bond offerings of the Applicants. Applicants state that they will not permit investors to purchase equity securities as an investment unrelated to the active conduct of the home building and home finance business; however, they note that a shareholder is not expected to participate in every series of debt securities issued by Applicants.

Applicants further represent that to the extent not already applicable to the business of Applicants, all future debt security offerings will be limited to bond offerings meeting the following conditions:

(1) Each series of bonds will be registered under the Securities Act of 1933 ("Securities Act"), unless offered in a transaction exempt from registration pursuant to Section 4(2) of the Securities Act.

(2) The bonds will be "mortgage related securities" within the meaning of Section 3(a)(41) of the Securities Exchange Act of 1934. However, the mortgage collateral underlying the bonds (whether owned by Applicant or pledged pursuant to collateralized obligations) will be limited to: (i) mortgages that are first liens on single (one-to-four) family residences ("Mortgages"); mortgage certificates evidencing an undivided interest in pools of mortgages that are liens on single (one-to-four) family residences ("private mortgage certificates"); and (iii) mortgage certificates guaranteed by the Government National Mortgage Association ("GNMA"), the Federal National Mortgage Association ("FNMA") or the Federal Home Loan Mortgage Corporation ("FHLMC") ("Federal mortgage certificates") (collectively, "mortgage collateral").

(3) If new mortgage collateral is substituted, the substitute collateral must: (i) Be of equal or better quality than the collateral replaced; (ii) have similar payment terms and cash flow as the collateral replaced; (iii) be insured or guaranteed to the same extent as the collateral replaced; and (iv) meet the conditions set forth in paragraphs (2), (4) and (6) below. In addition, new collateral may not be substituted for more than 20% of the aggregate face amount of the mortgages initially pledged as mortgage collateral or for more than 40% of the aggregate face amount of the mortgage certificates initially pledged as mortgage collateral. New mortgages may be substituted for mortgages initially pledged as mortgage collateral only in the event of default, late payments or defects in the collateral being replaced. New private mortgage certificates may be substituted for private mortgage certificates initially pledged as mortgage collateral only in the event of default, late payments or defect in the collateral being replaced. In no event may any new mortgage collateral be substituted for any substitute mortgage collateral. New collateralized obligations may be substituted for collateralized obligations initially pledged only if the substition of mortgage collateral underlying those instruments would be permitted under this condition.

(4) All mortgages, mortgage certificates, funds, accounts or other collateral securing a series of bonds ("bond collateral") will be held by the trustee or on behalf of the trustee by an independent custodian. The custodian may not be an affiliate (as the term "affiliate" is defined in Securities Act Rule 405,17 CFR 230.405) of the Applicant, or of the master servicer or originating lender of any mortgages that are pledged as mortgage collateral. If there is no master servicer, no servicer of those mortgages may be an affiliate of the custodian. The trustee will be provided with a first priority perfected security or lien interest in and to all bond collateral.

(5) Each series of bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant. The bonds will not be considered redeemable securities within the meaning of Section 2(a)(32) of the Act.

(6) The master servicer of any mortgages (including mortgages underlying private certificates) that are pledged as mortgage collateral may not be an affiliate of the trustee. If there is no master servicer, no servicer of those mortgages may be an affiliate of the trustee. Any master servicer and servicer of such mortgages will be approved by FNMA or FHLMC as an "eligible seller/servicer" of

conventional, residential mortgage loans. The agreement governing the servicing of such mortgages shall obligate the servicer to provide substantially the same services with respect to those mortgages as it is then currently required to provide in connection with the servicing of mortgage loans insured by FHA, guaranteed by VA or eligible for purchase by FNMA or FHLMC.

(7) No less often than annually, an independent public accountant will audit the books and records of the Applicant and in addition will report on whether the anticipated payments of principal and interest on the mortgage collateral continue to be adequate to pay the principal and interest on the bonds in accordance with their terms. Upon completion, copies of the auditor's report(s) will be provided to the trustee.

Applicants believe that the two modifications requested are necessary to permit their continued operations. Applicants state that they believe that each such modification is (1) in the interest of the Applicants and the participating entities (including the small affiliated builders who established the Applicants), (2) supportive of the national goals established by the Congress, including the goal of enhancing a strong and liquid secondary mortgage market, and (3) not inconsistent with the best interests of investors, who will receive Bonds secured by a more diversified and stable portfolio of mortgage obligations.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 26, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the 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. 86-27648 Filed 12-8-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15446; File No. 812-6452]

Equus Investments I, L.P. and Dean Witter Reynolds Inc.; Notice of Application for an Order Exempting Affiliated Transactions

December 2, 1986.

Notice is hereby given that Equus Investments I, L.P., River Oaks Bank Tower, 2001 Kirby, Suite 1114, Houston, Texas 77019, a Delaware limited partnership ("Partnership") registered as a business development company under the Investment Company Act of 1940 ("Act"), and its investment adviser, Dean Witter Reynolds Inc., Two World Trade Center, New York, New York 10048, a Delaware corporation ("DWR" and, together with the Partnership, the "Applicants"), filed an application on August 8, 1986 and an amendment thereto on October 29, 1986, requesting an order of the Commission pursuant to section 6(c) of the Act exempting DWR from the prohibitions in section 57(k)(1) against DWR accepting compensation for financial advisory services and a finder's fee in connection with the Partnership's participation in the leveraged buyout of Sonic Industries, Inc. ("Sonic"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable provisions.

According to the application, Equus Capital Corporation ("Managing Partner") and three independent individuals ("Independent General Partners") act as general partners of the Partnership. The Managing Partner is responsible for approving the Partnership's investments, arranging financing for leveraged buyout transactions, and providing management assistance to portfolio companies. The Independent General Partners are responsible for the overall guidance and supervision of the Partnership, approving the Partnership's investments, and performing various duties imposed on directors of a business development company by the Act. The Partnership has also engaged Equus Capital Management Corporation ("Management Company") to provide certain management and administrative services to the Partnership. The Management Company is responsible for identifying, evaluating, structuring, monitoring, and disposing of the Partnership's investments. The Managing Partner is controlled by the Management Company, which is controlled by EI Incorporated, a privately owned company engaged in a variety of investment activities, including leveraged buyouts.

Applicants state that DWR, as an investment adviser to the Partnership and Managing Partner, provides general assistance in the evaluation of prospective portfolio investments and the monitoring of such investments, and provides such information relating to the economy, securities markets, and securities as the Partnership and Managing Partner requests. However, the Investment Advisory Agreement ("Advisory Agreement") among the Partnership, the Managing Partner, and DWR specifically provides that DWR is not required to seek out or to identify particular investment opportunities for the Partnership or to present to the Partnership or the Managing Partner any investment opportunity that has come to DWR's attention other than through the Partnership or the Managing Partner, even if such opportunity is within the investment objective and policies of the Partnership. The Advisory Agreement further provides that if DWR presents any such investment opportunity, or provides any such services, to the Partnership or the Managing Partner, it shall be entitled to receive such additional compensation therefor as may be mutually agreed upon and permitted under applicable law and rules of the National Association of Securities Dealers, Inc. Under the Advisory Agreement, DWR is currently entitled to receive from the Managing Partner an investment advisory fee equal to 24 percent of the distributions, if any, received by the Managing Partner as compensation for the performance of its duties as General Partner to the Partnership. Applicants represent that since DWR's advisory fee is payable out of the Managing Partner's advisory fee, it does not reduce the net amounts allocated to the limited partners of the Partnership.

In 1985, a group of officers and management employees ("Management Group") of Sonic (a restaurant franchising operation) began to investigate the possibility of making a leveraged buyout of Sonic through a newly formed corporation, New Sonic Inc. ("New Sonic"), which would be owned initially by the Management Group. Under the proposed leveraged buyout, New Sonic would merge with and into Sonic, Sonic shareholders would be paid cash for all of their shares of Sonic stock, and Sonic would be the surviving corporation. Applicants represent that DWR was retained by the President and CEO of Sonic, Mr. C. Stephen Lynn ("Mr. Lynn"), on behalf of the Management Group to act as

exclusive agent for that group in locating possible investors and negotiating debt or equity financing for the proposed transaction. The agreement ("Agreement") between the Management Group and DWR provided that DWR would be paid a cash fee of $250,000 and its out-of-pocket expenses, including counsel's fees ("Fee"). Applicants represent that the Agreement was not entered into in contemplation of conducting a transaction with the Partnership, and that DWR's Fee and the terms of the Agreement were determined prior to any discussion of the Sonic leveraged buyout with the Partnership.

According to the application, DWR approached several possible investors in August and September 1985, including an officer of the Managing Partner, about the Management Group's search for investors in New Sonic. Officers of the Management Company and the Managing Partner analyzed the proposed investment in New Sonic and determined that the proposed transaction should be presented to the Board of Directors of the Managing Partner ("Directors"). Applicants state that, as is customary in such transactions, the Partnership and Mr. Lynn entered into a letter agreement regarding the possible investment by the Partnership in New Sonic, which agreement was expressly conditioned upon approval by the Directors and by the Independent General Partners.

Applicants state that DWR did not provide any investment advice to the Partnership, the Managing Partner, or the Management Company regarding the New Sonic investment. Instead, Mr. Lynn of the Management Group was invited to the meeting of the Directors to discuss Sonic's operations, corporate and franchise structure, and plans for expansion. Mr. Lynn answered various questions about Sonic posed by the Directors at that meeting. The Directors (excluding the two directors who were affiliates of DWR) voted unanimously to recommend to the Independent General Partners that the Partnership make such investment in Sonic through New Sonic. The Independent General Partners approved the investment of a meeting on November 7, 1985.

Representatives of the Partnership who were present at the meeting have stated that the Independent General Partners understood that DWR's Fee would be paid out of the assets of Sonic, the surviving corporation of the proposed merger of Sonic and New Sonic. Applicants further represent that the value placed upon Sonic by the Partnership and, accordingly, the price the Partnership paid for its shares of New Sonic stock took into account the anticipated payment of DWR's Fee by the surviving Sonic corporation.

According to the application, the Management Group selected the Partnership's investment in New Sonic over a similar offer by another potential investor, Regional Financial Enterprises ("Regional"), after considering both offers and the expertise and background of both potential investors. According to the application, the Management Group believed that the Partnership had a better understanding of Sonic's business; was more familiar with general business conditions in the geographic area where Sonic operates; and could provide more assistance in the improvement and long-term development of Sonic's operations. DWR recommended to the Management Group that it accept the Partnership's offer based on its belief that the Partnership's offer was in the best interests of the Management Group, and that Sonic provided an excellent investment opportunity for the Partnership. DWR is not affiliated in any way with Regional and could have collected its Fee under the Agreement had the Management Group selected Regional rather than the Partnership.

Applicants state that DWR located $9,948,000 in debt and equity financing for Sonic and provided general financial advisory services to Sonic in structuring a leveraged buyout of that company through New Sonic. The Partnership's portion of this financing consists of $800,000 of equity (168,421 shares of common stock, 40% ownership) and a subordinated loan of $1,700,000.

Applicants state that the shareholders of Sonic approved the merger of New Sonic into Sonic at a meeting on April 24, 1986, and the merger was completed later the same day. The amount and nature of DWR's fee was disclosed in the proxy statement for that meeting, which was filed with the Commission. DWR's Fee was placed in an escrow account at InterFirst Bank Houston, N.A. (the "Escrow Agent"), pursuant to an Escrow Agreement between DWR, Sonic and the Escrow Agent, if no exemptive order is received by Applicants, the Escrow Agent will return DWR's Fee to Sonic.

In support of the exemption requested, Applicants assert that the Fee is significantly lower than the customary fee charged by investment bankers and broker-dealers for transactions of a similar size and type. In addition, DWR's services to the Partnership in connection with the leveraged buyout of Sonic clearly exceeded the scope of its contractual obligations to the Partnership under the Advisory Agreement. Moreover, the transaction also involved no overreaching, and was independently evaluated and approved by the Managing General Partner, the Independent General Partners and the Sonic shareholders, who were fully aware that the Fee would be paid out of the assets of Sonic.

Notice is futher given that any interested person wishing to request a hearing on the application may, not later than December 26, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his or her interest, the reason 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 the Applicants at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-27649 Filed 12-8-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[CM-8/1025]

Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on January 16, 1987 at the University Club of the University of Colorado, Boulder, Colorado. The meeting will begin at 8:30 a.m.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting will be to plan and initiate preparations for the international meeting of Study Group 5 in 1988.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, DC 20520; telephone (202) 647–2592.

Dated: December 1, 1986.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 86–27605 Filed 12–8–86; 8:45 am]

BILLING CODE 4710–07–M

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing; Adoption of the Revised Comprehensive Plan

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. Two hearings have been scheduled for February 4, 1987. The first one is at the Commission headquarters building, 1721 N. Front St., Harrisburg, Pa., at 9:00 a.m. and the second one is at the Sheraton-Williamsport, 100 Pine St., Williamsport, Pa., 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 February 4, 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 Altoona Public Library, 1600 Fifth Ave., Altoona, Pa., James B. Brown Public Library, 19 E. Fourth St., Williamsport, Pa., and Scranton Public Library, Washington & Vine Sts., Scranton, Pa.

Dated: December 2, 1986.

Robert J. Bielo,

Executive Director.

[FR Doc. 86–27578 Filed 12–8–86; 8:45 am]

BILLING CODE 7040–01–M

DEPARTMENT OF TRANSPORTATION

Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Pub. L. 96–192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. Order 80–2–69 established the first interim SFFL and Order 86–01–1 set the currently effective two-month SFFL applicable through November 30, 1986.

In establishing the SFFL for the two-month period beginning December 1, 1986, we have projected nonfuel costs based on the year ended September 30, 1986 data, and have determined fuel prices on the basis of the latest experienced monthly fuel cost levels as reported to the Department.

By Order 86–12–9 fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic	0.9469
Latin America	1.0408
Pacific	1.2865
Canada	1.1247

For further information contact: Julien R. Schrenk, (202) 366–2441.

By the Department of Transportation.

Dated: December 3, 1986.

Philip W. Haseltine,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–27643 Filed 12–8–86; 8:45 am]

BILLING CODE 4910–62–M

VETERANS ADMINISTRATION

Agency Form Letter Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form letter, (2) the title of the form letter, (3) the agency form letter number, if applicable, (4) how often the form letter must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form letter, and (8) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the form letter and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Allison Herron, Office of Management and

Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: December 2, 1986.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Extension

1. Department of Veterans Benefits.
2. Consumer Sampling Letter.
3. VA Form Letter 27–652.
4. On occasion.
5. Individuals or households.
6. 17,251 responses.
7. 1,438 hours.
8. Not applicable.

[FR Doc. 86–27549 Filed 12–8–86; 8:45 am]

BILLING CODE 8320–01–M

Privacy Act of 1974; Proposed Amendment of System Notice Revised Routine Use Statement

Notice is hereby given that the Veterans Administration is considering revising a routine use statement to the following system of VA records set forth on pages 712 and 713 of the **Federal Register** publication, "Privacy Act Issuances, 1984 Compilation, Volume V" and amended at 50 FR 11610, March 22, 1985, and 51 FR 25968, July 17, 1986.

24VA136 Patient Medical Records—VA

The VA now routinely bills to recover costs for medical care provided to veterans in tort feasor, worker's compensation, automobile accident reparations insurance, and crimes of personal violence cases. Although many nonservice-connected veterans are covered by private medical care insurance, most health insurance policies contain exclusionary clauses that prohibit payment for medical care provided in Federal hospitals.

The Consolidated Omnibus Budget Reconciliation Act of 1984, Pub. L. 99–272, amended 38 U.S.C. 629 and authorizes the VA to recover or collect the cost of medical care furnished to nonservice-connected veterans from third-party health plan contracts carried by those veterans. In order to collect or recover the cost of medical care rendered to such nonservice-connected veterans, the VA will disclose relevant information concerning the medical care and services provided to individual patients to third-party insurance carriers when required by the health plan contract. The VA will prepare bills to the third-party insurance carriers for VA medical care and services rendered to such nonservice-connected veterans using the Uniform Bill, UB–82, which includes patient information such as name, address, social security number, birthdate, sex, marital status, admission date, period covered by the statement, principal and other diagnoses, and services provided. As required by 38 U.S.C. 629(h), as amended, VA health care facilities will make the VA patient medical record of individual nonservice-connected veterans, for whose care the VA is seeking recovery or collection of costs, available for inspection and review by representatives of the third-party carrier to permit them to verify that the claimed care and services were furnished, and that they meet criteria under the health plan contract for payment.

Routine use No. 14 in the system of records No. 24VA136 currently allows disclosure of a record to attorneys, insurance companies, employers, and to courts, boards, or commissions in order to aid the VA in the preparation, presentation, and prosecution of claims authorized under Federal, State, or local laws and regulations. In order to permit disclosures of relevant medical record information to all third-party insurance carriers now covered by 38 U.S.C. 629, an amendment to routine use No. 14 is necessary.

The VA has determined that the proposed use of the information is a necessary and proper use of information in this system of records. Therefore, a revision to routine use statement number 14 is proposed.

Interested persons are invited to submit comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420. All relevant material received before January 7, 1987 will be considered.

All written comments received will be available for public inspection only in the Veterans Service Unit, room 132, at the above address between the hours of 8 a.m. and 4:40 p.m., Monday through Friday (except holidays) until January 21, 1987.

If no public comment is received during the thirty-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the new routine use statement included herein is effective January 21, 1987.

Approved: November 21, 1986.

Thomas K. Turnage,

Administrator.

Notice of System of Records

In the system identified as 24VA136, "Patient Medical Records—VA", appearing on pages 712 and 713 of the **Federal Register** publication, "Privacy Act Issuances, 1984 Compilation, Volume V" and amended at 50 FR 11610, March 22, 1985, and 51 FR 25968, July 17, 1986, the following changes are made:

24VA136

System name: Patient Medical Records—VA.

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

* * * * *

14. Any relevant information may be disclosed to attorneys, insurance companies, employers, third parties liable or potentially liable under health-plan contracts, and to courts, boards, or commissions; such disclosures may be made only to the extent necessary to aid the Veterans Administration in preparation, presentation, and prosecution of claims authorized under Federal, State, or local laws, and regulations promulgated thereunder.

* * * * *

[FR Doc. 86–27550) Filed 12–8–86; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 236
Tuesday, December 9, 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).

FARM CREDIT ADMINISTRATION

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on December 11, 1986, from 10:00 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, (703) 883–4010.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). The matters to be considered at the meeting are:

1. Regulations—Final
Regulatory Accounting Practices and Requirements

Dated: December 4, 1986.

Kenneth J. Auberger,

Secretary, Farm Credit Administration.

[FR Doc. 86–27650 Filed 12–4–86; 5:06 pm]

BILLING CODE 6705–01–M

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10:00 a.m., Friday, December 12, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 5, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–27687 Filed 12–5–86; 11:02 am]

BILLING CODE 6210–01–M

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, December 16, 1986.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: Open Special Conference.

MATTERS TO BE DISCUSSED:

Ex Parte No. MC–170 (Sub–No. 1)—
Short Notice Effectiveness for Independently Filed Single-Factor Motor-Water Rates;
Ex Parte No. 346 (Sub–No. 22)—
Short Notice Effectiveness for Independently Filed Rail Carrier Rates.

CONTACT PERSON FOR MORE INFORMATION: Alvin H. Brown, Office of Legislative and Public Affairs, Telephone: (202) 275–7252.

Noreta R. McGee

Secretary.

[FR Doc. 86–27584 Filed 12–4–86; 12:05 pm]

BILLING CODE 7035–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(NORTHWEST POWER PLANNING COUNCIL)

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open.

TIME AND DATE: December 10–11, 1986, 9:00 a.m.

PLACE: Federal Building, 915 Second Avenue, Seattle, Washington.

MATTERS TO BE CONSIDERED: The Council will reconvene its annual business meeting, number 104, for the purpose of electing officers.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Atkins at (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 86–27695 Filed 12–5–86; 12:07 pm]

BILLING CODE 0000–00–M

Corrections

Federal Register
Vol. 51, No. 236
Tuesday, December 9, 1986

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents. 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 62

[A-1-FRL-3107-7]

Approval and Promulgation of Implementation Plans; Massachusetts; Correction Notice;Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Certification of No Designated Facilities

Correction

In rule document 86-25343 beginning on page 40799 in the issue of Monday, November 10, 1986, make the following correction:

On page 40800, in the third column, in the 14th line, "December 10, 1986" should read "January 9, 1987".

BILLING CODE 1505-01-D

FARM CREDIT ADMINISTRATION

12 CFR Parts 600, 601, 602, 603, 604, 611, 612, 613, 614, 615, 617, and 618

Miscellaneous Technical Changes

Correction

In rule document 86-25918 beginning on page 41932 in the issue of Thursday, November 20, 1986, make the following correction:

On page 41932, in the third column, the **EFFECTIVE DATE** should read "November 20, 1986".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Advanced Nurse Training Programs

Correction

In proposed rule document 86-26665 beginning on page 43048 in the issue of Friday, November 28, 1986, make the following corrections:

§ 57.2504 [Corrected]

1. On page 43049, in the third column, in § 57.2504(d), in the fifth line, "expand" should read "expend".

§ 57.2505 [Corrected]

2. On page 43049, in the third column, the section heading for § 57.2505 should read, "Project requirements."

BILLING CODE 1505-01-D

federal register

Tuesday
December 9, 1986

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 13 and 52
Federal Acquisition Regulation (FAR); Fast Payment Procedure; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 13 and 52

Federal Acquisition Regulation (FAR); Fast Payment Procedure

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) Subpart 13.3, Fast Payment Procedure, and the clause at 52.213–1.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before February 9, 1987 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 86–64 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

OMB issued Attachment 2 to Circular A–125, "Prompt Payment," in the **Federal Register** on April 12, 1985 (50 FR 14688) as an effort to provide greater control over the Fast Payment Procedure. The proposed revision to FAR Subpart 13.3 and the clause at 52.213–1 would—

(1) Allow, rather than mandate, the use of fast payment procedures;

(2) More specifically described what conditions would justify fast payment; and

(3) Increase the period of time (from 90 to 180 days) for verifying contractor delivery of required supplies and for corrective action by the Government as necessary.

B. Regulatory Flexibility Act

It appears that the proposed revision to FAR Subpart 13.3 and the clause at 52.213–1 may have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et. seq.). An initial Regulatory Flexibility Analysis has been prepared and will be submitted to the Chief Counsel for Advocacy of the Small Business Administration. Any public comments relative to this assessment are solicited.

Initial Regulatory Flexibility Analysis

This initial regulatory flexibility analysis has been prepared in accordance with section 603, Title 5, United States Code.

Reasons for Proposed Agency Action

The coverage implements OMB Circular A–125, "Prompt Payment" as revised by Attachment (2), published in the Federal Register on April 12, 1985 (50 FR 14688). OMB issued the revision as an effort to provide greater control over the Fast Payment Procedure.

Objectives and Legal Basis

The proposed rule essentially passes through to Federal agencies and contractors the requirements imposed by the revision to the OMB Circular. In addition, paragraph (b) of the Fast Payment Procedure (April 1984) clause is amended to require contractors receiving payments under the Fact Payment Procedure to replace, repair, or correct supplies for a period of 180 days from the date title vests in the Government instead of the current 90 days. The proposed rule is being issued pursuant to the authority of DoD (Chapter 137, 10 U.S.C.), GSA (40 U.S.C. 486(c)), and NASA (42 U.S.C. 2453(c)) to promulgate procurement regulations.

Description of and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

The proposed rule will apply to all small businesses receiving payments under the Fast Payment Procedure. Data is not collected so as to permit an estimate of the number of small businesses receiving payments under the Fast Payment Procedure.

Projected Reporting, Recordkeeping, and Other Compliance Requirements

The proposed rule does not contain additional information collection or reporting requirements on small businesses.

Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

There does not appear to be any relevant Federal rules which duplicate, overlap, or conflict with the proposed rule.

Significant Alternatives

The Regulatory Flexibility Act requires consideration of significant alternatives to the proposed rule that would accomplish the objectives of the statute and minimize any significant impact on small entities. The OMB Circular, as revised, does not consider nor does it permit Federal agencies any discretion with respect to implementing the policy for small businesses. With respect to increasing the time period from 90 days to 180 days under the Fast Payment Procedure clause, there does not appear to exist any alternative which would both accomplish the objective, and establish a special rule for small businesses. The extension from 90 days to 180 days is required because Federal agencies are notable to meet the 90-day requirement in the current clause. The time it takes for the depots or customers within the Government to receive and examine the supplies, to initiate action to return defective supplies to the contractor, and to actually notify the contractor of the defects, more often than not, is exceeding the 90 day period in the current clause. This means that contractors are receiving the benefit of the Fast Payment Procedure, but in some instances the Government is not obtaining acceptable supplies. The extension of the period to 180 days should correct this situation, and it is also in keeping with OMB policy to provide greater control over the Fast Payment Procedure to assure that the Government's interest is being adequately protected when the Fast Payment Procedure is used. In view of the above, it would not be appropriate to establish a special rule or exception for small businesses.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements on the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 13 and 52

Government procurement.

Dated: November 28, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Parts 13 and 52 be amended as set forth below:

1. The authority citation for Parts 13 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

PART 13—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

2. Section 13.301 is amended by revising the first sentence of the introductory text to read as follows:

13.301 General.

The fast payment procedure allows payment under limited conditions to a contractor prior to the Government's verification that supplies have been received and accepted. * * *

* * * * *

3. Section 13.302 is amended by revising both the introductory text and paragraph (a); by redesignating the existing paragraphs (b) and (c) as (c) and (d); and by adding new paragraphs (b), (e), and (f) to read as follows:

13.302 Conditions for use.

If the conditions in paragraphs 13.302(a) through (f) are present, the fast payment procedure may be used, provided that use of the procedure is consistent with the other conditions of the purchase. The conditions for use of the fast payment procedure are as follows:

(a) Individual orders do not exceed $25,000 except that executive agencies may permit higher dollar limitations for specified activities or items on a case-by-case basis.

(b) Deliveries of supplies are to occur at locations where there is both a geographical separation and a lack of adequate communications facilities between Government receiving and disbursing activities that will make it impractical to make timely payment based on evidence of Government acceptance. However, the fast payment procedure shall not be used for overseas destination shipments when the disbursing office is in the United States unless approved by the head of the contracting activity or designee. Use of the fast payment procedure would not be indicated, for example, for small purchases by an activity if material being purchased is destined for use at that activity and contract administration will be performed by the purchasing office at that activity.

* * * * *

(e) The purchasing instrument is a firm-fixed price contract, a purchase order, or a delivery order for supplies.

(f) A system is in place to assure: (1) Documenting evidence of contractor performance under fast payment acquisitions, (2) timely feedback to the contracting officer in case of contractor deficiencies, and (3) identification of suppliers who have a current history of abusing the fast payment procedure. (Also see Part 9.1.)

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.213–1 is amended by inserting a colon in the introductory text following the word "clause" and removing the remainder of the sentence; by removing from the title of the clause the date "(APR 1984)" and inserting in its place the date "(NOV 1986)"; and by revising the last sentence in paragraph (b) to read as follows:

52.213–1 Fast Payment Procedure.

* * * * *

(b) * * * The Contractor shall either replace, repair, or correct those supplies promptly at the Contractor's expense, but only if instructions to do so are furnished by the Contracting Officer within 180 days from the date title to the supplies vests in the Government.

* * * * *

[FR Doc. 86–27559 Filed 12–8–86; 8:45 am]
BILLING CODE 6820–61–M

federal register

Tuesday
December 9, 1986

Part III

Department of Agriculture

Cooperative State Research Service

Competitive Research Grants Program for Forest and Rangeland Renewable Resources for Fiscal Year 1987; Solicitation of Applications

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Competitive Research Grants Program for Forest and Rangeland Renewable Resources for Fiscal Year 1987; Solicitation of Applications

Notice is hereby given that pursuant to the authority contained in section 5 of the Forest and Rangeland Renewable Resources Research Act of 1978, as amended (16 U.S.C. 1644), the Cooperative State Research Service (CSRS), United States Department of Agriculture (USDA), anticipates awarding standard project grants for basic research in the areas of harvesting, wood utilization and forest biology. This program will be administered by the CSRS Office of Grants and Program Systems. The total amount expected to be available for grant awards under this program during fiscal year 1987 is approximately $5,688,000. Long-term projects, up to a maximum of five years, will be encouraged. Grants will be awarded by CSRS to the extent that funds are available.

Pursuant to the Secretary's Memorandum 1030–18 dated November 26, 1986, the authority to administer the funds made available by the Continuing Appropriations Act for fiscal year 1987 for a competitive research grants program for forest research, authorized by section 5 of the Forest and Rangeland Renewable Resources Research Act of 1978, has been delegated to the Cooperative State Research Service. Under this authority CSRS may award grants to Federal, State, and other governmental agencies, public or private agencies, institutions, universities, and organizations, and businesses and individuals in the United States. Only proposals from applicants in the United States will be considered for support.

Applicable Regulations

This program is subject to the provisions found at 7 CFR Part 3201 (51 FR 15288, April 22, 1986). These provisions set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals and the awarding of grants, and regulations relating to the post-award administration of grant projects. In addition, USDA Uniform Federal Assistance Regulations, 7 CFR Part 3015, as amended, will apply to this program.

Introduction to Program Description

Standard research grants will be awarded to support basic research in selected areas of (1) harvesting, processing, and utilization of timber resources, with special emphasis on the chemical, mechanical, and engineering properties of wood and wood materials and (2) forest biology, including biotechnology, that are considered by a number of scientific groups to possess exceptional opportunity for fundamental scientific discovery and for contributing, in the long run, to applied research and development vitally needed on important wood utilization and forestry problems. This grants program recognizes that innovative approaches and enhanced levels of funding are essential as we seek ways to improve the economic and environmental value of our forest resources.

Consideration will be given to research proposals that address fundamental questions in the program areas noted below and that are consistent with the long-range missions of USDA. Basic guidelines are provided to assist members of the scientific community in assessing their interest in the program areas and to delineate certain important areas where new information is vitally needed. However, these guidelines are also meant to be flexible and should not detract from the creativity of potential investigators. USDA encourages the submission of innovative projects in the so-called "high risk" category, as well as those that may have greater probability of success.

Workshops or symposia that bring together scientists to identify research needs, update information, or advance an area of research are recognized as an integral part of research efforts. Support for a limited number of such meetings covering subject matter encompassed by this Competitive Research Grants Program for Forest and Rangeland Renewable Resources will be considered for partial or, if the total cost is modest, complete support.

This program is divided into the two program areas outlined below, and funding will be divided equally between them. Proposals submitted in response to this solicitation must be identified as to the program area under which they are to be considered for funding (i.e., Improved Utilization of Wood and Wood Fiber, or Forest Biology).

First, the Department will fund proposals concerning the improved utilization of wood and wood fiber. Public and private forests in the United States contain one of our most important renewable natural resources, providing a continuing supply of wood for industrial materials, chemicals, and energy, as well as other resources and benefits. National requirements for wood, wood fiber, and chemical products, however, increasingly demand the development of innovative and economical conversion processes that effectively utilize total available wood resources. Thus, as the diverse demands placed upon forest resources grow, the Department of Agriculture is encouraging the development of more efficient harvesting, processing, utilization, and management practices.

Second, the Department will fund proposals concerning forest biology (including biotechnology). Forest systems generally are dominated by long-lived trees in either planted or naturally regenerated stands that may vary in composition from one species to complex mixtures of many. These primarily undomesticated populations of forest trees, while dominant, are but one component of larger communities of diverse numbers and combinations of associated organisms. Productivity of the forest ecosystem is thus dependent upon the many complex processes and interactions among trees, other organisms and the physical factors of the environment. While many of these processes and interactions have been identified, studied and described, very little is known of the basic biological mechanisms that underlie and determine their directions and rates.

The following guidelines are provided as a base from which proposals may be developed.

Specific Areas of Research to be Supported in Fiscal Year 1987

1. Improved Utilization of Wood and Wood Fiber

Improved wood utilization practices depend upon a continually advancing scientific foundation of basic research in wood properties and fundamental components of wood science. This program area encourages research that addresses critical barriers to improved wood utilization and that will provide the scientific base from which new research and development can proceed. This research area will place emphasis on the following subprogram areas:

Wood Chemistry and Biochemistry represents an important area where new basic information is vitally needed and where breakthroughs have a virtually unlimited potential for expanding wood utilization. Basic questions that need to be addressed include the nature of underlying principles governing enzymatic, microbial, and other chemical reactions. Examples of research subjects of interest include bioconversion and deterioration

mechanisms, lignin and cellulose polymer modification, surface chemistry, modification and improvement in adhesive systems, bonding chemistry, and thermal reactions.

Physical/Mechanical Properties of Wood and Basic Processing Technology constitutes an area of investigation in which an improved base of scientific knowledge can ensure future development of new products and processes. Research is encouraged that furthers our understanding of basic mechanisms that impinge upon the structure, physical properties, and basic processing characteristics of wood and reconstituted wood materials. Examples of such research include, but are not limited to, anatomy, wood formation, viscoelasticity, machining processes, heat and mass transfer phenomena, lignocellulose modification, particle/fiber consolidation, surface and defect evaluation methods, non-destructive property evaluation, and materials science principles.

Structural Wood Engineering has developed empirically over time and has typically involved incremental improvements upon conventional concepts. Significant improvements depend upon developing an expanded scientific base of knowledge about the use and performance of wood as a structural material. The goal of basic research in this field is to support and encourage innovative approaches to the structural use of wood. Examples of research in this subprogram area include reliability-based design, systems modeling and validation, wood/non-wood composites, fasteners and connectors, moisture and environmental effects, and basic failure mechanisms.

If necessary, further information concerning this area of research may be obtained from the Associate Program Manager for Improved Utilization of Wood and Wood Fiber at (202) 475–3310.

2. Forest Biology (including Biotechnology)

The primary goals of the Forest Biology program area are to promote and fund research that will further the basic knowledge of mechanisms of biological processes in forest organisms and systems and that will contribute to the health and productivity of the forest resource. Emphasis will be placed on research proposals that deal with the woody plant component of the forest system. This program area will support research in the following subprogram areas:

Genetic Structure and Function is an area of research in which new basic knowledge and technology development are critically needed to support future efforts in more intensive forest management. Forest organisms, by virtue or their wide distribution and occurrence in both natural and manipulated ecosystems, offer unique opportunities to analyze, identify and utilize a broad spectrum of variations and adaptations that still persist in the gene pools of existing populations.

Research should address the genetic limits to the health and productivity of woody species, including: Development of techniques for genetic engineering, including those for DNA transfer systems and for determining molecular mechanisms of gene expression; elucidation of mechanisms of morphogenesis at the cellular and organismal levels, including those controlling the development of productive plants from tissue or cell culture; identification and characterization of valuable genes and simply-inherited traits; and determinations of the organization, structure, and function of genomes.

Mechanisms of Interactions in Forest Systems is an area of research which requires a significant increase in basic knowledge to support subsequent studies of a more applied nature. Forest productivity is determined by complex climatic, geochemical and physical forces interacting with the living component of the ecosystem, the diverse mixtures of woody species of varying genotype, size and age that exist in various stages of equilibria with each other and with the host of other forest organisms. Understanding basic mechanisms that underlie the dynamic changes that occur as a forest regenerates and matures is essential to determining constraints and opportunities to improve the health and productivity of the forest resource.

Areas in which basic research is needed to understand mechanisms involved in some of those processes include, but are not limited to: Determining mechanisms driving processes such as mycorrhizal symbioses, carbon and nitrogen metabolism, and elucidating mechanisms involved in antagonistic relationships between forest organisms (interspecific interference) such as allelopathy and host-parasite interactions.

If necessary, further information concerning this area of research may be obtained from the Associate Program Manager for Forest Biology at (202) 475–3310.

How to Obtain Application Materials

Please note that potential applicants who submitted an application to this program in fiscal year 1986, or who requested placement on the mailing list for fiscal year 1987, will automatically receive copies of this solicitation, the Grant Application Kit, and the Administrative Provisions governing this program, 7 CFR Part 3201 (51 FR 15288, April 22, 1986). All others may request copies from: Proposal Services Unit; Grants Administrative Management; Office of Grants and Program Systems; Cooperative State Research Service; U.S. Department of Agriculture; Room 005, J. S. Morrill Building; 15th and Independence Avenue, SW., Washington, DC 20251–2200; telephone number (202) 475–5049.

What to Submit

An original and 14 copies of each proposal submitted under this program are requested. This number of copies is necessary to permit thorough, objective peer evaluation of all proposals received before funding decisions are made. Each copy of each proposal must include a Form S&E–661, "Grant Application," which is included in the Grant Application Kit. Proposers should note that one copy of this form, preferably the original, must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative.

Each project description is expected by the members of review panels and the staff to be complete in itself. Proposals containing more than 15 pages of project description are subject to non-review and returned. Vitae of key project personnel should be limited to three (3) or four (4) pages each.

All copies of a proposal must be mailed in one package because applications submitted in several packages are difficult to identify. Please see that each copy of each proposal is *stapled securely* in the upper left-hand corner. DO NOT BIND. Information should be typed on one side of the page only.

Every effort should be made to ensure that the proposal contains all pertinent information when initially submitted. Prior to mailing, compare your proposal with the "Application Requirements" checklist contained in the Grant Application Kit and instructions found in 7 CFR Part 3201.

Applicants must not submit the same research proposal in the same fiscal year to different research program areas within the Competitive Research Grants Program. Duplicate proposals or essentially duplicate proposals, as well as predominantly overlapping proposals, will be returned without review.

Submission of more than one proposal from the same principal investigator in the same fiscal year is discouraged.

Excessive numbers of co-principal investigators and collaborators create conflict-of-interest problems during the review and award processes. Proposals with multiple co-principal investigators and collaborators beyond those required for genuine multi-disciplinary studies are strongly discouraged.

Where and When to Submit Grant Applications

Each research grant application must be submitted to: Proposal Services Unit, Grants Administrative Management; Office of Grants and Program Systems; Cooperative State Research Service; U.S. Department of Agriculture; Room 005, J. S. Morrill Building; 15th and Independence Avenue, SW.; Washington, DC 20251–2200.

To be considered for funding during fiscal year 1987, proposals should be postmarked by the following dates and received in time to permit adequate peer panel review:

February 9, 1987—Improved Utilization of Wood and Wood Fiber

February 23, 1987—Forest Biology

Supplementary Information: For reasons set forth in the final rule-related notice to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this notice has been approved under OMB Document Nos. 0524–0022 or 0525–0001.

Done at Washington, DC, this 3rd day of December 1986.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 86–27579 Filed 12–8–86; 8:45 am]

BILLING CODE 3410–22–M

Federal Register

Tuesday
December 9, 1986

Part IV

Environmental Protection Agency

40 CFR Part 270

Hazardous Waste Management System; Information Requirements for RCRA Permit Applications; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 270

[FRL-3088-3]

Hazardous Waste Management System: Information Requirements for RCRA Part B Permit Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is today proposing to amend the regulations regarding information requirements for Part B permit applications under the Resource Conservation and Recovery Act (RCRA) as amended. Currently, RCRA regulations require owner/operators of facilities that treat, store or dispose of hazardous waste in surface impoundments, waste piles, land treatment units or landfills that received waste after July 26, 1982 to submit feasibility studies and plans for a corrective action program in the Part B permit application when hazardous constituents in the ground water exceed specified limits. These requirements have created delays in the timely issuance of land disposal permits. Further, as corrective action for other hazardous and solid waste disposal units is normally undertaken after issuance of the permit, the requirements can cause inconsistencies in the timing and approach of corrective action for units at the same facility. The proposed amendment would allow the owner/operator, at the Regional Administrator's discretion, to conduct these activities after issuance of the permit.

DATE: EPA will accept comments from the public until February 9, 1987.

ADDRESS: The public must send an original and two copies of their comments to: EPA RCRA Docket (S-212) (WH-562) 401 M Street, SW., Washington, DC 20460. Place the docket number F-86-R.U.P.-FFFFF on your comments. The docket is open from 9:30 to 3:30 Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: RCRA hotline at (800)424-9346 (in Washington, DC call 382-3000) or George Faison, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, Washington, DC 20460, telephone (202)382-4422.

SUPPLEMENTARY INFORMATION:

I. Background

RCRA requires a permit for the treatment, storage or disposal of any hazardous waste identified or listed in 40 CFR Part 261. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit, and for any applicable post-closure care period. Regulations in 40 CFR Part 270 describe the requirements for permit applications. Regulations in Part 264 specify technical and administrative standards that also apply to facilities that obtain permits.

A. Land Disposal Standards Established in 1982

Subpart F of Part 264, promulgated in July 1982, establishes a three-stage program of detection, compliance and corrective action for ground water contamination at new and existing "regulated" units. As defined in 40 CFR 264.90(a), a "regulated unit" is a surface impoundment, waste pile, land treatment unit or landfill that received waste after July 26, 1982.[1] The permit application requirements for these standards are found in § 270.14(c)(1) through § 270.14 (c)(8). Subsections (c)(1) through (c)(4) require the owner/operator to submit basic data for ground water monitoring, including a characterization of the aquifer and a description of the nature and extent of any plume of contamination that has entered ground water from a regulated unit. Sections 270.14 (c)(5) through (c)(8) require the necessary information for establishing the applicable detection, compliance or corrective action program required under Part 264, Subpart F.

Section 270.14(c)(8) addresses the information necessary to establish a corrective action program. Such a program is required when hazardous constituents in the ground water exceed the ground water protection standard. Under § 264.94 the ground water protection standard is defined as either the background concentration of the constituent in ground water, one of 14 specified maximum concentration limits (§ 264.94(a)), or a site-specific alternate concentration limit. Sections 270.14(c)(8)(iii) and (c)(8)(iv) require detailed engineering plans and an engineering report describing the corrective action to be taken, and a description of how the ground water monitoring program will demonstrate the adequacy of the corrective action. An engineering feasibility plan for a corrective action program is also required as part of a compliance monitoring program under the first paragraph of text in § 270.14(c)(7).

B. Effect of the 1984 Amendments

The new requirements of the Hazardous and Solid Waste Amendments (HSWA) of 1984 have a major impact on the RCRA permit application process for land disposal facilities. Under new section 3005(c)(2) of RCRA, final disposition must be made on permit applications for all land disposal facilities by November 8, 1988. Further, new section 3004(u) of RCRA requires that any permit issued after November 8, 1984 must require corrective action for all releases of hazardous waste or constituents from all solid waste managements units at a facility, and financial assurance for such corrective action. Section 3004(u) provides that permits can contain schedules of compliance where corrective action for releases from solid waste management units cannot be completed prior to permit issuance. The legislative history to the provision explained that a schedule of compliance can include activities needed to investigate releases for potential corrective action. The term "solid waste management units" includes "regulated units." Hence, section 3004(u) can be interpreted to authorize EPA to revise the 1982 regulations for regulated units that require owners and operators to complete investigations of ground water releases prior to permit issuance.

EPA, however, did not take this approach when it promulgated its first set of regulations implementing the 1984 amendments. As EPA explained in the "codification rule" of July 15, 1985, another HSWA provision, section 3005(i) of RCRA, reaffirms that the 1982 regulations continue to apply to regulated units, 50 FR 28702. Moreover, since these regulations had been in effect since 1982, EPA concluded that it would be inappropriate to give owners and operators more time to investigate and plan corrective action for ground water releases. Consequently, EPA made no revisions to the timing of corrective action for regulated units. As a result of this decision, owners and operators of hazardous waste facilities that contain both regulated units and "non-regulated" solid waste units may have to develop two separate corrective action programs: one for releases to ground water from regulated units that must be fully planned before a permit is issued, and one for releases to ground water from "non-regulated" units that may be developed after permit issuance.

[1] This date was originally identified in the 1982 regulations as January 26, 1983, but was amended to July 26, 1982 (50 FR 28715) in accordance with section 3005(i) of RCRA.

This second program could also include releases to other environmental media from both regulated and "non-regulated" units. As explained more fully below, EPA now believes this position has a number of undesirable consequences.

II. Discussion of Today's Proposed Rule

The Agency is concerned that the requirement for facility owner/operators to develop engineering plans, studies and reports for a corrective action program under § 270.14(c)(7), (c)(8)(iii) and (c)(8)(iv) prior to permit issuance may have several detrimental effects in light of the HSWA amendments. Specifically, the requirement can create delays in the timely processing and issuance of land disposal permits, and, correspondingly, the imposition of the Part 264 permitting standards. These delays are more serious in light of the 1988 permitting deadline, (RCRA § 3005(c)(2)). In addition, the requirement can cause inconsistencies in timing and approach for regulated units as opposed to other non-regulated units at the same facility which may have contaminated ground water, but which would be subject to corrective action under § 3004(u). Where plumes of contamination from regulated and non-regulated units at a facility are not intermingled, effective corrective action can be scheduled without waiting for a full analysis of the non-regulated units. However, where contaminant plumes are mixed, concurrent development and approval of corrective actions can be a more efficient approach for implementing ground water cleanup programs.

EPA is, therefore, proposing to amend the Part 270 regulations to allow the information for detailed corrective action planning currrently required under the first paragraph of § 270.14(c)(7), § 270.14(c)(8)(iii) and (c)(8)(iv) to be developed, at the Regional Administrator's discretion, after permit issuance through schedules of compliance contained in the permit. The proposed amendment would have several benefits. As development of a corrective action program is a highly resource and time intensive part of the permit application, it would serve to expedite the process of bringing land disposal facilities under the Part 264 permitting standards earlier and within Congressionally mandated timeframes. In addition, as discussed above, the amendment would allow a more coherent process for development and review of corrective action programs at facilities with complex ground water contamination problems.

We wish to emphasize that the proposed rule does not affect the remaining application information requirements found in § 270.14(c)(1) through (8), including identification of the uppermost aquifer, characterization of contaminated ground water, and development of a detection or compliance ground water monitoring system. In particular, the ground water protection standard, which provides both the trigger level for initiation of corrective action as well as the clean-up standard for regulated units, would continue to be developed and approved prior to permit issuance. Accordingly, the public will have the same opportunity to review and comment on these activities through the permit application process. Under the proposed rule, only the actual design of a corrective measures program could be developed after permit issuance through a permit schedule of compliance. In this case, the existing regulations for a major permit modification (§ 270.41) would be followed to incorporate the actual design into the permit. These procedures include public notice and opportunity for comment on the design of the corrective measures program.

This proposal should not be construed as representing a de-emphasis of the RCRA corrective action program by the Agency, nor should it either delay the actual implementation of corrective action activities or increase the amount of time needed to prepare for corrective action. Rather, it would simply provide for an expedited issuance of the permit.

On October 24, 1986, the Agency proposed regulations (51 FR 37854) requiring financial assurance for corrective action as mandated by RCRA section 3004(u). The proposal would require that financial assurance for corrective action must be demonstrated when corrective action measures have been specified in the permit. The preamble to that proposal explained that, under the current regulations, EPA expected corrective action measures for ground water releases to be specified at the time of permit issuance. Financial assurance for these actions would be due immediately after the permit issued. Since, however, corrective measures for other releases and other units might not be specified until sometime after the permit is issued, demonstrations of financial assurance would be due much later.

As a result of today's proposal, corrective action for releases to ground water from regulated units may also be specified after a permit is issued. Under the proposed financial assurance rule, this change in timing for corrective action measures would also change the timing for submission of financial assurances. Both could be submitted after the permit is issued. This change will not affect opportunities for public comment. Where corrective action measures and financial assurance are furnished after a permit is issued, the owner or operator will have to follow EPA's procedures for major modifications to permits. These procedures require notice and opportunity for public comment. See 40 CFR § 270.

In developing this proposed rule, EPA considered additional options for expediting permit issuance for land disposal units by allowing other information requirements under § 270.14(c) to be developed after permit issuance. More specifically, EPA considered allowing owners and operators to develop ground water protection standards under schedules of compliance. Where an owner or operator seeks an alternate concentration limit, investigations can be very time-consuming. Although EPA has tentatively rejected this option, it solicits public comment on the impact of such an approach.

III. State Authority

A. Applicability of Rules in Authorized States

Under Section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under Sections 3008, 7003 and 3013 of RCRA, although authorized States have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final authorization administered its hazardous waste program entirely in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in the State which the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized

States 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 the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorizaton, the HSWA applies in authorized States in the interim.

B. Effect on State Authorizations

Today's announcement proposes standards that would not be effective in authorized States since the requirements would not be imposed pursuant to the Hazardous and Solid Waste Amendments of 1984. Thus, the requirements will be applicable only in those States that do not have interim or final authorization.

Further, authorized States are only required to modify their programs when EPA promulgates Federal standards that are more stringent or broader in scope than the existing Federal standards. For those Federal program changes that are less stringent or reduce the scope of the program, States are not required to modify their programs. This is a result of Section 3009 of RCRA which allows States to impose standards in addition to those in the Federal program. The standards proposed today are considered to be less stringent than the scope of the existing Federal requirements. Therefore, authorized States would not be required to modify their programs to adopt requirements equivalent or substantially equivalent to the provisions listed above.

IV. Regulatory Analysis

A. Executive Order 12291: Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, thus, subject to the requirement of a Regulatory Impact Analysis. The notice published today is not major because: the rule will not result in an effect on the economy of $100 million or more, will not result in increased costs or prices, will not have significant adverse effects on competition, employment, investment, productivity, innovation, and will not significantly disrupt domestic or export markets. The proposed amendment has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with Executive Order 12291.

B. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501) *et seq.*), the information collection requirements contained in this rule have previously been approved by OMB and were assigned OMB control number 2050–0007.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 60 et seq., whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small businesses (i.e. small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant impact on a substantial number of small entities.

This amendment will have no adverse economic impact on small entities since the rule will not change the amount of information required for RCRA Part B permit applications. Accordingly, I hereby certify that this regulation will not have a significant impact on a substantial number of small entities. This regulation does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 270

Administrative practice and procedure, Reporting and recordkeeping requirements, Hazardous Materials, Waste Treatment and disposal, Waste Pollution control, Water supply, Confidential business information.

Dated: November 28, 1986.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, Part 270 of Chapter I of Title 40 of the Code of Federal Regulations is proposed to be amended as follows.

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for Part 270 continues to read as follows:

Authority: Sections 1006, 2002, 3005, 3007, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6905, 6912, 6925, 6927, 6974), unless otherwise noted.

2. In section 270.14 paragraph (c) introductory text is republished, paragraph (c)(7) introductory text is revised, and (c)(8)(v) and an OMB control number are added to read as follows:

§ 270.14 Contents of Part B: General requirements.

* * * * *

(c) *Additional information requirements.* The following additional information regarding protection of ground water is required from owners or operators of hazardous waste surface impoundments, piles, land treatment units, and landfills except as provided in § 264.90(b):

* * * * *

(7) If the presence of hazardous constituents has been detected in the ground water at the point of compliance at the time of the permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of § 264.99. Except as provided in § 264.98(h)(5), the owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of § 264.100, unless the owner or operator obtains written authorization in advance from the Regional Administrator to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with § 264.99, the owner or operator must address the following items:

* * * * *

(8) * * *

(v) The permit may contain a schedule for submittal of the information required in paragraphs (c)(8) (iii) and (iv) provided the owner or operator obtains written authorization from the Regional Administrator prior to submittal of the permit application.

(Approved by the Office of Management and Budget under control number 2050–0007.)

[FR Doc. 86–27655 Filed 12–8–86; 8:45 am]
BILLING CODE 6560–50–M

federal register

Tuesday
December 9, 1986

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91 and 135

Special Flight Rules in the Vicinity of the Grand Canyon National Park; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 135

[Docket No. 25149; Notice No. 86-21]

Proposed Special Flight Rules in the Vicinity of the Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a Special Federal Aviation Regulation (SFAR) to establish temporary procedures for the operation of all aircraft in the airspace above the Grand Canyon up to an altitude of 9,000 feet above mean sea level (MSL). The notice also proposes a follow-on final rule to take effect upon expiration of the SFAR in June 1987. In recent years, the high volume of air traffic over the Grand Canyon National Park has increased the risk of midair collision. The overflights also generate noise impacts on park surface areas to a degree which may be inconsistent with Federal policies for operation of the park. The proposed SFAR would: (1) Establish a Special Flight Rules Area from the surface to 9,000 feet MSL in the area of the Grand Canyon; (2) prohibit flights in this area unless specifically authorized by the local FAA Flight Standards District Office; and (3) establish certain terrain avoidance and communications requirements for flights in the area. The proposed final rule would include, in addition to the general restrictions contained in the SFAR, (1) provisions to permit access to the special flight rules area by general aviation operators, and (2) if supported by evidence, provisions for avoidance of certain noise-critical sites in the park by low-flying aircraft. The proposed rules would reduce the risk of midair collision, reduce the risk of terrain contact accidents below the rim level, and reduce the impact of aircraft noise on the park environment.

DATES: *Comment dates:* Comments must be received on the SFAR on or before January 10, 1987. Comments must be received on the proposed final rule on or before March 1, 1987.

Hearing date: A public hearing will be held at 7:00 p.m. on December 16, 1986.

ADDRESSES: Comments on this proposal may be mailed in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 25149, 800 Independence Avenue, SW., Washington, DC 20591.

or delivered in duplicate to:

FAA Rules Docket, Room 916, 800 Independence Avenue SW., Washington, DC.

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

The public hearing will be held at the following location: Airport Conference Room, 5th Floor, Main Terminal Building McCarran International Airport, Las Vegas, Nevada.

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) 267-3073.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting such written data, views, or arguments as they may desire on any portion of the amendment. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25149." The postcard will be date/time stamped and returned to the commenter. The proposals 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.

In addition to seeking comments on this amendment, the FAA will hold a public hearing to allow additional public input. The hearing will be held on December 16, 1986, at McCarran International Airport, Las Vegas, Nevada.

Availability of Document

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591; or by calling (202) 267-3471. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future notices should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Meeting Procedures

Persons wishing to make a presentation at the meeting may contact William Patterson at (213) 297-1658.

Persons who plan to attend the meeting should be aware of the following procedures to be followed:

(a) The hearing will be informal in nature and will be conducted by the designated representative of the Administrator under 14 CFR 11.33. Each participant will be given an opportunity to make a presentation. Questions may be asked of each presenter by other participants or by representatives of the Administrator.

(b) The hearing will begin at 7:00 p.m. (local time). There will be no admission fee or other charge to attend and participate. All sessions will be open to all persons on a space available basis. The presiding officer may accelerate the meeting if it is more expeditious than planned.

(c) All meeting sessions will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter directly. A copy of the court reporter's transcript will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meeting may be distributed. Participants submitting handout materials should present an original and two copies to the presiding officer. There should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the hearing should not be taken as expressing a final FAA position.

Public Hearing Schedule

The schedule for the meeting is as follows:

Date: December 16, 1986, 7:00 p.m.

Place: Airport Conference Room, 5th Floor, Main Terminal Building, McCarran International Airport, Las Vegas, Nevada

Agenda

7:00 to 7:15—Presentation of meeting procedures.

7:15 to 8:00—FAA presentation of proposal.

8:15 to finish—Public presentations and discussion.

Background

The FAA has broad authority under the Federal Aviation Act (FAAct) of

1958, as amended, to regulate and control the use of navigable airspace of the United States. Under section 307(a) of the FAAct (49 U.S.C. 1348(a)), the agency is authorized to develop plans for and to formulate policy with respect to the use of navigable airspace and to assign by rule, regulation, or order the use of navigable airspace under such terms, conditions, and limitations as may be deemed necessary in order to ensure the safety of aircraft and the efficient utilization of such airspace. Under section 307(c) of the FAAct (49 U.S.C. 1348(c)), the agency is further authorized and directed to prescribe air traffic rules and regulations governing the efficient utilization of the navigable airspace for purposes including the protection of persons and property on the surface, which the agency has interpreted to include protection from the environmental impacts of aircraft overflight.

The Grand Canyon, in Arizona, is a unique area of natural beauty which attracts nearly 3 million visitors each year. The canyon is approximately 275 miles in length and up to 22 miles in width between the north and south rims. A large portion of the canyon has been set aside as a National Park operated by the National Park Service (NPS) of the Department of the Interior. Other areas in and around the canyon include Indian reservations which are provided certain protections under Federal law.

Airspace above the surface of the Grand Canyon National Park (GCNP) is within the exclusive regulatory authority of the FAA. The park itself is operated by the NPS in accordance with specific Federal statutes. One such statute, the Grand Canyon National Park Enlargement Act of 1975, 16 U.S.C. 228g, provides that

> Whenever the Secretary [of the Interior] has reason to believe that any aircraft or helicopter activity or operation may be occurring or about to occur within the Grand Canyon National Park . . . including the airspace below the rims of the canyon, which is likely to cause an injury to the health, welfare, or safety of visitors to the park or to cause a significant adverse effect on the natural quiet and experience of the park, the Secretary shall submit to the Federal Aviation Administration, the Environmental Protection Agency . . . or other responsible agency or agencies such complaints, information, or recommendations for rules and regulations or other actions as he believes appropriate to protect the public health, welfare, and safety or the natural environment within the park. After reviewing the submission of the Secretary, the responsible agency shall consider the matter, and after consultation with the Secretary shall take appropriate action to protect the park and visitors.

The Superintendent of the Park, in a memorandum dated March 10, 1986, issued a finding that the aircraft activity occurring over or within the park is currently causing a significant adverse effect on the natural quiet and experience of the park, and that aircraft activity may be likely to cause an injury to the health, welfare or safety of visitors to the park. The NPS has undertaken to develop recommendations for measures to mitigate such effects, following a series of public hearings in 1985 and 1986 and the solicitation of comments from the public, including environmental groups and air tour operators. On the basis of the above process, the Department of the Interior, in a letter from the Assistant Secretary for Fish and Wildlife and Parks, submitted recommendations to the FAA Administrator on November 17, 1986. In summary form, the Department of Interior recommended that the FAA:

(1) Adopt airspace/flight regulations which:

5—Provide for the separation of aircraft, including helicopters;
—Prohibit flights in the inner gorge of the canyon;
—Provide for some regulation of flights between the inner gorge and the upper rim of the canyon; and
—Establish flight paths over the canyon which avoid major visitor overlooks and peregrine nesting areas.

(2) Install radar at the Grand Canyon National Park Airport to assist in aircraft separation;

(3) Undertake a joint 2-year study, with the NPS, of the impacts of aircraft noise on the Park with the object of additional regulation to reduce those impacts.

Finally, the Department offered to consult and cooperate with the FAA in the implementation of these actions.

The FAA will fully and carefully consider the recommendations and continuing advice of the Department of the Interior in the development of aviation safety and environmental measures at GCNP. The Interior recommendations will not necessarily be reflected in the proposed interim SFAR, in view of the complexity of the recommendations, although the SFAR does address the recommendations to an extent. However, those recommendations, and any subsequent information and comments offered by the Department of the Interior, will be fully considered in the promulgation of a permanent final rule as proposed in this notice.

FAA involvement with Grand Canyon overflights. An FAA airport traffic control tower at GCNP Airport directs air traffic arriving at or departing from that airport. Several airways and jet routes pass near but not over the park. ATC does not otherwise control traffic above the park below an altitude of 9,000 feet MSL, the lowest base of controlled airspace over most of the Grand Canyon.

FAA regulations applicable to VFR flight above the Grand Canyon are Federal Aviation Regulations (FAR) § 91.79, Minimum Safe Altitudes; § 135.203, VFR: Minimum Altitudes, which applies only to Part 135 operations; and § 91.109, VFR cruising altitude or flight level. Section 91.79(a) requires that aircraft be operated at an altitude from which a safe landing can be made in the event of a power failure. Section 91.79(c) prohibits operation of fixed-wing aircraft in other than congested areas below 500 feet above the surface (AGL), except that in sparsely populated areas flight may be conducted at any level but the aircraft must not be operated closer than 500 feet to any person, vessel, vehicle or structure. Section 135.203, in part, prohibits operations during the day by fixed-wing aircraft below 500 feet above the surface or less than 500 feet horizontally from any obstacle. Section 91–109 requires that aircraft operating VFR in level cruising flight more than 3,000 feet above the surface must maintain "hemispheric" altitudes: an odd thousand plus 500-foot altitude (e.g. 7,500 feet MSL) when eastbound and an even thousand plus 500-foot altitude (e.g. 8,500 feet MSL) when westbound. The FAA, through FAA Advisory Circular 91–36C, VFR Flight Near Noise-Sensitive Areas, requests pilots operating under VFR to remain at least 2,000 feet above the surface of certain areas including national parks. The circular defines the surface of a national park as "the highest terrain within 2,000 feet laterally of the route of flight, or the upper-most rim of a canyon or valley."

The FAA has taken several other non-regulatory actions to promote safety and minimize aircraft noise impacts on the GCNP, including:

—Radio frequencies have been identified for common use by air tour operators to report aircraft location to other aircraft in the area.
—The Las Vegas Flight Standards District Offices has conducted regular meetings with commercial air tour operators to establish safety and noise-abatement goals and update the standardized routes over the canyon used by the operators.
—Advisories concerning flight operations over the Grand Canyon are

broadcast on the voice signals of two local navigation facilities.

—Pilot weather briefings by the local flight service stations include information and advisories on flight over the Grand Canyon.

Aircraft operations over the Grand Canyon. The FAA estimates that there are approximately 90,000 flights over the GCNP each year at altitudes low enough to have an impact on park visitors. (Air carrier jet aircraft frequently pass near the canyon on established airways but are high enough that they do not mix with VFR traffic or generate significant noise levels at the surface.) Overflights of GCNP involve several different categories of operators.

Air tour operators. Approximately 87 percent of the flights are by commercial tour operators who conduct sightseeing flights from McCarran International Airport in Las Vegas, NV, GCNP Airport near the south rim of the canyon, or one of several other smaller airports in the region. Air tour flights may be conducted between airports such as Las Vegas and Grand Canyon, with a routing over the canyon, or may be round trip flights returning to the same airport. It is estimated that 300,000 to 400,000 passengers are carried on air tours over the canyon each year.

About 18 operators offer air tours on a regular basis although as many as 40 may operate some level of tour flights. The majority of flights are by fixed-wing aircraft although frequent helicopter tours are also conducted. Most tour operators hold Part 135 operating certificates for commercial operations. However, under FAR § 135.1(b)(2), Part 135 does not apply to nonstop sightseeing flights that begin and end at the same airport and are conducted within 25 miles of that airport. Such flights may be conducted on a commercial basis under Part 91 general flight rules.

In 1972, the Grand Canyon tour operators active at that time entered into an agreement with the FAA and the NPS on the routes and altitudes for air tour flights over the park. The agreement remains in effect, although the procedures have been amended. Under the voluntary procedures, tour flights generally operate in a west-to-east direction at specified altitudes, with special routes designated for certain features or areas of the canyon. Helicopters generally operate at 500 feet lower than fixed-wing aircraft to maintain separation. The tour flights operate below the rim elevation of the canyon in some areas but do not descend to the inner gorge along the Colorado River in their regular operations.

General aviation and military. Noncommercial general aviation flights and flights by military aircraft for sightseeing purposes are also conducted over the canyon, occasionally at very low altitudes. These aircraft must be operated in compliance with FAR § 91.79 altitude limitations, but their operations are otherwise not restricted. While sightseeing flights by general aviation aircraft are fewer in number than commercial tour operations, they present additional safety considerations which generally do not apply to the tour flights. A transient general aviation pilot on a one-time flight over the canyon will be unfamiliar with canyon terrain, air currents, and weather patterns, all of which are unique and demand special skills. In spite of this, some transient pilots fly at low altitudes in the canyon. Finally, many general aviation aircraft are smaller single engine aircraft with relatively low performance at the altitudes necessary for canyon overflights.

Military aircraft operate under FAR Part 91 general flight rules. Flights by military aircraft through the Grand Canyon are unrelated to any military purpose but do not violate existing FAA regulations. Because military aircraft are generally larger and faster than general aviation or tour aircraft, overflights by military aircraft may generate adverse operational effects and noise impacts on the surface disproportionate to the relatively small percentage of flights which military aircraft represent of total park overflights.

NPS Aircraft. Operation of the GCNP by the NPS requires frequent aircraft flights in the airspace below the rim of the canyon. Most such operations are conducted by a helicopter under contract to the NPS. Purposes of such flights range from emergencies, such as evacuation of injured hikers from the canyon floor, to routine support of park operations. As a practical matter these operations have not added to the mix of aircraft in the canyon because the flights, for the past 10 years have been operated by a company which also provides helicopter tour flights. While the flights apparently do generate noise impact on the surface because of the low-altitude operations involved, the FAA assumes that the NPS balances this impact with its need for the operations in determining the number of flights by NPS aircraft.

Related Actions

As discussed above, the NPS recently has submitted recommendations to the FAA on the management of aircraft overflights of the park, pursuant to the provisions of the Grand Canyon National Park Enlargement Act of 1975.

In May 1986, the Sierra Club Legal Defense Fund and the Wilderness Society filed suit against the Departments of the Interior and Transportation in the U.S. District Court for the District of Arizona. The plaintiffs have requested the Court to mandate a timetable for regulation of aircraft flight over the park, primarily on the basis of the GCNP Enlargement Act of 1975.

On September 17, the House of Representatives passed House Bill 4430, which would require the NPS to study the impacts of aircraft overflight on several national parks and would impose specific flight restrictions at GCNP, Yosemite National Park in California, and Haleakala National Park in Hawaii. The bill would have prohibited most flights below the rim of the Grand Canyon. Although a companion bill was introduced in the Senate, the legislation did not pass in 1986.

The Need for Regulatory Action

Safety and efficiency. The size and natural beauty of the Grand Canyon constitute an attraction to sightseers, from the air as well as the ground, which results in an unusual level of air traffic in the airspace above the canyon. While the concentration of traffic is lower than that near most urban airports, the sightseeing traffic over the Grand Canyon is different in that is is not controlled by FAA air traffic control. The result is a situation in which a substantial number of aircraft (more than 350 a day in July and August) operate in the same general airspace over the canyon under the flight rules that apply to sparsely populated areas and low traffic volume airspace. Separation of aircraft in this airspace is accomplished by the see-and-avoid responsibility of each pilot and, above 3,000 feet AGL, the 1,000-foot separation of eastbound and westbound traffic under 14 CFR 91.109.

National Transportation Safety Board records show 51 accidents in the vicinity of the canyon since 1975, of which 11 can be considered to have occurred within the canyon itself. Many of the accidents involved landing or other factors unrelated to the unique characteristics of the Grand Canyon environment. Overall, the safety record in the vicinity of the canyon compares favorably with the general accident rates for general aviation and air taxi operators. For example, until June 1986, when an air tour airplane and a tour helicopter collided over the canyon,

there had been no midair collisions of two air tour aircraft since such operations began in the 1920's. The FAA attributes this record in large part to the voluntary use by the commercial tour operators, whose flights represent approximately 87 percent of the lower-altitude traffic in the area, of standard route, altitude, and communications procedures. Because each tour operator flies a standard route over the canyon and periodically announces its location and altitude on a common radio frequency at designated reporting points, the pilot of each such aircraft is aware of the location of all other tour aircraft in the area. In addition to the contribution of pilot experience and the voluntary standardized procedures, the relatively slow speed and high pilot visibility characteristic of most air tour aircraft enhance the effectiveness of see-and-avoid separation.

Notwithstanding this past record, however, the FAA believes that there are two general reasons why some degree of additional regulation of canyon overflights is necessary. First, the existing procedures used by the air tour operators are voluntary. There is no obligation for an operator to participate and no sanction against a pilot who ignores the procedures. While compliance with the procedures has been high in the past, safe operations in the future are not assured, and even a small degree of non-standard operation can reduce the level of safety. While some degree of control over Part 135 commercial operators can be exercised through the operations specifications of each operator, commercial air tours may be conducted under Part 91 by virtue of an exception to the applicability of Part 135. Section 135.1(b)(2) provides that a person conducting nonstop sightseeing flights within 25 miles of the airport at which the aircraft takes off and lands is not covered by Part 135.

Second, the voluntary procedures do not apply to general aviation and military flights. General aviation and military pilots on a one-time sightseeing flight over the canyon have no practical means of learning the standard radio frequencies and procedures used by the tour operators and no requirement or incentive to do so. Also, the inexperience of these pilots with operation over the canyon increases the risk of impact with the walls or surface of the canyon. Because of the unusual terrain and strong air currents, a pilot inexperienced with the Grand Canyon can get into a situation from which the aircraft may be incapable of flying out. Several accidents in the canyon apparently resulted from these factors.

The voluntary procedures, therefore, have substantially contributed to the safe operation of commercial tour operators but have little safety benefit with respect to general aviation, military, and nonparticipating air tour operators. The FAA believes that there is a need to require that commercial operators use the standard procedures and to separate transient general aviation traffic from the regular tour operations until permanent procedures for all operators can be developed.

Noise impact on the surface. In addition to operational air safety and efficiency considerations, the FAA is cognizant of a degree of public interest in preserving a quiet environment in the canyon and minimizing the intrusion of aircraft noise on this environment. Congress, in the Grand Canyon National Park Enlargement Act of of 1975, expressly provided for protection of the natural quiet of the park. As discussed earlier in this preamble, if the Secretary of the Interior finds that aircraft or helicopter activity within the park is likely to cause a significant adverse effect on the "natural quiet and experience of the Park," he is required to submit recommendations to the Administrator of the FAA for measures to mitigate that impact.

In March 1986, the Superintendant of the GCNP issued a finding of significant noise impact on the park from aircraft overflight. On November 17, 1986, the Department of the Interior submitted recommendations for action on this issue which include additional airspace regulation by the FAA. The FAA is in the process of evaluating the recommendations at this time.

Also, FAA personnel attended the public hearings held by the NPS, and the agency received the various materials prepared by the NPS and submitted by commenters. A summary of these comments has been placed in the public docket for this rulemaking. The agency is, therefore, aware of the opinions and information offered to support the existence of an excessive noise impact on the canyon environment. Information received by the FAA on the noise impact issue to date is almost entirely subjective in nature. For example, to the FAA's knowledge, neither the NPS nor any other party has conducted a technical study which would determine the actual degree of sound energy from overflying aircraft which impacts the surface in the GCNP. Such a study would establish the actual level of noise experienced, without regard to opinions as to relative loudness or annoyance. This information would be necessary to determine certain effects of noise, such as the potential impact on wildlife, and would be useful for other purposes.

With respect to the human environment and the impact of aircraft noise on park visitors, however, noise measurements may not be as significant as a reliable indicator of public opinion, in that the issue is what level of noise the public expects and desires to experience on a visit to GCNP. Some environmental groups have expressed the opinion that the sound or even sight of any aircraft is inconsistent with the experience of the Grand Canyon intended by establishing it as a national park. A more common view expressed by environment-oriented commenters was that aircraft flight should be prohibited in the airspace above certain areas of the canyon, up to a certain altitude. A comprehensive, statistically meaningful survey of public opinion on the issue apparently has not been done.

In light of the congressional policy statement that a quiet environment be preserved at the GCNP, with specific reference to aircraft noise, the FAA is sensitive to the opinions expressed by environmental organizations and others in the NPS Aircraft Management Plan proceedings. There is no doubt that unnecessary flights by aircraft at low levels within the canyon can be extemely intrusive on the park environment and annoying to park visitors. The information available to the FAA at this time, however, does not permit the agency to determine if any actions other than those proposed herein are necessary to limit the impact of aircraft overflight of the park to the extent desired by the public and by Congress, consistent with safety and other public policy objectives. In order to minimize those operations having the greatest impact on park activities until further information can be obtained, the FAA believes that aircraft flight in the canyon at low altitude should be restricted to necessary flights. This temporary restriction can be achieved by the same mechanism proposed to regulate Part 135 and general aviation operations for safety and efficiency purposes.

The Proposed Special Federal Aviation Regulation

For the reasons discussed above, the FAA is proposing to adopt a Special Federal Aviation Regulation, which would be published and take effect within a short time after the agency analyzes and responds to the comments received and would expire on June 15, 1987. The proposed SFAR would do the following:

(1) Establish a Grand Canyon National Park Special Flight Rules Area from the surface to 9,000 feet MSL. The area would be marked on aeronautical charts and described in other pilot information publications.

(2) Prohibit operation by any aircraft in the defined area unless (a) the operator holds a Part 135 certificate and has express authorization in its Part 135 operations specifications to operate in the airspace, (b) the operator is authorized in writing by the FAA Las Vegas Flight Standards District Office to operate in the airspace, or (c) the aircraft is on an official search and rescue mission. In either of the first two cases (which would include virtually all flights within the area) the authorization would contain specific limitations on the operation, including minimum altitudes. Minimum allowable flight altitudes would be approximately the rim level of the canyon unless there is an operational need for flight below that level (such as landing at one of the reservations). The terms "rim" or "rim level" are not used in the proposed rule or authorizations because the north and south rims are at different levels and because the rim is too variable in elevation to constitute a practical flight reference for pilots.

(3) Prohibit commercial tour operations below 9,000 feet MSL by Part 91 operators unless they obtain a Part 135 certificate and operations specifications which authorize operation in the Grand Canyon National Park Special Flight Rules Area.

(4) Prohibit, except when necessary or when specifically authorized for certain purposes, flight closer than 500 feet to any terrain or structure in the canyon.

(5) Require pilots to monitor certain common frequencies and make position reports as specified in their authorization to enter the airspace.

In effect, the rule would generally prohibit flight below the approximate rim level of the canyon except those flights necessary for operation of the park and for provision of emergency services. In addition, the rule would restrict aircraft operations in the airspace between the rim and 9,000 feet MSL to aircraft with a park-related need to be in the area and to commercial tour aircraft which meet extensive equipment, experience, training, and operational requirements. The restrictions which would apply to transient aircraft between the rim and 9,000 feet MSL would remain in effect only until procedures for transient operations could be integrated with the standard procedures used by the regular commercial operators over the canyon. The rule would impose no new restrictions on flight above the canyon above 9,000 feet MSL.

Analysis of the Proposed SFAR by Section

Section 1 provides that the proposed SFAR applies to all persons operating under VFR in certain airspace from the surface to 9,000 feet MSL an defines the boundaries of that airspace. Applying the rule to all persons would have the effect of applying the rule to military as well as civil pilots. Aircraft operating under IFR would not be operating at the altitudes or in the area covered by the rule. (With the exception of a small portion of VOR airway in the northeast corner of the area, the base of controlled airspace within the designated area is at 9,000 feet MSL or higher.)

Airspace up to 9,000 feet MSL is restricted to include a sufficient number of Section 91.109 hemispheric altitudes for nonconflicting eastbound and westbound operations by authorized operators, e.g., 5,500 and 7,500 feet MSL eastbound and 6,500 and 8,500 feet MSL westbound. Capping the special area at 9,000 feet MSL permits overflight of the canyon by general aviation aircraft eastbound at 9,500 feet, which is within the capability of even small single-engine aircraft.

The lateral boundaries of the proposed area extend beyond the limits of the park itself to include all of the areas which are commonly subject to canyon sightseeing overflights, including certain Indian reservation land, and to provide simplified boundaries for practical compliance by pilots. Where possible, the proposed boundaries have been established coincident with VOR radials to enable pilots to use aircraft navigation equipment to locate their position in relation to a boundary line. A cutout from the area has been provided for the GCNP Airport control zone, in recognition of the need for aircraft to descend to and climb out from the airport. The two published instrument approaches to the GCNP Airport are from the southwest and would not be affected by procedures proposed.

Section 2 of the proposed SFAR defines the term "Park"as the Grand Canyon National Park.

Section 3 of the proposed rule sets forth the requirement for authorization for aircraft to operate in the Special Flight Rules Area. An exception to the general requirements is made for emergencies, to clarify that a bona fide emergency landing in the canyon would not violate this rule. Also, authority is reserved for the Administrator to authorize flights in the area in the infrequent case in which the normal authorization process would not apply. The agency does not anticipate the use of this provision during the duration of the special rule.

Section 3 would prohibit flight in the Grand Canyon National Park Special Flight Rules Area unless authorization to operate in the designated area is obtained from the Las Vegas Flight Standards District Office or unless the aircraft is on an Air Force-directed search and rescue mission. Paragraph (a) provides that specific authorization may be incorporated in the operations specifications issued to a Part 135 operator. Operations specifications are detailed rules and conditions for commerical operation which are issued to each holder of a Part 135 certificate. To FAA's knowledge all of the operators currently conducting commercial air tours of the Grand Canyon hold Part 135 certificates. The Las Vegas Flight Standards District Office (FSDO), in cooperation with the active tour operators, has developed specific conditions and limitations on the Grand Canyon operation of each such operator. Those conditions and limitations will be included in the operations specifications of each tour operator and will be enforced by the FAA. The provisions will include detailed requirements for routes, altitudes, communications and other procedures, and for pilot experience and equipment.

Authorization through operations specifications would permit continuation of the air tour industry at the Grand Canyon without significant change from present procedures. The industry successfully serves a certain segment of the demand for tourist access to the Grand Canyon and has done so with an impressive safety record over the year. The restrictions proposed would, however, make the procedures now voluntarily used by most operators mandatory and enforceable. Second, the prescription of certain minimum altitudes would require some operators to fly at higher altitudes on their tours, in some areas, than they have in the past. The minimum altitudes specified in the operations specifications would in most cases be an MSL altitute near to the approximate elevation of the rim in each sector of the canyon.

Paragraph (a) would also permit continuation of commercial operations to Indian reservations within the Special Flight Rules Area. Such flights are routinely conducted for tourism at the reservations, for pick-up of river rafters, and for aerial supply and transportation services to the reservations. Operators conducting these flights must hold Part 135 certificates and operations

specifications and would be subject to the same general restrictions as the tour operators consistent with the nature of their operations.

Paragraph (b) provides that operation in the area is not prohibited if authorized in writing by Las Vegas FSDO and conducted in accordance with the conditions of that authorization. The proposed rule states that authorization will normally be provided only for operations of aircraft necessary for law enforcement, firefighting, emergency medical treatment or evacuation of persons in or near the park, or for support of park maintenance or activities. As mentioned earlier, the NPS has a continuing need for aircraft access to the canyon surface by NPS and contractor aircraft for a wide range of purposes related to operation of the park. FAA, through the Las Vegas FSDO, would authorize such operations by written certificate of authorization upon confirmation from the Superintendent of the GCNP that he requests the authorization for that operation. The written authorization would contain conditions similar to those included in the air tour operators' operations specifications. This will ensure that operations in the Special Flight Rules Area are using common procedures and radio frequencies and that the incidence of low altitude aircraft flights is kept to the minimum necessary for operation of the park.

It is not the FAA's intent to deny air access to any surface point within the Special Flight Rules Area. Flights requested by the NPS or by representatives of the Indian reservation landing areas would be authorized subject to the standard conditions imposed on all operators within the area.

Other requests for flight through the area below 9,000 feet MSL, including general aviation and military sightseeing flights, would normally be denied during the duration of the SFAR.

Paragraph (c) permits search and rescue (SAR) aircraft under the direction of the U.S. Air Force Rescue Coordination Center to enter the area without prior coordination with the Las Vegas FSDO. SAR missions over the canyon are very infrequent and are not expected to occur during the period of the proposed special rule.

Section 4 requires all commercial sightseeing operations to be conducted under a Part 135 certificate, notwithstanding the exception to Part 135 applicability contained in § 135.1(b)(2). This provision would prohibit tour operations by Part 91 operators, under § 135.1(b)(2), over the canyon below 9,000 feet MSL. To the agency's knowledge all operators currently providing commercial sightseeing flights over the Grand Canyon hold Part 135 certificates, although operations by Part 91 operators have been common in the past.

Section 5 would prohibit operation within 500 feet of terrain in the canyon unless necessary for takeoff or landing unless authorized by the Las Vegas FSDO for one of the park operation purposes listed in Section 3, or except in an emergency. This provision applies the Part 135 restrictions of § 135.203(a)(1) to all operators. The restriction would provide certain minimum protections to unique park terrain, wildlife, and archaeological sites until the effect of low altitude aircraft flight can be determined.

Section 6 would require that pilots operating in the area monitor certain frequencies and make radio position reports at the points specified in their authorization. The FAA believes that the use of common frequencies and periodic reporting of aircraft location, similar to the procedure for a Common Traffic Advisory Frequency at uncontrolled aiports, significantly reduces the risk of midair collision. Therefore, this procedure would be made mandatory for the duration of the special rule. Exceptions are incorporation for aircraft required to be in contact with the GCNP control tower or on a USAF-directed search a rescue mission.

The Special Federal Aviation Regulation, when issued, would contain an additional section providing that it would expire on June 15, 1987. The FAA is also proposing to issue permanent rule, to become effective on or before June 15, to incorporate the comments received and reflect the results of experience under the SFAR. If development of the rule is delayed and cannot be completed by June 15, the SFAR could be extended to provide the necessary additional time.

Effective Date of the Proposed SFAR

The comment period on the proposed interim special rule closes on January 10, 1987. It is the agency's intention that, if the proposed SFAR is adopted, it would take effect less than 30 days after publication in the **Federal Register.** The agency believes that circumstances warrant the prompt regulation of aircraft operations over the Grand Canyon. While the past statistical safety record has been satisfactory, the voluntary measures which contributed to that record may be insufficient to ensure an adequate level of safety in the future, as indicated by the recent midair collision of two tour operators. (One of those operators was operating under Part 91, under the Part 135 exception for local sightseeing flights in § 135.1(b)(2)). On this basis the agency believes that there is a need (1) to require frequent canyon operators to comply with the basic features of the standard procedures now in use, and (2) to exclude the occasional and less experienced sightseeing pilot from the low-altitude airspace until a system of appropriate routes and procedures for that kind of operation can be developed. By prohibiting uncontrolled sightseeing flights and prescribing minimum altitudes for authorized flights, the proposed SFAR would also provide immediate mitigation of the environmental impacts of unnecessarily low aircraft flights over the park surface.

The agency specifically solicits comments on the impact of making the SFAR effective immediately upon publication, or within some alternative period of less than 30 days of publication.

The Proposed Permanent Regulation

The proposed SFAR, if adopted, would include an expiration date of June 15, 1987. The FAA proposes to issue a permanent final rule effective on or before that date. In addition to comments requested earlier in this preamble on the adoption of the SFAR, the agency solicits comments on the need for permanent measures to regulate the flight of aircraft above the Grand Canyon, for safety and environmental reasons, and on what those measures should be. *Commenters should clearly indicate which comments are directed toward the SFAR and which comments are directed toward the permanent final rule.*

The FAA proposes a final rule which would contain the following provisions:

1. The rule would take effect upon expiration of the SFAR, if the SFAR is adopted.

2. The rule would incorporate the provisions of the SFAR as proposed in this document, subject to the additions and revisions listed below.

3. The rule would provide means by which general aviation operators could operate within the Special Flight Rules Area, subject to certain limitations and preconditions. Such provisions could include, for example:

—A requirement for a briefing from a Flight Standards district office in the region before entering the area. The briefing could include required procedures (such as reporting points), environmentally sensitive areas which should be avoided, and information

on the activities of other operators in the area.

—Preferred or required routes and altitudes for general aviation transit over the canyon.

4. The rule would identify any parts of the canyon which the FAA finds, on the basis of comments received and the recommendations of the Department of the Interior, are unusually sensitive to low-altitude aircraft overflight. These areas could be the subject of voluntary or mandatory limits on overflight below certain minimum altitudes.

The agency specifically requests comments on the following issues:

1. The need for or adequacy of the specific measures proposed.

2. Minimum altitudes for air tour operations and general aviation sightseeing flights above the canyon, including whether different altitudes should be specified in different areas of the canyon.

3. The appropriate lateral boundaries of the proposed Special Flight Rules Area.

4. Procedures for permitting general aviation flights above the canyon at altitudes comparable to those at which the commercial tour operators fly. Such procedures could include specific routes, altitudes, prerequisite briefings or training, etc.

5. Identification of wildlife, archaeological sites, and other natural and historical values in the Park which might be impacted by aircraft overflight.

6. Identification of the areas of the canyon which are most sensitive and least sensitive to aircraft overflight.

Economic Impact

The economic impact of the proposed temporary SFAR and permanent regulation are expected to be minimal. The restrictions which both rules impose on commercial tour operators would not require any substantial changes in their operations. Other commercial flights, such as air transportation to Indian reservations, would be authorized without substantial change from present operation. Transient general aviation traffic, which constitutes a minority of canyon overflights, would be restricted only from operating at low altitude. The 9,000-foot MSL restriction would apply only until provisions for general aviation traffic are adopted, which would be prior to the summer season when most of this traffic occurs. Prior to that time pilots may still overfly the canyon above 9,000 feet MSL, which at some points is less than 1,000 feet above the north rim of the canyon. En route traffic would not be affected because the Special Flight Rules Area is below the floor of controlled airspace in the area. There would be no economic impact on the Department of Defense because there is no official reason for military aircraft to operate over the canyon below 9,000 feet MSL. Because the proposed regulations would have no substantial economic impact on any category of operator, the FAA has determined that the expected impact of the rule is so minimal that it does not warrant further regulatory evaluation. For the same reasons, this proposed rule (1) is not a major rule under Executive Order 12291, and (2) is not considered significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to insure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have a "significant impact on a substantial number of small entities." For purposes of the RFA, small entities are considered to include small businesses, non-profit organizations, and municipalities but not private individuals. Small entities affected by the proposed rules are limited to the approximately 40 Part 135 air tour and air taxi operators operating in the canyon area. As discussed under "Economic Impact" above, neither the SFAR nor the permanent rule would require any significant change in the operations of these firms as currently conducted. As a result, the impact on the affected small entities, if any, would be substantially less than the threshold for significant impact under agency guidelines. Therefore, I certify that, under the criteria of the Regulatory Flexibility Act, these rules, if promulgated, will not have a significant impact on a substantial number of small entities.

List of Subjects in 14 CFR Parts 91 and 135

Aircraft, Aviation safety, Air taxi and commercial operators, Grand Canyon.

The Proposed Special Federal Aviation Regulation

For the reasons set out above, the FAA is proposing to amend 14 CFR Parts 91 and 135 as follows:

PART 91—[AMENDED]

1. The authority citation for Part 91 continues to read as follows:

Authority. 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. Part 91 is amended by adding a new Special Federal Aviation Regulation No. 50 to read as follows:

Special Federal Aviation Regulation No. 50 Special Flight Rules in the Vicinity of the Grand Canyon National Park, AZ

Section 1. *Applicability.* This rule prescribes special operating rules for all persons operating aircraft under VFR in the following airspace, designated as the Grand Canyon National Park Special Flight Rules Area:

That airspace extending upward from the surface to and including 9,000 feet MSL within an area bounded by a line beginning at lat. 36°09'30" N., long. 114°03'00" W.; southwest to lat. 36°14'00" N., long. 113°12'00" W., to lat. 36°30'00" N., long. 112°36'00" W.; to lat. 36°30'00" N., long. 111°42'00" W.; to lat. 35°59'30" N., long. 111° 42'00" W.; to lat. 35°57'30" N., long. 112°03'20" W.; thence via the 5 statute mile radius of the Grand Canyon Airport airport reference point (lat. 35°57'09" N., long. 112°08'4.7" W.); to lat. 35°57'30" N., long. 112°°14'00" W.; to lat. 35°58'00" N., long. 113°11'00" W.; to 35°42'30" 27'30" W.; thence via the 5-statute-mile radius of the Peach Springs VORTAC to lat. 35°41'20" N., long. 113°36'00" W.; thence to the point of beginning.

Section 2. *Definition.* For the purposes of this special regulation, "Park" means the Grand Canyon National Park.

Section 3. *Aircraft operations: general.* Except in an emergency or unless otherwise authorized by the Administrator, no person may operate an aircraft in the airspace described in Section 1 unless the operation—

(a) Is conducted in accordance with a specific authorization to operate in that airspace incorporated in the operator's Part 135 operations specifications and approved by the Las Vegas Flight Standards District Office;

(b) Is authorized in writing by the Las Vegas Flight Standards District Office and is conducted in compliance with the conditions contained in that authorization. Normally authorization will be granted only for operations of aircraft necessary for law enforcement, firefighting, emergency medical treatment/evacation of persons in the vicinity of the Park, or for support of Park maintenance or activities. Authorization may be issued on a continuing basis; or

(c) Is a search and rescue mission directed by the U.S. Air Force Rescue Coordination Center.

Section 4. *Commercial sightseeing flights.*

(a) Notwithstanding the provisions of Federal Aviation Regulations § 135.1(b)(2), nonstop sightseeing flights that begin and end at the same airport, are conducted within a 25 statute mile radius of that airport, and operate in or through the airspace described in Section 1 during any portion of the flight are governed by the provisions of Part 135.

(b) No person holding or required to hold an operating certificate under Part 135 may operate an aircraft in the airspace described in Section 1 except as authorized by operations specifications issued under that part.

Section 5. *Minimum terrain clearance.* Except in an emergency, when necessary for takeoff or landing, or unless authorized by the Las Vegas Flight Standards District Office for a purpose listed in Section 3(b), no person may operate an aircraft within 500 feet of any terrain or structure located between the north and south rims of the Grand Canyon.

Section 6. *Communications.* Except when in contact with the Grand Canyon National Park Airport Traffic Control Tower during arrival or departure or on a search and rescue mission directed by the U.S. Air Force Rescue Coordination Center, no person may operate an aircraft in the airspace described in Section 1 unless he—

(a) Transmits a position report on the appropriate frequency at each reporting point designated in the operator's Part 135 operations specifications or in a written authorization to operate in that airspace issued under Section 3, and

(b) Monitors the appropriate frequency continuously while in that airspace.

PART 135—[AMENDED]

3. Part 135 is amended by adding a reference to SFAR No. 50.

Issued in Washington, DC, on December 4, 1986.

John R. Ryan,

Director, Air Traffic Operations Service.

[FR Doc. 86-27642 Filed 12-5-86; 10:35 am]

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Federal Register

Tuesday
December 9, 1986

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Control of Drug and Alcohol Use for Personnel Engaged in Commercial and General Aviation Activities; Advance Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 25148, Notice No. 86-20]

Control of Drug and Alcohol Use for Personnel Engaged in Commercial and General Aviation Activities

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: This notice invites comments on drug and alcohol abuse by personnel in the aviation industry and the options available for regulatory or other actions in the interest of aviation safety. It is intended to gather additional information on the extent to which abuse of drugs or alcohol is impairing the performance of personnel in the aviation community, such as commercial and general aviation pilots and mechanics, and on the costs and effectiveness of various drug and alcohol counter measures. This information is needed because, if impairment is significant, this may in turn jeopardize the safety of both the flying community and the general public.

DATE: Comments must be received on or before January 23, 1987.

ADDRESS: Comments on this notice in duplicate are to be mailed to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 25148, 800 Independence Avenue SW., Washington, DC 20591. Comments delivered must be marked Docket No. 25148. Comments may be inspected in Room 916 between 8:30 a.m. and 5 p.m. on weekdays, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Robert S. Bartanowicz, Assistant Manager, Safety Regulations Division (APR-200), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-9679.

SUPPLEMENTARY INFORMATION:

Comments Invited

This Advance Notice of Proposed Rulemaking (ANPRM) is issued under the FAA's policy of soliciting public participation in rulemaking proceedings. Interested persons are invited to participate in these preliminary rulemaking procedures by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further rulemaking action. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25148." The postcard will be date stamped and returned to the commenters. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. If it is determined to be in the public interest to proceed with further rulemaking after considering the available data and comments received in response to this advance notice, a Notice of Proposed Rulemaking will be issued.

Availability of ANPRM

Any person may obtain a copy of this ANPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center (APA-430), 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-0858. Communications must identify the notice number of this ANPRM. Persons interested in being placed on the mailing list for future ANPRMs and NPRMs should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Purpose of Notice

Drug and alcohol abuse constitutes a major societal problem. Statistics have been compiled and reported by the National Institute on Drug Abuse (NIDA), and by media polls, all of which indicate use of drugs such as marijuana to be widespread. For instance, the 1985 NIDA "National Survey on Drug Abuse" reports that 22 percent of the youths surveyed in the age 18 to 25 category reported using marijuana within the last 30 days. The FAA does not have any conclusive information that drug use and alcohol abuse among personnel engaged in aviation activities is any lesser or greater than that of the general public. Specific and extensive data (either general or stratified) are not available regarding aviation as a whole. However, the FAA is concerned that abuse may exist based on the overall use of drugs among the general populace. The absence of widespread substance abuse data for aviation does not prove that there is not a problem. The absence of significant evidence of abuse may be the result of several factors. First, the use of drugs and the abuse of alcohol is something which persons would go to great length to conceal. For commercial pilots, the discovery of their usage of drugs and the resultant action by their employers could result in the loss of jobs. The same economic rationale would hold true for others who earn their living through aviation. For private pilots, the revocation or suspension of their license would be a personal loss, depriving them of a leisure activity or use of their aircraft for business travel.

Second, detection is not easy in situations such as that of some commercial pilots who may not see their supervisors on a regular basis. In the case of private pilots who operate at numerous locations, full time surveillance by the FAA or others is neither practical nor economically feasible.

Third, even when there is supervision or surveillance of individuals, detection is not easy for those untrained in how to detect drug or alcohol abuse by observing behavioral or performance cues.

Finally, it is probable that there are individuals who are "enablers" in that they may tolerate or cover for a person with a drug or alcohol problem, especially if the person might suffer the loss of a job and the associated adverse financial consequences.

Informal (and unsubstantiated) information from the airline industry on pre-employment drug screening suggests that drug use exists among the applicants for crewmember and maintenance positions. In addition, there have been reports in the press of drug addiction by pilots. One purpose of this ANPRM is to gather specific data of this nature so as to help determine the scope of the problem and how the agency should proceed. Anyone with verified information on the extent of the problem is requested to submit that information to the rules docket. FAA data has not been extensive in the case of drug use and alcohol abuse because it is largely comprised of second-hand anecdotal sources and accident information. Information regarding drug and alcohol abuse has been gathered from fatal accidents through tissue samples.

It should be noted that as laboratory tests have become more sophisticated, they have become more effective in identifying more types of drugs in the

tissue samples than they were in the early 1980s. The figures shown in Tables 1 and 2 reflects fatal accidents involving general aviation pilots. There have not been any fatal accidents involving commercial airline pilots where drugs or alcohol were shown to be factors.

TABLE 1.—DRUGS FOUND IN DECEASED GENERAL AVIATION PILOTS BY CLASSIFICATION 1976-85 [1]

Year	Deceased pilots	Legal therapeutic drugs[2]	Legal drugs of abuse[3]	Illegal drugs of abuse[4]
1976	377	1	0	1
1977	394	2	1	1
1978	410	2	2	0
1979	388	4	3	2
1980	384	10	0	3
1981	431	5	2	3
1982	389	2	2	3
1983	412	6	0	3
1984	399	2	1	2
1985	412	9	3	4
Total	3,996	43	14	22

[1] The presence of drugs in an individual's system may, or may not, have been a factor in a fatal accident. For instance, an individual might have been taking a legal therapeutic drug, but could have been abusing it by taking it at more frequent intervals than prescribed. For this reason, the FAA reports all drugs found in fatalities.

[2] This would include over-the-counter drugs, such as asprin and diet pills, as well as those drugs prescribed by physicians.

[3] A legal drug of abuse is a drug that may be prescribed by a physician or purchased over-the-counter, but which has properties that may result in psychological or physiological dependencies or addiction.

[4] Illegal drugs or abuse would include drugs such as marijuana and cocaine.

TABLE 2.—ALCOHOL FOUND IN DECEASED GENERAL AVIATION PILOTS, CALENDAR YEARS 1968-1985

Year	Cases	Alcohol Above .04%	Percentage
1968-70	455	50	10.9
1971	214	27	12.6
1972	264	19	7.1
1973	292	18	6.1
1974	319	36	11.2
1975	310	20	6.4
1976	377	33	8.7
1977	394	34	8.6
1978	410	34	8.3
1979	388	22	5.7
1980	384	25	6.5
1981	431	28	6.5
1982	389	27	6.9
1983	412	29	7.0
1984	399	19	4.8
1985	412	20	4.9
Total	5,853	441	7.5

Current Regulations

The FAA has dealt with the use of drugs and alcohol in the following manner:

1. Pilots, flight attendants, flight engineers and flight navigators may not act as a crewmember of a civil aircraft: (a) Within 8 hours after drinking; (b) while under the influence of alcohol; (c) with .04 percent or more alcohol in blood; or (d) while using a drug that affects their facilities contrary to safety.

2. Pilots, flight attendants, flight engineers and flight navigators, when there is a reasonable basis to suspect a violation, must furnish the FAA the results of tests taken within 4 hours of acting as a crewmember that indicates the percentage of alcohol in the blood or indicates the presence of any drugs in the body.

3. Pilots, flight attendants, flight engineers and flight navigators must submit to a test to indicate the percentage of alcohol in the blood when requested by a law enforcement officer who suspects a violation of state or local law.

4. Applications for a certificate or rating by pilots, flight engineers and flight navigators may be denied for up to a year, and a certificate or rating can be suspended or revoked for: (a) Conviction for violation of a Federal or state law relating to drug trafficking or possession; (b) commission of a prohibited act described in (1) (above); (c) refusal to furnish the results of blood or drug tests taken within 4 hours of a suspected violation; (d) refusal to submit to an alcohol test as described in (3) (above).

5. An application for a certificate or rating by air traffic control tower operators, aircraft dispatchers, mechanics, repairmen, and parachute riggers may be denied for up to a year, and a certificate or rating can be suspended or revoked for conviction for violation of a Federal or state law relating to drug trafficking and possession.

6. The Administrator is required by the Aviation Drug-Trafficking Control Act of 1984 to revoke the airman certificates of the airmen listed in (4) and (5) above when the airman has been a part of a felony involving a controlled substance (other than simple possession) and the airman was on board an aircraft used in the commission of the felony. Under the Act, the Adminstrator may not reissue the airman's certificates for 5 years, except where a suspension beyond 1 year would be excessive or contrary to the public interest.

7. The FAA program for FAA employees in aviation safety-related occupations, particularly those who require periodic medical evaluations, will be implemented in early 1987. Generally, individuals testing positive for drugs and alcohol will be afforded an opportunity for rehabilitation. The FAA policy goal is to achieve a "drug free" work force; thus, even the off-duty use of drugs (or alcohol in sufficient levels) evidenced by presence in the urine specimen may warrant possible dismissal.

Some employers in the aviation industry have implemented actions in the areas of education, prevention, detection, and treatment, including establishing Employee Assistance Programs (EAP). However, for the most part, there is little standardization in the industry programs for dealing with drug use and alcohol abuse regarding prevention, detection, and rehabilitation. Some employers are conducting pre-employment drug screening and offering EAP services for current employees already working. The EAP services vary in the scope and type of assistance provided, often depending on the resources available to the particular employer. In addition to employer programs, there are some employee organization efforts in this area. One example of the latter in the air carrier industry is a peer assessment/identification and recovery program for airline pilots with alcohol problems. This has been a cooperative program between the FAA and the air carrier industry and approximately 850 airline pilots have entered the program over the past 8 years.

Certificated and Regulated Activities in Aviation

The FAA intends to develop an anti-drug and alcohol abuse program for the aviation industry that will ensure the protection of the public as well as those within the industry from the abuse of drugs or alcohol by groups in the industry which affect the public safety. In issuing this ANPRM, the FAA is interested in soliciting comments on the need for, cost, and feasibility of Federal anti-drug and alcohol abuse programs affecting a wide scope of aviation activities, including commercial or general aviation, where either drug or alcohol abuse can impact the safety of the public. The FAA is responsible for regulating many occupations which affect these aviation activities. Following is a listing of those occupations:

1. Pilots and flights instructors (14 CFR Part 61) are individuals who are required to be certificated to fly or provide flight instruction and must also possess a valid FAA medical certificate. The only exceptions to the requirement for a medical certificate are "free balloon pilots piloting balloons and glider pilots piloting gliders." The categories of certificated airmen in this category are:

- Student pilots
- Private pilots
- Commercial pilots
- Airline transport pilots
- Helicopter-only pilots
- Glider-only pilots
- Lighter-than-air (balloon) pilots
- Flight instructors

2. Flight crewmembers other than pilots (14 CFR Part 63) are individuals who are flight engineers and flight navigators. To act as crewmembers they are required to hold FAA airman and medical certificates.

- Flight engineers
- Flight navigators

3. Airmen other than flight crewmembers (14 CFR Part 65) include individuals who are not directly engaged in piloting or crewmember duties, but are airmen under the Federal Aviation Act of 1958 and are required to hold an FAA certificate. Of the following occupations, air traffic control tower operators who are not employed by the FAA are the only group required to possess a valid FAA medical certificate.

- Air traffic control tower operators
- Aircraft dispatchers
- Mechanics/repairmen
- Parachute riggers.
- Ground instructors

4. Flight attendants are not required to hold an FAA certificate; however, because they are in safety-related occupations, they are regulated by the FAA as crewmembers regarding their duties and responsibilities.

5. The foregoing categories cover occupational groups in which an individual's peformance might impair the safety of others. The FAA recognizes that there might be other occupational groups whose work in aviation has some bearing on safety. Persons responding to this ANPRM are invited to comment on what other groups might appropriately be covered by any future regulations.

Discussion

The Basis for an Aviation Industry Anti-Drug Abuse Program

The FAA is considering implementation of a program which would basically ensure a drug and alcohol abuse free environment for those segments of the aviation industry where such a program is needed and would be effective in protecting the public safety. A minimum program would regulate Parts 121 and 135 certificate holders. As envisioned, a basic program would involve drug and alcohol testing of all pilots, flight attendants, flight engineers, flight navigators, aircraft dispatchers, mechanics, repairmen, and ground instructors employed by the Part 121 and Part 135 certificate holders. The FAA could implement this program by providing guidelines for the Part 121 and Part 135 certificate holders to conduct the program. Beyond these certificate holders, the next step could entail expanding this program to include additional individuals and occupational groups in aviation (including applicants) who are either certificated or regulated as described in the background section of this ANPRM, e.g., commercial and private pilots, mechanics, etc.

Such a program could include some or all of the following components.

1. Mandatory drug and alcohol testing using both random and scheduled tests. Testing would consist of standardized screening tests, such as the Enzyme Multiplied Immunoassay Technique (EMIT) or Thin Layer Chromotography (TLC), with required confirmation of tests screened as positive using Gas Chromatography/Mass Spectrometry (GC/MS). Pre-employment screening of applicants would also be included.

2. Extension of the operating rules that impose drug and alcohol limitations on persons functioning in aviation-related jobs to additional persons, e.g., mechanics and/or expansion of these rules to proscribe the use of illegal drugs even during "off duty" hours.

3. For Part 121 and Part 135 certificate holders, establishment of highly visible EAP entities which would conduct a three-fold program to include (1) prevention through education and training, (2) detection through training of employees and supervisors and mandatory random testing and, (3) rehabilitation. All elements would be required to conform with minimum FAA standards.

4. Testing on "reasonable suspicion" would be provided.

5. All costs would be borne by the industry for the employees or by the individual in the case of private pilots.

6. The FAA solicits comments on these and any other elements that might appropriately be included in any aviation industry anti-drug and alcohol abuse program to be administered or required by the Federal government.

Questions for Public Comment

1. How does drug and alcohol abuse affect aviation safety?

1.1 Is the use of legal drugs controlled sufficiently to avoid negative impacts on safety?

1.2 To what degree does off-duty alcohol use impact aviation safety?

2. What is the extent and nature of drug and alcohol abuse in aviation by occupational categories?

2.1 Certificated flight crewmembers, i.e., pilots, flight engineers and flight navigators?

2.2 Certificated airmen other than flight crewmembers, e.g., mechanics, repairmen, etc.?

2.3 Flight attendants?

2.4 Other occupational groups?

3. What kind of mandatory drug and alcohol testing programs should be required, if any?

3.1 Should testing be on a random basis?

3.2 Should testing be on a scheduled/announced basis?

3.3 Should it be on both a random and scheduled basis?

Discussion. Random testing has had the greatest impact on reducing the incidence of drug use. Random testing means that every member of a specific population group has an equal chance of selection over a given period of time and that no notice is provided of the testing. Since an individual does not know when he/she will be selected under such a program, total abstinence is the only effective method of avoiding being tested positively. Scheduled or announced testing is less effective, but it does identify users; however, it can be "gotten around" through short-term abstinence. Scheduled or announced testing is effective in identifying three (3) categories of users: (1) Those who are careless or naive about the

effectiveness of testing and do not abstain; (2) those who are multiple drug users and cannot be sure that they are "clean" even after abstinence; and (3) those who are so habituated or addicted that they cannot abstain.

4. Who should be included in such a drug or alcohol testing program?

4.1 Should it include all certificated flight crewmembers, i.e., pilots, flight engineers and flight navigators (14 CFR Parts 61 and 63)?

4.2 Should it include certificated airmen other than flight crewmembers, e.g., mechanics (14 CFR Part 65)?

4.3 Should it include flight attendants?

4.4 Should it include pre-employment drug screening of applicants for any of the above positions?

4.5 Should it include supervisory and management personnel of Part 121 and 135 carriers?

4.6 How should the program account for differences among various industry groups (e.g., commercial versus private pilots) in terms of impact on public safety, feasibility of testing, and testing costs?

4.7 Are there any other occupational groups who have not been discussed in this ANPRM who should be included?

Discussion. The relative importance of each safety-related occupation must be considered in the light of interdependent duties. For example, the pilots ability to safely fly an aircraft, to an extent, depends on the mechanic ensuring that it is airworthy. However, the FAA has not seen fit to regulate all individuals to the same extent. For example, only those occupations which require specific physical capabilities, i.e., flying or controlling aircraft, require FAA medical certification on a periodic basis. FAA medical examinations are basically "safety examinations" to foster accident prevention by ensuring that individuals meet the proper physical and medical requirements. Other occupations such as aircraft dispatchers and mechanics do not require medical certification. However, the relative interdependence of each function from a safety perspective does exist.

5. To what extent should operating rules which limit the use of drugs and alcohol in connection with the performance of duties be expanded?

5.1 Should persons in aviation safety-related occupations be prohibited from using drugs or alcohol during off-duty hours?

Discussion. The current operating rules in § 91.11 apply only to crewmembers. The rules do not apply to other certificated airmen, such as mechanics and dispatchers, not do they apply to persons in other occupations that affect the safe operation of aircraft such as baggage handlers and security screening personnel. In addition, the rules only proscribe the use of drugs and alcohol to the extent that they may influence a crewmember during the operation of an aircraft. They do not address any residual or other effects of off-duty use of drugs and alcohol.

6. What should the "minimum" Employee Assistance Program (EAP) run by a Part 121 or 135 certificate holder consist of?

6.1 What specific standards should be included with respect to the management, conduct, and administration of an FAA-mandated drug and alcohol testing program?

6.2 Should the EAP include education, and what should this be comprised of?

6.3 What would be the role of managers and supervisors regarding referrals for drug use and alcohol abuse?

6.4 What elements should there be in a rehabilitation program?

6.5 How far should a certificate holder go in terms of employee rehabilitation, i.e., how many "relapses" should the employee be allowed?

Discussion. Successful EAPs are characterized as "high energy" programs which educate, inform, and rehabilitate individuals. These programs also offer a wide range of services outside of drug and alcohol abuse. Rehabilitation in these type programs is viewed as a "helpful hand" versus punishment. Individuals in rehabilitation are usually subjected to periodic random testing to ensure that they abstain from further use. The successful EAP pays off for the company in terms of better job performance and output. The heart of a drug and alcohol abuse-free aviation industry may rest with the EAP.

7. Under what circumstances should testing be conducted for drugs and alcohol based on reasonable suspicion?

7.1 Following an accident? What constitutes an accident? Should accidents only be a trigger if the employee's performance contributed to the accident?

7.2 Following an error committed by the employee which results in an accident, e.g., failure to follow aircraft operating procedures, etc.?

7.3 Following a near midair collision?

7.4 Following suspicion by the supervisor or manager based on observation, e.g., changes in behavior or performance?

7.5 Are there any other conditions or circumstances?

7.6 What kind of controls, if any, should be in place to ensure that this authority to test based on "reasonable suspicion" is not abused?

Discussion. Testing based on "reasonable suspicion" is an adjunct to those periods of time between testing periods when the individuals might be using drugs or abusing alcohol. The "reasonable suspicion" concept usually involves training of peers, supervisors, and managers as to behavioral cues in an operational environment, which indicate drug and alcohol use, e.g., speech, appearance, and performance of duties, etc.

8. How can the FAA best implement a program to achieve a drug-free and alcohol abuse-free environment throughout all of aviation?

8.1 What should the FAA directly manage, e.g., should the FAA actually administer the tests?

8.2 What should be the extent of FAA involvement in ensuring an effective program?

8.3 What should be the responsibility of Part 121 and Part 135 certificate holders? What should be the responsibility of other certificate holders such as those operating under Part 133 (non-passenger rotorcraft), 137 (agricultural operations), and 141 (pilot schools)?

8.4 Should the private pilot exercising his or her privileges be included in the program?

9. The FAA is considering a request for legislation to gain access to the National Driver Register for the purpose of establishing a data exchange. The data would be used to identify pilots and other certificated airmen who have convictions for driving under the influence of drugs or alcohol. Should the FAA request such legislation?

9.1 Should the FAA seek access to driving records involving drug and alcohol abuse for all categories of licensed drivers?

9.2 What action should the FAA take, if any, in the case of drug or alcohol related motor vehicle offenses?

Discussion. The question has been raised as to what level of action the FAA should take regarding drug and alcohol driving convictions. The question also has been raised as to whether or not there is a valid and reliable correlation between an individuals driving record and flying record. For instance, would an individual who uses alcohol while driving be just as likely to use alcohol while flying?

Economic Impact and Benefits

Public comments concerning the economic impact and benefits are specifically sought in addition to comments on the technical aspect of the drug and alcohol issues.

Agencies of the Federal government are required by Executive Order 12291 to examine any proposed regulation to ascertain its economic impact and to adopt only those regulatory programs in which potential benefits to society clearly outweigh the potential costs to society. Any regulatory proposal by the FAA must be accompanied by an evaluation quantifying and qualifying, to the extent possible, the benefits and cost of such proposals. The FAA does not have sufficient information to generate definitive costs at this time since the costs would be based on whatever course(s) of action the FAA chooses to undertake. However, a cost evaluation will be prepared if FAA action is undertaken. With this in mind, in the light of the questions above, the FAA solicits specific economic data regarding the following issues.

1. How many people would be affected by this proposal in each occupation affected?

2. What is the range of cost to a company for conducting an employee assistance program? Per employee? Costs should be specified for education, training, treatment, and other ancillary services.

3. If drug testing of certain aviation occupations were instituted, what would be the range of cost to the company per employee? Would cost differ for random versus scheduled or announced testing? Costs should be specified for actual testing and related overhead.

4. What would be the cost of drug testing to individuals who are not corporate employees e.g., private pilots who must pay for the tests from out-of-pocket funds?

5. How do you envision this testing to benefit your company or industry?

Conclusion: The FAA has determined that this advance notice of proposed rulemaking action is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is premature at this time for the FAA to accurately evaluate the costs and benefits of complying with a program that would control drug and alcohol abuse. A full regulatory evaluation and Regulatory Flexibility Act determination will be prepared with the assistance of comments received as a result of this advance notice in conjunction with any notice of proposed rulemaking that may be issued on this subject.

List of Subjects in 14 CFR Part 91

Aviation safety, Drugs.

Issued in Washington, DC, on December 4, 1986.

Anthony J. Broderick,

Associate Administrator for Aviation Standards.

[FR Doc. 86-27641 Filed 12-5-86; 9:40 am]

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federal register

Tuesday
December 9, 1986

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 39

Airworthiness Directives; McDonnell Douglas and General Electric et al.; Final Rules

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ASW-55; Amdt. 39-5463]

Airworthiness Directives; McDonnell Douglas Helicopter Company (Hughes Helicopters, Inc.), Model 369A (OH-6A Military), D, E, F, FF, H, HE, HM, and HS Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires a one-time dye penetrant and tap test inspection as well as repetitive preflight checks of certain tail rotor blades for abrasion strip separation on McDonnell Douglas Helicopter Company Model 369A, D, E, H, HE, HM, and HS helicopters. The AD was prompted by reports of tail rotor blade abrasion strip separation which could result in loss of tail rotor control and subsequent loss of the helicopter. The FAA has subsequently determined that certain other part number and serial number tail rotor blades applicable to the above model helicopters are affected and, in addition, certain tail rotor blades applicable to Model 369F and 369FF are affected. This amendment is needed to assure the continuing airworthiness of these additional tail rotor blades against potential abrasion strip separation.

DATES: Effective December 9, 1986.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 9, 1986.

Compliance: As indicated in the body of this AD.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Helicopter Company, 5000 E. McDowell Road, Mesa, Arizona 85205.

A copy of each document supporting the AD is contained in the Rules Docket, Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Sullivan, Aerospace Engineer, Western Aircraft Certification Office, Airframe Section, ANM-172W, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007; telephone (213) 297-1166.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-5127 [50 FR 36990; September 11, 1985], AD 85-18-02, which requires a one-time dye penetrant and tap test inspection as well as repetitive preflight checks of certain tail rotor blades for abrasion strip separation on McDonnell Douglas Helicopter Company Model 369A, D, E, H, HE, HM, and HS helicopters. After issuing Amendment 39-5127, the FAA has determined that 62 additional tail rotor blades, over and above those required to be inspected by the original AD (approximately 1,100), may be subject to the same processing discrepancies which resulted in the issuance of the original AD. Therefore, the FAA is amending Amendment 39-5127 to require that these additional 62 tail rotor blades be inspected in a manner identical to that originally required by Amendment 39-5127. Two additional helicopter models, 369F and 369FF, with tail rotor part number 369D21606, are now affected. The requirement to inspect certain part number 369D21613-51 tail rotor blades has been added as well as the requirement to inspect certain additional part number 369D21615 and 421-088 tail rotor blades.

This amendment also incorporates by reference Service Information Notices FN-17, DN-130.1, EN-19.1, and HN-197.1, all dated April 15, 1986. The inspection and preflight checks are required to be accomplished in accordance with the original or revised notices, except as noted in the body of the AD.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedures hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

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 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 the caption **"FOR FURTHER INFORMATION CONTACT"**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

2. By amending Amendment 39-5127 [50 FR 36990; September 11, 1985], AD 85-18-02, by revising the applicability statement, compliance statement, and paragraphs (a), (b), (c), and (f) to read as follows:

McDonnell Douglas Helicopter Company (Hughes Helicopters, Inc.): Applies to all Model 369A (OH-6A Military), 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, and 369HS series helicopters, certificated in all categories, equipped with McDonnell Douglas Helicopter Company (MDHC) tail rotor blades, Part Numbers (P/N) 369D21606, 369D21613-11, 369D21613-41, 369D21613-51, 369D21615, 369A1613-7, 369A1613-503, and 421-088.

Compliance: Required as indicated, after September 19, 1985, by all operators affected by Amendment 39-5127, unless already accomplished.

Compliance: Required as indicated, after the effective date of this amendment for operators with additional tail rotor blades and additional helicopter models 369F and 369FF affected by this amendment, unless already accomplished.

To prevent possible loss of tail rotor control, accomplish the following:

(a) Within the next 100 hours' time in service after the effective date of this AD, perform a one-time dye penetrant and tap test inspection on the affected tail rotor blades listed on page 1 of the following service information notices in accordance with procedures detailed in paragraphs a through l of the "PROCEDURES" section of Part I of MDHC Service Information Notices (SIN) DN-130.1, EN-19.1, FN-17, HN-197.1 dated April 15, 1986, or an FAA-approved equivalent. Model 369A (OH-6A) is to comply with MDHC SIN HN-197.1. Note: If desired, an alternate tap test tool to the one specified in paragraph h may be used.

(b) Before the first flight of each day after the effective date of this AD, visually check each tail rotor blade abrasion strip for any evidence of bond failure along the entire abrasion strip/airfoil bond line and at the blade tip using the procedure specified in Part II, paragraph a, MDHC SIN's DN-130.1, EN-

19.1, FN–17, HN–197.1, dated April 15, 1986, or an FAA-approved equivalent.

(c) If during the check of paragraph (b) debonding along the abrasion strip/bond or blade tip is suspected, inspect the tail rotor blade prior to further flight in accordance with Part II, paragraph b, of MDHC SIN's DN–130.1, EN–19.1, FN–17, HN–197.1, dated April 15, 1986, or an FAA-approved equivalent.

* * * * *

(f) The check required by paragraph (b) of this AD may be performed by the pilot and must be recorded in accordance with FAR Section 91.173(a)(2)(v).

* * * * *

The manufacturer's specifications and procedures shall be done in accordance with MDHC SIN's DN–130.1, EN–19.1, FN–17, and HN–197.1, April 15, 1986. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a)(1). Copies may be obtained from McDonnell Douglas Helicopter Company, 5000 E. McDowell Road, Mesa, Arizona 85205. These documents may be examined at the Office of the Regional Counsel, FAA, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106, or at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

This amendment becomes effective December 9, 1986, except for those owners/operators affected by Amendment 39–5127 who must comply with the dates and requirements of Amendment 39–5127.

This amendment amends Amendment 39–5127 [50 FR 36990], AD 85–18–02 which became effective September 19, 1985.

Issued in Fort Worth, Texas, on October 30, 1986.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 86–27639 Filed 12–8–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–ANE–21; Amendment 39–5473]

Airworthiness Directives; General Electric (GE) GT7–5A, –5A1, and –5A2 Turbopropeller Engines as Installed in Saab-Fairchild SF340A Aircraft

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 as to all known U.S. owners and operators of certain GE GT7–5A series turbopropeller engines as installed in Saab-Fairchild SF340A aircraft by individual telegrams. The AD requires that the bottoming governor be disabled when the aircraft power lever is positioned in the beta range (below flight idle). The AD is needed to prevent engine power turbine (PT) overspeed and resulting uncontained failure caused by reaction of the fuel control to an erroneous PT speed signal during ground operation with the bottoming governor enabled.

DATES: Effective December 9, 1986, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T86–10–51, issued May 13, 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 9, 1986.

ADDRESSES: The applicable portions of the aircraft flight manual (AFM) and aircraft operations manual (AOM) may be obtained from Saab-Scania AB, S–581 88, Linkoping, Sweden.

A copy of the applicable portions of the AFM and AOM is contained in Rules Docket No. 86–ANE–21, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara G. Garian, Engine Certification Branch, ANE–141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7086.

SUPPLEMENTARY INFORMATION: On May 13, 1986, telegraphic AD T86–10–51 was issued and made effective immediately as to all known U.S. owners and operators of certain GE CT7–5A series turbopropeller engines as installed in Saab-Fairchild SF340A aircraft. The AD required that the bottoming governor be disabled when the aircraft power lever is in the beta range (below flight idle). The AD was needed to prevent engine PT overspeed and resulting uncontained failure caused by reaction of the fuel control to an erroneous PT speed signal during ground operation with the bottoming governor enabled.

A final modification incorporating a redundant engine overspeed prevention system by installing a microswitch in the propeller overspeed governor is being developed. When completed, an AD will be issued to require incorporation of that modification and supersede this AD, allowing operation in accordance with normal pre-AD procedures.

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 telegrams issued May 13, 1986, to all known U.S. owners and operators of certain GE GT7–5A series turbopropeller engines as installed in Saab-Fairchild SF340A aircraft. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to Section 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

Engines, Air transportation 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); and 14 CFR 11.89.

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

General Electric: Applies to General Electric (GE) CT7–5A, –5A1, and –5A2 turbopropeller engines as installed in Saab-Fairchild SF340A aircraft.

Compliance is required prior to further flight, unless already accomplished.

To prevent power turbine (PT) overspeed resulting in an uncontained failure due to reaction of the fuel control to an erroneous PT speed signal during ground operation with the bottoming governor enabled, accomplish the following:

(a) Incorporate the following into the normal procedures section of the SF340A Aircraft Flight Manual (AFM). This may be accomplished by including a copy of this AD in the AFM.

(1) Advance the aircraft condition lever (CL) from the "START" position to the "T/M LOCKOUT" position and return to the desired propeller governing position immediately following each engine start.

(2) Verify that the bottoming governor has been disabled immediately after accomplishing (1) above as follows: Position the CL in the propeller governing range, then retard the power lever (PL) toward the "REVERSE" position. A decrease in propeller speed verifies that the bottoming governor has been disabled. If disabling of the bottoming governor by performing a torque motor (T/M) lockout cannot be verified, retard the CL to the "UNFEATHER" position. Do not operate further until T/M lockout is accomplished and verified. Thereafter, CL manipulation to satisfy requirements in ground or flight operations is permissible.

(b) Aircraft/engine operation with the bottoming governor disabled must be conducted in accordance with the SF340A AFM, Supplement 10, and SF 340 Aircraft Operations Manual (AOM), Section 2.17, Condition 3.19. While operating in this mode, available reverse thrust will be reduced, as noted in the SF340A AFM, page 4–50.

Notes: (1) GE Teex Number 1056–86 emphasizes pertinent information already contained in the SF340 AFM and/or AOM. The subject telex should be reviewed to highlight details and cautions pertaining to the bottoming governor and T/M lockout operation.

(2) Incorporation of manual cockpit switches in accordance with Saab Service Bulletins SF340–76–020, SF340–76–016, and SF340–76–021, along with aircraft operation in accordance with the AFM, Supplement 13, constitutes an equivalent means of compliance with this AD.

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, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through and FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

Saab-Fairchild SF340A AFM, Supplement 10; Saab-Fairchild SF 340 AFM page 4–50; and AOM Section 2.17, Condition 3.19, are 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 these documents from the manufacturer may obtain copies upon request to Saab-Scania AB, S–581 88, Linkoping, Sweden. There documents also may be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Rules Docket Number 86–ANE–21, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

This amendment becomes effective December 9, 1986, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T86–10–51, issued May 13, 1986, which contained this amendment.

Issued in Burlington, Massachusetts, on November 18, 1986.

William H. Williams, Jr.,

Acting Director, New England Region.

[FR Doc. 86–27640 Filed 12–8–86; 8:45 am]

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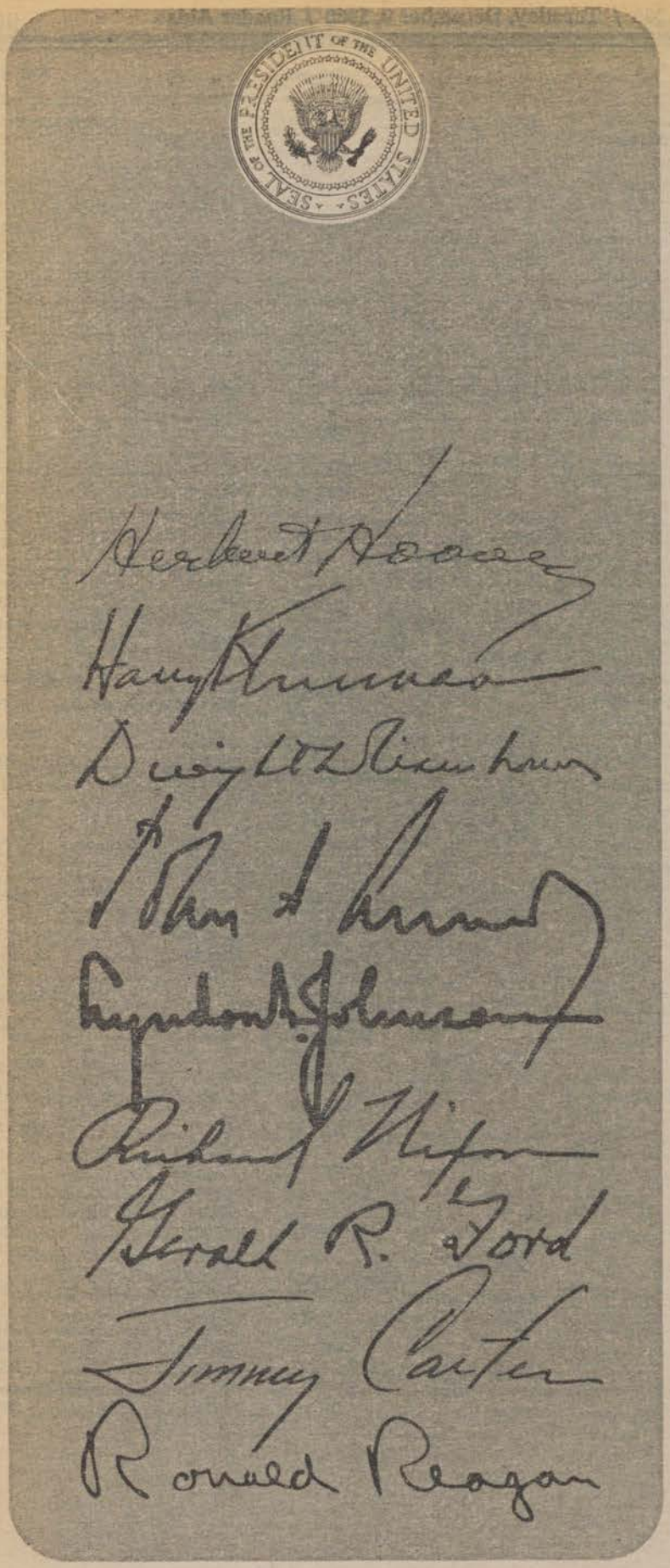

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