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Presidential Documents

Title 3—

The President

Proclamation 5624 of April 3, 1987

Interstate Commerce Commission Day, 1987

By the President of the United States of America

A Proclamation

As Americans, we can be proud of our unsurpassed surface transportation system and of the free enterprise that made private sector development of that system possible.

For the past 100 years, the Interstate Commerce Commission, the first independent administrative agency, has been responsible for regulatory oversight of our surface transportation system. For a century, the Commission has carried out its missions with dedication and with commitment to a national surface transportation system second to none. The Commission's role in regulating transportation has changed constantly and is changing even now; regulation by government is giving way to regulation by market competition, and both the transportation industry and the consumer are better off as a result.

The Congress, by Senate Joint Resolution 96, has designated April 3, 1987, as "Interstate Commerce Commission 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 April 3, 1987, as Interstate Commerce Commission Day. I invite the people of the United States to observe that day with appropriate ceremonies and activities to recognize the 100th anniversary of the establishment of the Interstate Commerce Commission.

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

Ronald Reagan

[FR Doc. 87-7819
Filed 4-6-87; 10:14 am]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 287]

Food Stamp Program; Cure Provision for Employment and Training Requirements and Technical Corrections

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking implements an amendment to the Food Stamp Act of 1977 made by the Food Security Act of 1985, Pub. L. 99–198, Title XV, 99 Stat. 1566, December 23, 1985 which enables an individual or household to reestablish food stamp eligibility if the household member who failed to comply with a work requirement under § 273.7 complies with the requirement that has been violated.

Several minor technical corrections to § 273.7 are also included in this rulemaking.

DATE: The provisions of this rulemaking are effective April 7, 1987. An employment and training program shall be implemented in each State, pending FNS approval, by April 1, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Warner, Food and Nutrition Service, Chief, Administration and Design Branch, Family Nutrition Programs, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3383.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

This final action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1. The Department has classified this action as non-major.

The effect of this action on the economy will be less than $100 million. This final action will have no effect on costs or prices. Competition, employment investment, productivity, and innovation will remain unaffected. There will be no effect on the competition of the United States-based enterprises with foreign-based enterprises.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule related Notice of 7 CFR Part 3015, Subpart V (48 FR 29115), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, Stat. 1164, September 19, 1980). Anna Kondratas, Acting Administrator of the Food and Nutrition Service, has certified that this final action does not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they administer the Program. Potential and current participants will be affected because they will have to fulfill the work requirements established by State agencies under the guidance set forth in this rulemaking.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements contained in § 273.7 of this regulation have been approved by the Office of Management and Budget (OMB) under that Act. The OMB approval number for these requirements is 0584–0339.

Public Comment/Effective Date

As noted, the provision of this rulemaking related to reestablishment of eligibility was described in the preamble of the October 1, 1986, proposed rulemaking. No comments were received on the subject. Moreover, the provision is required under the amended section 6(d)(1) of the Food Stamp Act and thus is an interpretive rule for which publication for prior public comments is not required under 5 U.S.C. 553. The remaining provisions of this rule are technical corrections having no substantive impact. For these reasons good cause is found under 5 U.S.C. 553 for the publication of this rule without prior public comment and for publication less than 30 days prior to the effective date.

Background

The Food Security Act of 1985 amended the Food Stamp Act of 1977 to require that no later than April 1, 1987, every State agency shall implement an employment and training program designed by the State agency and approved by the Secretary of Agriculture. Included in the Act is the provision that any period of ineligibility under section 6(d) shall end when the household member who committed the violation complies with the requirement that has been violated.

Reestablishing Eligibility

On October 1, 1986 the Department published a proposed rulemaking implementing the work related amendments made to the Food Stamp Act of 1977 by the Food Security Act of 1985. In the preamble, 51 FR 35155, the Department stated that as in current regulations, "eligibility may be reestablished if the household member who committed the violation complies with the requirement that has been violated." The preamble of the December 31, 1986 rulemaking 51 FR 47386, which finalized the October 1, 1986 proposal also stated the Department's intent to permit eligibility to be reestablished if the household member who committed the violation complies with the requirement that has been violated. The provision, however, was inadvertently omitted from the regulatory language of that final rule. This rulemaking adds such language to the code of federal regulations.

Technical Corrections

Section 273.7(b)(2)(i) addresses the procedure to be followed for a person losing work registration exemption status. The last sentence of the paragraph refers to returning a work registration form to the State agency. It

states that if the household fails to return the form the State agency shall issue a notice of adverse action stating that the household is being terminated and why and that the household can aviod termination by returning the form. Because work violations now apply to individuals rather than the entire household, except in cases where the violator is the head of household, the language of this sentence is being changed so that it may apply to either an individual or a household.

Participants who are subject to and complying with work requirements under title IV of the Social Security Act or registered for work as part of the unemployment compensation process are exempt from Food Stamp Program work registration.

Section 273.7(g)(2) of the food stamp regulations addresses the failure of food stamp recipients to comply with comparable WIN or unemployment compensation work requirements. Throughout paragraph (g)(2) there are references to food stamp job search requirements. Since the December 31, 1986 final rulemaking replaced a nationwide job search requirement with employment and training programs, the references to job search are obsolete. Those references are changed in this rulemaking to conform to the new work provisons.

Also in paragraph (g)(2) are references to the entire household being disqualified for noncompliance with a comparable WIN or unemployment compensation work program. The language is herewith changed to conform to the new Congressionally mandated sanctions which apply to the violating individual only, unless that individual is the head of household.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food Stamp, Fraud, Grant programs-social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR Parts 272 and 273 are amended as follows:

1. The authority citation for Parts 272 and 273 continues to read as follows:

Authority: 7 U.S.C. 2011–2029.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1 a new paragraph (g)(86) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(86) *Amendment No. 287.* The provisions of this amendment are effective April 7, 1987.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.7 the last sentence of paragraph (b)(2)(i) is revised;

§ 273.7 Work requirements.

* * * * *

(b) *Exemptions from work registration.* * * *

(2)(i) * * * If the participant fails to return the form, the State agency shall issue a notice of adverse action stating that the participant or, if the individual is the head of household, the household is being terminated and why, but that the termination can be avoided by returning the form.

* * * * *

4. In § 273.7 the words "job search" are removed from introductory paragraph (g)(2) and paragraph (g)(2)(i) and the words "employment and training program" are added in their place; in paragraph (g)(2)(i) the words "or FNS approved employment and training program" are added in the last sentence between the words "registration" and "requirements"; paragraph (g)(2)(ii) is revised; in paragraph (g)(2)(iii) the words "individuals or" are added before the word "households" and the words "individual or" are added before the word "household"; in paragraph (g)(2)(iv) the words "individual or" are added before the word "household".

* * * * *

(g) *Failure to comply* * * *

(2) *Failure to comply with a comparable WIN or unemployment compensation work requirement.* * * *

(ii) If the State determines that the WIN or unemployment compensation requirement is comparable, the individual or household (if the individual who committed the violation is the head of household) shall be disqualified in accordance with the following provisions. The State agency shall provide a notice of adverse action as specified in § 273.13 within 10 days after learning of the household member's noncompliance with the unemployment compensation or WIN requirement. The notice shall comply with the requirements of § 273.7(g)(1). An individual or household shall not be disqualified from participation if the noncomplying member meets one of the work registration exemptions provided in § 273.7(b) other than the exemptions provided in paragraphs (b)(1)(iii) and (b)(1)(v) of that section. Household members who fail to comply with a noncomparable WIN or unemployment compensation requirement shall lose their exemption under § 273.7(b)(1) (iii) and (v), and must register for work if required to do so in § 273.7(a).

* * * * *

5. In § 273.7, a new paragraph (h)(5) is added to read as follows:

* * * * *

(h) *Ending disqualification.* * * *

(5) Refusal to comply with a State agency (or its designee) assignment as part of an FNS approved employment and training program—compliance with the assignment or an alternative assignment by the State agency.

* * * * *

6. In § 273.7, the title of paragraph (o)(6) is amended by removing the word "date" and adding in its place the word "data."

§ 273.10 [Amended]

7. In § 273.10, paragraphs (e)(2)(iii)(B)(*8*) and (*9*) are removed.

Dated: April 1, 1987.

S. Anna Kondratas,

Acting Administrator.

[FR Doc. 87–7535 Filed 4–6–87; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 86–120]

Tuberculosis Test Requirements for Cattle From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning tuberculosis test requirements for importing cattle from Canada (1) by requiring certain cattle to be tested for tuberculosis within 60 days preceding arrival at a port of entry instead of the previous requirement that such cattle be tested within 30 days preceding offer for entry and (2) by removing restrictions imposed upon the importation of certain cattle from "restricted areas" of Canada. This action relieves restrictions without

increasing the risk of the spread of tuberculosis from Canada into the United States. We are further amending the regulations by prohibiting the importation of cattle from a herd in which a tuberculosis reactor has been found. This action is necessary to prevent the introduction of tuberculosis from Canada into the United States. Finally, we are deleting the provisions regarding "range cattle". This is necessary because the above-mentioned amendments result in the deletion of all distinctions between the tuberculosis provisions regarding "range cattle" from Canada and all other types of cattle from Canada.

EFFECTIVE DATE: May 7, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 809, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations) regulate the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases. Section 92.20 of the regulations contains specific provisions concerning the importation into the United States of cattle from Canada.

A proposed rule was published in the **Federal Register** on October 3, 1986 (51 FR 35368–35370). Our proposal invited the submission of written comments on or before December 2, 1986. No comments were received. Based on the rationale set forth in the proposal, the proposed rule is adopted as a final rule.

Miscellaneous

Two minor nonsubstantive changes have been made for the purpose of clarity.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action will not have an effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; and will not have any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United-States based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Extending the tuberculin testing period from 30 to 60 days prior to importation will relieve existing restrictions that make compliance with the regulations easier for persons moving cattle from herds in Canada into the United States. Removal of the provisions for cattle from "restricted areas" will have no impact on the importation of cattle into the United States from Canada since there are no longer any "restricted areas" in Canada. Removal of the provisions for the importation of range cattle from reactor herds will have no impact on the importation of cattle from Canada into the United States, since Canadian regulations prohibit the exportation of such cattle.

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

Executive Order 12372

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

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, 9 CFR Part 92 is amended as follows:

1. The authority citation for Part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.1 [Amended]

2. Paragraphs (k) and (l) of § 92.1 are removed.

3. The remaining definitions in § 92.1 are placed in alphabetical order and the paragraph designations are removed.

4. Section 92.1 is amended by adding, in alphabetical order, the following:

Tuberculosis-free herd. A herd which is not known to be infected with bovine tuberculosis (*M. bovis*) and which is certified by the Canadian Government as a tuberculosis-free herd.

United States. All of the States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other Territories and Possessions of the United States.

5. Section 92.20(b) is revised to read as follows:

§ 92.20 Cattle from Canada.

* * * * *

(b) *Tuberculin-test certificates.* (1) Cattle from Canada from a herd in which any cattle have been determined to have tuberculosis shall not be imported into the United States.

(2) Except for cattle prohibited from importation under paragraph (b)(1) of this section, cattle from Canada may be imported into the United States if:

(i) The cattle are imported for slaughter in accordance with § 92.23 of this part; or

(ii) The cattle are accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing:

(A) That the cattle are from a tuberculosis-free herd; or

(B) The date and place the cattle were last tested for tuberculosis; that the cattle were found negative for tuberculosis on such test; and that such test was performed within 60 days preceding the arrival of the cattle at the port of entry.

* * * * *

6. In § 92.20, paragraph (b), footnote number 10 is removed.

7. In Part 92, footnotes 11, 12, 13, and 13a and the references thereto are redesignated 10, 11, 12, and 13 respectively.

Done in Washington, DC, this 2nd of April 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87–7676 Filed 4–6–87; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Parts 102 and 114

[Docket No. 86-117]

Viruses, Serums, Toxins, and Analogous Products; Revision of the Virus-Serum-Toxin Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to revise the regulations governing licenses and production requirements for biological products to conform with the recent amendment of the Virus-Serum-Toxin Act. Additionally, this rule reduces restrictions on producers of autogenous biologics, and makes other conforming changes.

Current regulations limit licensure for the purpose of producing autogenous biologics to manufacturers licensed to prepare at least one nonautogenous product. This revision of the regulations provides for licensure to produce autogenous biologics without the necessity of also obtaining a license for a nonautogenous product. Such licensure will be subject to conditions which assure acceptable product control.

Due to a recent change in the regulations, more than one establishment can be involved in the production of a biologic. This amendment provides that only the license number of the establishment which releases the product to market need appear on the product license.

The amendment to the Virus-Serum-Toxin Act provides for the issuance of special or conditional licenses under expedited procedures for products needed to meet emergency conditions, limited market or local situations, or other special circumtances, including production solely for intrastate use under a State-operated program. This revision of the regulations implements this amendment by shortening and simplifying the procedures for licensure.

EFFECTIVE DATE: May 7, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6332.

SUPPLEMENTARY INFORMATION: .

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting, or application requirements or any type of information collection requirement subjet to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

This action will not have a significant effect on the economy and will not result in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will also not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic markets.

Certification Under the Regulatory Flexibility Act

The Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. The regulatory amendments will reduce restrictions, remove obsolete language, and make changes to conform to the recent amendment to the Act.

Background

The Virus-Serum-Toxin Act was amended on December 23, 1985. The amendment requires that, with certain exceptions to be provided by regulation, all manufacturers of veterinary biological products for shipment in or from the United States must be licensed by the Department of Agriculture.

Biologics establishments preparing biological products solely for intrastate shipment or for export are now required by the amendment to be in compliance with the Act and the regulations. However, such establishments often prepare only autogenous biologics. Currently, the regulations in 9 CFR 102.2 provide that establishments preparing autogenous biologics desiring to be licensed under the Act must also be licensed to produce a nonautogenous biological product. One reason for this provision was to assure that licensees preparing autogenous biologics which are not evaluated for potency or efficacy had sufficient expertise to prepare potent, effective products. In amending the Act, the confrees expressed the intent that firms be licensed to produce autogenous biologics without being required to first obtain a license for a nonautogenous product. Since, adequate assurance of expertise may be demonstrated by an establishment through the current system of review of Outlines of Production, frequent inspection of facilities, personnel, and records, and review of reports of production and testing, 9 CFR 102.2 and 102.4(f) are revised to delete the licensing restrictions concerning establishments which produce autogenous biologics. This will have the effect of permitting establishments that produce only autogenous biologics to become licensed.

The current regulations in 9 CFR 102.5(b) provide that the U.S. veterinary biologics establishment number of the establishment in which the product is packaged and labeled and from which the product is released for marketing shall appear on the U.S. veterinary biological product license. A recent revision of 9 CFR 114.3 allowing split manufacture provides for products to be moved to another establishment for further manufacture before being released to market. When more than one establishment is involved in the production of a biological product, no practical purpose is served by requiring the product license to bear the establishment license numbers of all the establishments involved. Therefore, 9 CFR 102.5(b) is amended to require that only the license number of the establishment releasing the product to market needs to appear on the product license.

The Act, as amended, provides that the Secretary may issue special licenses under expedited procedures to ensure availability of biological products to meet emergency conditions, limited market or local situations, or other special circumstances. This revision of the regulations includes provisions for special product licenses to conform to the amendment. Such special licenses shall be referred to as "conditional" licenses.

The regulations in 9 CFR 102.5(e) provide for restrictions to be placed on U.S. veterinary biological product licenses. These restrictions essentially fall into two categories. The first category provides for restriction of the product based on its properties and use. The second category provides for termination of the license at a predetermined time and conditions for reissuance. This revision separates these two categories, placing provisions for licenses with termination dates in a new 9 CFR 102.6. The provisions for issuance of licenses with termination dates provide for conditional licenses issued under shortened procedures to ensure the availability of products needed to meet emergency conditions, limited market or local situations, or other special circumstances.

The shortened procedure may include acceptance of serological response, lowered numbers of host species test animals, or other means of establishing purity and safety, and a reasonable expectation of efficacy without requiring a complete efficacy study and potency test correlated with host animal efficacy. The references in 9 CFR 102.5(b) are revised to reflect the changes in 9 CFR 102.5(e) and the addition of 9 CFR 102.6.

The regulations in 9 CFR 114.1 limit the applicability of Part 114 to products prepared or delivered for shipment interstate. The amendment of the Virus-Serum-Toxin Act removed interstate limitations. Therefore, a conforming change has been made to delete the reference to shipment interstate from 9 CFR 114.1.

Comments Received

On Tuesday, July 29, 1986, a notice of proposed rulemaking was published in the **Federal Register** at 51 FR 27048, discussing these revisions and soliciting comments.

Comments were received from two unlicensed manufacturers, three licensed manufacturers, one consultant to biologics manufacturers, and a national trade association which includes among its members the major manufacturers of veterinary biological products.

Three of the commenters agreed with the rule changes as proposed. Other commenters agreed in part, with specific reservations. Two commenters objected to the changes to § 102.2 which would allow for an establishment license to be issued to establishments producing only autogenous products. There were also objections to the proposed amendments of § 102.5 with respect to the establishment license number which must appear on a product license. Concern was also expressed that §§ 102.2 and 114.1, as proposed, do not accurately reflect the requirements of the Act with regard to which products are subject to its provisions and which establishments are required to be licensed.

Those concerned with granting a license to prepare only autogenous products commented about the Agency's ability to exercise sufficient supervision of "autogenous only" licensees, and indicated that the regulations for the production of autogenous products were not restrictive enough (9 CFR 113.98).

In the joint explanatory statement of the conference committee regarding the amendment to the Virus-Serum-Toxin Act, it is stated that "the Conferees expect the Department of Agriculture to establish a program under which companies can be licensed as an establishment and to produce autogenous bacterins without the necessity of previously obtaining a license for some other product." Congress intended that the Department assist intrastate producers in making the transition to Federal licensing and to offer new firms ready opportunities for such licensing. In the absence of this amendment to the regulations, many existing intrastate producers of autogenous products could be forced out of business unless they become licensed to produce nonautogenous products. Further, it is the Agency's view that existing regulations for autogenous biologics, which have been used extensively, have provided adequate regulatory control over these products.

One comment suggested limiting the use of autogenous products in herds or flocks from which the isolates were drawn. The current standards do not automatically allow a product to be used in adjacent herds. Permission for such use must first be obtained from the Deputy Administrator. If it is found that additional restrictions are needed in this area, they will be imposed.

There was some confusion concerning the intent of the proposed amendment of § 102.5 regarding the establishment license number that is required to appear on the final product license. It was proposed that the regulations be amended by changing the requirement that the license number of the establishment at which the product is packaged and labeled and the establishment from which the product is released for marketing appear on the product license. Under this amendment to the regulations only the license number of the establishment from which the final product is released for marketing is required to appear on the product license. Prior to amending § 114.3 in 1984 (49 FR 45846), an establishment releasing a product for marketing was required to perform all the steps in the manufacture of the product, including packaging and labeling. Currently, more than one manufacturer can participate in the production of a biological product. A final product license is issued to the establishment releasing the product to market. The Department considers that it is adequate to require only the establishment number of the establishment releasing the product to market on a product license for a product being released for final use.

The two final comments concerned §§ 102.2 and 114.1, and how these sections reflect the scope of coverage under the amended Act. Amendments to § 102.2 were proposed to permit the issuance of establishment licenses to firms producing only autogenous biologics. The proviso regarding autogenous biologics in § 102.5 was deleted in the proposal. Commenters stated that § 114.1 should be reworded to reflect that all biologics are now subject to the Act, whether moved interstate, intrastate, or exported. However, § 114.1 requires that, with certain exceptions, all biological products falling within the jurisdiction of the Department under the Act, must be prepared in accordance with the regulations in Part 114. The Secretary of Agriculture is authorized to make and promulgate regulations "to carry out the Virus-Serum-Toxin Act" (21 U.S.C. 154). The Department has published additional proposed rulemakings to implement the requirements of the Act. The Agency believes this section as proposed is completely adequate. Accordingly, the opening sentence of § 114.1 shall remain as proposed.

One comment questioned whether the granting of conditional licenses would be to licensed establishments only, and whether conditional licenses would be subject to the criteria in § 102.5. Licenses are issued in accordance with § 102.2 which requires each establishment producing veterinary biological products to hold an unexpired, unsuspended, and unrevoked U.S. veterinary biological establishment license and product license. In the case of a first application for a product license, the licensee must also apply for and meet all the requirements for an establishment license. Upon satisfactory completion of all requirements, an establishment license and product license are issued simultaneously. The product license may be a regular product license, a conditional product license, or a license for an autogenous product, and as the commenter suggested, licensing and production of biologics under a conditional license is subject to all applicable regulations and standards including § 102.5. Therefore, proposed § 102.6 is modified to reflect this more clearly.

After consideration of all relevant matters, including the comments on the proposed rulemaking, and under the authority of the Virus-Serum-Toxin Act of March 4, 1913, as amended by the Food Security Act of 1985 (21 U.S.C. 151–159), the amendment of Parts 102 and 114, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as modified from the above notice, is adopted as follows:

List of Subjects in 9 CFR Parts 102 and 114

Animal biologics.

PART 102—LICENSES FOR BIOLOGICAL PRODUCTS

Accordingly, 9 CFR Part 102 is amended as follows:

1. The authority citation for Part 102 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 102.2 is revised to read:

§ 102.2 Licenses required.

Every person who prepares biological products subject to the Virus-Serum-Toxin Act shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biologics Establishment License and at least one unexpired, unsuspended, and unrevoked U.S. Veterinary Biologial Product License issued by the Deputy Administrator to prepare a biological product.

3. Section 102.4(f) is revised to read:

§ 102.4 U.S. Veterinary Biologics Establishment License.

* * * * *

(f) When a licensee no longer holds an unexpired, unsuspended, or unrevoked product license authorizing the preparation of a biological product, the establishment license shall be submitted to the Deputy Administrator for termination.

* * * * *

4. Section 102.5 (b) and (e) are revised as follows:

§ 102.5 U.S. Veterinary Biological Product License.

* * * * *

(b) The following shall appear on the U.S. Veterinary Biological Product License:

(1) The U.S. Veterinary Biologics Establishment License Number for the establishment from which the product is released for marketing.

(2) The true name of the product.

(3) The product code number for the product.

(4) The date of issuance.

(5) Any restrictions designated by the Deputy Administrator under paragraph (e) of this section.

(6) When necessary to comply with § 102.6 of this part, a termination date and a brief description of requirements to be met for reissuance.

* * * * *

(e) Where the Deputy Administrator determines that the protection of domestic animals or the public health, interest, or safety, or both, necessitates restrictions on the use of a product, the product shall be subject to such additional restrictions as are prescribed on the license. Such restrictions may include, but are not limited to, limits on distribution of the product or provisions that the biological product is restricted to use by veterinarians, or under the supervision of veterinarians, or both.

5. Section 102.6 is added as follows:

§ 102.6 Conditional licenses.

In order to meet an emergency condition, limited market, local situation, or other special circumstance, including production solely for intrastate use under a State-operated program, the Deputy Administrator may, in response to an application submitted as specified in § 102.3(b) of this part, issue a conditional U.S. Veterinary Biological Product License to an establishment under an expedited procedure which assures purity and safety, and a reasonable expectation of efficacy. Preparation of products under a conditional license shall be in compliance with all applicable regulations and standards and may be restricted as follows:

(a) The preparation may be limited to a predetermined time period which shall be established at the time of issuance and specified on the license. Prior to termination of the license, the licensee may request reissuance. Such requests shall be substantiated with data and information obtained since the license was issued. After considering all data and information available, the Deputy Administrator shall either reissue the U.S. Veterinary Biological Product License or allow it to terminate.

(b) Distribution may be limited to the extent necessary to assure that the product will meet the basic criteria for issuance of the conditional license.

(c) Labeling for the product may be required to contain information on the conditional status of the license.

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

Accordingly, 9 CFR Part 114 is amended as follows:

1. The authority citation for Part 114 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 114.1 is revised to read:

§ 114.1 Applicability.

Unless exempted by regulation or otherwise authorized by the Deputy Administrator, all biological products prepared, sold, bartered or exchanged, shipped or delivered for shipment in or from the United States, the District of Columbia, any Territory of the United States, or any place under the jurisdiction of the United States shall be prepared in accordance with the regulations in this part. The licensee or permittee shall adopt and enforce all necessary measures and shall comply with all directions the Deputy Administrator prescribes for carrying out such regulations.

Done in Washington, DC, this 2nd day of April, 1987.

J. K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87–7677 Filed 4–6–87; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 0

Restriction Against Ownership of Certain Security Interests by Commissioners, Certain Staff Members, and Other Related Personnel; Vested Pension Interests

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations governing the ownership by NRC employees of stocks, bonds, and other security interests in companies engaged in activities relating to the nuclear fuel cycle so that only the major companies engaged in nuclear fuel cycle activities would be placed on the agency's prohibited stock list. The Commission also is amending its regulations to address the treatment of vested pension interests held by NRC employees.

EFFECTIVE DATE: April 7, 1987.

FOR FURTHER INFORMATION CONTACT: Paul Bollwerk, Senior Attorney, Office of the General Counsel, U.S Nuclear Regulatory Commission, Washington, DC 20555, telephone (202) 634–3224.

SUPPLEMENTARY INFORMATION: In July 1979 (44 FR 41422), the NRC promulgated regulations that barred most NRC employees from owning stocks, bonds, or other security interests in "companies licensed by the Commission to mill, convert, enrich, fabricate, store, or dispose of source of special nuclear material, or applicants for such licenses." 10 CFR 0.735–29(b)(1)(v). Subsequently, as a result of corporate mergers, several large corporations with minimal financial interests in the commercial nuclear industry fell within the purview of the regulation. Some

agency employees were required to divest themselves of these securities because the existing regulations required designation of the companies without regard to whether the corporation derived significant gross revenues or a significant percentage of its revenues from these fuel cycle activities.

Based upon its experience with the regulation, the Commission has determined that the scope of the regulation is too broad and that it should be narrowed so that only the major companies engaged in nuclear fuel cycle activities should be placed on the agency's prohibited stock list. Accordingly, the Commission is revising its regulations to narrow the scope of the fuel cycle security prohibition.

Under the revised regulation, the Commission's Executive Director for Operations (EDO), after consultation with the Office of the General Counsel, will designate the major fuel cycle applicants and licensees whose security interests are subject to the agency's stock ownership restrictions and thus may not be owned by NRC employees. Because there is a dearth of publicly available information regarding how much income a given company derives from NRC-licensed fuel cycle activities and what percentage of the company's total income fuel cycle activities account for, the EDO's determination regarding what companies are to be included within the stock ownership prohibition necessarily must be subjective. However, the Commission expects that those companies with large income from fuel cycle activities or those companies whose fuel cycle activities constitute a significant portion of corporate business will be included within the proscription by the EDO.

The Commission is also amending its regulations to provide explicitly that no employee is to provide advice to the NRC on matters affecting a company in which he or she has a vested pension interest from prior employment, unless an exemption has been granted permitting the employee to work on such matters. Exemptions are granted by the employee's office director only after a determination has been made by the Office of General Counsel, after a review of the pension plan, that as an NRC employee the individual cannot influence, in any fashion, the amount received from the pension. This rule codifies existing agency practice.

Because these are amendments dealing with agency organization, practice, and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). The amendments are effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing with a matter of agency, conduct, employee ownership of certain security interests.

Environmental Impact: Categorical Exclusion

The action required under this final rule is administrative and would not impact the environment. The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

Regulatory Analysis

Under existing Commission regulations, certain specified NRC employees are prohibited from owning security interests in firms having substantial interests in the commercial nuclear field, including the owner/operators of nuclear fuel cycle facilities. The present regulation includes all fuel cycle facility owner/operators without regard to whether the facility provides substantial gross revenues to the company or a substantial percentage of the company's gross revenues. The all-inclusive nature of this regulation has caused substantial hardship to some NRC employees. The increased number of corporate mergers has resulted in, and may continue to result in, large conglomerates acquiring companies that own and operate fuel cycle facilities. This, in turn, has required that NRC employees divest themselves of the parent conglomerate's securities. The alternative adopted in this rule, which will require designation only for companies that derive substantial gross revenues from fuel cycle activities or a substantial percentage of gross revenues from such activities, will minimize the likelihood of further forced divestitures caused by mergers while at the same time preserving the regulatory policy underlying the prohibited securities restriction. It thus is the preferred alternative and the cost entailed in its promulgation and application is necessary and appropriate.

As to that portion of the final rule relating to vested pension interests, this change is designed to codify existing agency practice in relation to its consideration of such interests. Although such codification is not legally required, in this instance the Commission believes it is the preferred alternative.

Backfit Analysis

This final rule does not modify or add to systems, structures, components, or design of a facility; the design approval or manufacturing license for a facility; or the procedures or organization required to design, construct, or operate a facility. Accordingly, no backfit analysis pursuant to 10 CFR 50.109(c) is required for this final rule.

List of Subjects in 10 CFR Part 0

Conflict of interest, Penalty.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, E.O. 11222 of May 8, 1965, 5 CFR 735.104, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 0.

Part 0—Conduct of Employees

1. The authority citation for Part 0 is revised to read as follows:

Authority: Secs. 25, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2035, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 11222, 30 FR 6469, 3 CFR 1964–1965 COMP., p. 306; 5 CFR 735.104.

Sections 0.735–21 and 0.735–29 also issued under 5 U.S.C. 552, 553. Section 0.735–26 also issued under secs. 501, 502, Pub. L. 95–521, 92 Stat. 1864, 1867, as amended by secs. 1, 2, Pub. L. 96–28, 93 Stat. 76, 77 (18 U.S.C. 207).

2. In § 0.735–21, paragraph (b)(1) is revised and new paragraph (e) is added to read as follows:

§ 0.735–21 Acts affecting a personal financial interest (based on 18 U.S.C. 208)

* * * * *

(b) *Granting of ad hoc exemptions.* (1) If an employee desires to request an exemption from the prohibitions of paragraphs (a) and (e) of this section, he shall fully inform the head of his division or office, as appropriate, in writing of the nature and circumstances of the particular matter and of the financial interests involved and shall request a written determination in advance as to the propriety of his participation in such matter.

* * * * *

(e) *Vested pension interests.* Except as permitted by paragraph (b) of this section, no employee shall participate

personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter affecting the financial interest of a company in which the employee holds a vested pension interest. The head of the employee's division or office is not to grant an exemption pursuant to paragraph (b) unless the Office of the General Counsel has reviewed the pension plan and made a determination that the pension interest is not so substantial as to be deemed likely to affect the integrity of the employee's services to the government, in that as an NRC employee the individual cannot in any fashion influence the amount of the pension.

3. In §0.735–29, paragraph (b)(1)(v) is revised to read as follows:

§ 0.735–29 Restriction against ownership of certain security interests by Commissioners, certain staff members and other related personnel.

* * * * *

(b) * * *

(1) * * *

(v) Companies licensed by the Commission to mill, convert, enrich, fabricate, store, or dispose of source or special nuclear material, or applicants for such licenses, that are designated by the Executive Director for Operations, after consultation with the Office of the General Counsel, because they are or will be substantially engaged in such nuclear fuel cycle or disposal activities.

* * * * *

Dated at Washington, DC, this 2d day of April, 1987.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 87–7687 Filed 4–6–87; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85–AWP–9]

Alteration of the Honolulu, HI, Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Honolulu, HI, Terminal Control Area (TCA) to eliminate portions of the existing TCA where it has been determined that traffic conditions have become less complex; and to expand areas of the existing TCA where the potential for midair collision has increased. This action will result in a more efficient use of airspace in the vicinity of the Honolulu, HI, International Airport.

EFFECTIVE DATE: 0901 U.T.C., June 4, 1987.

FOR FURTHER INFORMATION CONTACT: Bob Laser, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

History

On December 9, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify the Honolulu TCA (50 FR 50174). A new very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) has been installed on the Honolulu, HI, Airport approximately 5 miles east of the previous VORTAC's location. In anticipation of the commissioning of the new VORTAC, a review of the Honolulu TCA was conducted to determine whether its volume of airspace could be reduced in size, whether its description and chart depiction could be made less complex, and whether air traffic conditions in the airspace of the TCA continued to be complex. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Additionally, an informal airspace meeting was held on January 22, 1986, in Honolulu, HI, at which participants were invited to express their views and make comments. The following is the FAA's analysis of the substantive comments received:

Discussion of Comments

Several commenters expressed general support for the proposed reduced lateral limits and the proposed lowered ceiling of the TCA. However, an aviation organization representative, while concurring in general with the proposal, objected to the aspect of the proposal which would lower the TCA ceiling from 9,000 feet MSL to 7,000 feet MSL. The commenter stated that such an action would degrade air safety by increasing the collision potential due to a perceived resulting increase in the mix of uncontrolled visual flight rules (VFR) operations and controlled instrument flight rules (IFR) operations. An airline representative also expressed similar concerns.

Actual observations of the traffic within 40 miles of the Honolulu Airport revealed that the majority of operations at and above 7,000 feet MSL are conducted under IFR. However, the FAA has determined that the "mix" of uncontrolled and controlled traffic could increase relative to the present nonexistant "mix". Further, the increase could be significant if the presently controlled VFR flights that operate between 7,000 and 9,000 feet (in the present TCA), were to choose to operate as uncontrolled flights in that same airspace (with the TCA ceiling lowered to 7,000 feet MSL). Accordingly, the FAA is not adopting the lowered TCA ceiling proposed in the notice.

One commenter objected to the proposed northward expansion of Area H. This expansion, the commenter said, would affect the airspace over the Kahe Power Plant where pilots practice stalls and other maneuvers. The commenter stated further that these pilots would prefer that the northern TCA boundary, west of Honolulu Airport, be aligned with the northern boundary of present Area H. Such a configuration, the commenter said, would make more airspace available for practice operations. Other commenters expressed the opinion that the proposed expansions of Areas H, I, and J would eliminate much of the VFR "east-west route system" used by aircraft avoiding the present TCA and force aircraft into turbulence which exists at altitudes beneath the proposed lowered floor. These commenters also stated that the proposed Area H would take away much of the offshore airspace in the vicinity of the Kahe Power Plant which is used as a flight manuever practice area.

One commenter expressed an opinion that the surface area underlying the proposed expansion of Area H is too densely populated and residences would be impacted by a lowered TCA floor (3,000 to 2,000 feet MSL). This commenter, as well as others, stated that the proposed northern expansions of Areas H, I, and J were only necessary because ATC was not controlling traffic on approach to Runways 8L and 8R with sufficient precision to confine that traffic in existing TCA airspace.

The density of a populated area has no bearing on the establishment of a TCA floor because the rules pertaining

to flight over congested areas prevail irrespective of any TCA floor. The lowered floor of a portion of Area G that would result from the proposed northward expansion of Area H was an attempt to reflect the existing flight paths of large turbine-powered aircraft. Further, all of the airspace encompassed by the proposed expansion of Areas I and J, and approximately one-half of the airspace encompassed by the proposed expansion of Area H is within the NAS Barbers Point (NAX) airport traffic area (ATA). Therefore, regardless of the existence of the TCA, aircraft conducting operations within that airspace would be required to comply with the communications and ATC authorization requirements of § 91.85 and § 91.87. For example, east-west traffic operating below 3,000 feet AGL, operations conducted immediately adjacent to present Areas H, I, or J, as well as any practice operations conducted directly over Kahe Power Plant would have had to been authorized by ATC—the control tower at NAS Barbers Point or Honolulu Airport.

However, in regard to the airspace north of the Runway 8 final approach course which would have been encompassed by the proposed expansion to Areas H, I, and J, the FAA has reviewed the germane flight profiles in consideration of the comments received. The FAA has determined that the northern boundary of Area H can be established along the 269° magnetic radial making it significantly south of the proposed, as well as existing boundary. Also, the northern boundaries of Areas I and J can remain as they presently are and still provide sufficient airspace to contain departing and arriving large turbine-powered aircraft. Accordingly, much of the new impact that would have been created by the proposed expansion of these areas would be eliminated. The final rule contained herein reflects these boundary adjustments.

Two commenters stated that the proposed lowered floors along the proposed northern TCA boundary east of the airport (represented by the proposed northern boundaries of Areas B and C) would cause aircraft operating under VFR to be forced to fly in areas of higher terrain or at lower altitudes and generate noise problems. Another commenter expressed concerns that climbing eastbound aircraft exiting the TCA between 1,500 and 4,000 feet MSL would conflict with westbound traffic operating beneath the TCA, under proposed Area C, and in the same altitude range. This commenter recommended the FAA allay these concerns by effectively adopting the existing boundary along Highway H–1 to Koko Head thence via the Koko Head 093° magnetic radial to the proposed 20-mile outer perimeter. Also, the commenter would have the FAA establish the floor of Area C at the same altitude as Area B (1,500 feet MSL) and, if necessary install necessary ground radio facilities in the Koko Head area to facilitate better radio coverage and air traffic control (ATC) services to aircraft operating under VFR.

In regard to the airspace comprising proposed Area B, the FAA has reviewed the proposal in conjunction with large turbine-powered operations and the pertinent comments received. It has been determined that the alignment of the present TCA along Highway H–1 east of the airport creates a situation whereby uncontrolled aircraft use Highway H–1 for navigation guidance to remain outside of the TCA. In many instances, such navigation has resulted in unauthorized TCA entries. Under the ANPRM, the FAA sought to include Highway H–1 within the TCA thereby eliminating it as a potential cause for navigational error. After further consideration, the FAA believes that potential navigational errors can also be reconciled by establishing the TCA lateral boundary south of Highway H–1. Accordingly, the northern boundary of the TCA east of the airport between the 4- and 12-nautical-mile arcs is herein established along the 095° magnetic radial. This action effectively nonadopts Area B as proposed in the notice.

In regard to the suggestion that Area C be lowered to encompass aircraft operations that are normally conducted under VFR, the FAA believes that such an action would not be in keeping with the purposes of a TCA—containment of large turbine-powered aircraft operations. Further, traffic advisory service is available, on a workload and radio/radar coverage permitting basis in the airspace beneath the proposed Area C. Currently, there are no plans to provide additional radio/radar coverage in the airspace below the proposed Area C as air traffic conditions there do not justify the expenditure of resources to acquire such coverage.

While the floor of Area C, as proposed in the notice, would effectively be established 1,000 feet lower than the existing floor (5,000 to 4,000 feet), other portions of proposed Area C would be raised by as much as 3,000 feet (1,000 to 4,000 feet and 2,000 to 4,000 feet). Additionally, the local air traffic facility management has determined that VFR operations, in the vicinity of the airspace encompassed by proposed Area C, are normally conducted at altitudes below the proposed Area C floor (1,500 to 3,500 feet MSL). The FAA, after consideration of the comments, remains convinced that the floor of Area C be established at 4,000 feet MSL. However, Area C as proposed in the notice can be reduced in size by establishing its western boundary at the 12- rather than 10-nautical-mile arc.

Two commenters stated that the proposed Areas A and K were not needed, especially since, in their opinion, aircraft were being controlled satisfactorily in the exiting airspace of the TCA. Another commenter stated that aircraft on approach to Runways 26R, 22L, and 22R should be instructed to tighten turns so as to remain within the airspace of the existing TCA and, therefore, that any expansion of the TCA surface area beyond Highway H–1 would be unnecessary.

A commenter stated that Area K is unnecessary as it would prevent aircraft that have experienced radio failure from getting close enough to the airport to be seen and receive light gun signals from the tower. This commenter also expressed concern for the impact that the proposed Area K would have on the airport at Ford Island. Stating that the range of altitudes (surface to 7,000 feet MSL) for the proposed northeastwardly expansion of Area A is unnecessary, this commenter suggested instead that the altitude range be established as the surface to 2,500 feet MSL.

While aircraft may be satisfactorily controlled by ATC in the Honolulu area, the fact remains that large turbine-powered tactical aircraft routinely require ATC authorization to deviate from the regulatory requirement to operate at or above the floor of a TCA, when conducting certain tactical approaches to the Honolulu Airport. Such routine occurrences are inconsistent with the FAA's responsibility to provide sufficient TCA airspace to accommodate a pilot's responsibility to comply with the regulations. Additionally, there is an increased midair collision potential between large turbine-powered tactical aircraft exiting the present TCA at relatively low altitudes, and uncontrolled aircraft operating under VFR along the existing northern perimeter of the TCA.

The recommended traffic pattern altitude at Ford Island Airport, as published in the Pacific Chart Supplement, is 600 feet mean sea level (MSL). This altitude is 900 feet below the proposed floor of Area K and the FAA considers this as sufficient

airspace to facilitate aircraft entering and exiting the Ford traffic pattern. The existence or absence of Area K would make no difference for IFR aircraft that are destined to Honolulu Airport which have experienced two-way radio failure. These aircraft would still be required to comply with § 91.127 just as they are required to do so under the present TCA configuration. The proposed establishment of Area K with a 1,500-foot floor should only minimally affect VFR aircraft in similar situations. This is because VFR aircraft could still approach the boundary of Area A just as they are able to do under the existing TCA configuration except that such an approach would have to be conducted in the airspace below Area K; i.e., below 1,500 feet MSL. Regardless, the FAA believes that a VFR aircraft that has experienced two-way radio communications failure would be more visible to the tower controller at altitudes at or near the traffic pattern altitude. Accordingly, Area K, as proposed in the notice, is adopted except that it is entitled Area B in this final rule.

Some commenters objected to the loss of certain existing TCA boundaries that coincide with visual ground references.

The FAA strives to the maximum extent possible to align TCA boundaries with easily identifiable ground landmarks. However, the purpose of a TCA, and thus its boundary, is to effectively contain large turbine-powered aircraft operations approaching and departing the primary airport within the TCA. It was for this reason that the FAA proposed to modify segments of the TCA's northern boundary. Furthermore, alignment of the TCA along Highway H-1, a boundary line within the Honolulu ATA, tends to induce an impression that flight along that boundary and through the ATA can be made without obtaining authorization from ATC. Additionally, the FAA believes that if a pilot prefers to use visual references instead of the VORTAC radials which have been adopted to define some of the TCA boundaries, then there are sufficient ground references in proximity to the northern boundary of the TCA to exercise that preference.

One commenter stated that the establishment of the floor of Area D at 1,000 feet MSL was unnecessary. This commenter was of the opinion that the occasional exiting and reentering of the TCA by heavy aircraft would be corrected by the adoption of proposed 5- and 10-nautical-mile arcs as southern boundaries of Areas A and D.

The FAA has reviewed the proposal in regard to the need to establish the floor of the TCA south and east of the airport at 1,000 feet MSL and has determined that changes can be made to reduce the impact of the revised Honolulu TCA. By redefining Area D as that airspace between the 5- and 15-nautical mile arcs between the 095° and the 135° radials, any new impact is effectively eliminated. Likewise, Area E is redefined as the airspace between the 5- and 15-nautical-mile arcs from the 135° radial eastward to the 228° radial, with a floor of 1,500 feet MSL. This action also effectively eliminates any impact that would have resulted by adopting Area E as proposed in the notice. Section 71.401(b) of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

Regulatory Evaluation Summary

The full regulatory evaluation has been placed in the docket and it contains more detailed information related to the costs and benefits that are expected to accrue from the implementation of this rule.

Benefit-Cost Analysis

The regulatory evaluation prepared for this final rule examines the benefit and cost aspects to amend Part 71 (Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points) of the Federal Aviation Regulations. The objective of this rule is to modify the Honolulu, HI, TCA by taking the following actions:

(1) Describing the TCA based on the relocated Honolulu, HI, VORTAC;

(2) Decreasing the lateral limits of the Honolulu TCA southern, southeastern, and southwestern perimeters by approximately 12 miles;

(3) Adjusting the northern lateral limit of the TCA slightly northward in the area west of the airport, and slightly southward in portions of the TCA east of the airport;

(4) Adjusting the floors of certain TCA segments upward and others downward to reflect the current traffic flows.

This final rule was prompted by information discovered in a review of the existing TCA configuration. The review revealed a lessening in complexity of air traffic conditions in certain areas and an increasing midair collision potential in other areas. The adoption of this final rule will result in a more efficient use of airspace in the vicinity of the Honolulu, HI, International Airport.

Benefits

This final rule is expected to generate benefits in the form of enhanced safety. Such safety, for instance, will take the form of lowered midair collision potential.

Since those minor description changes in Areas D, E, F, G, I, and J, are not expected to impose additional cost on general aviation (GA) aircraft operators, only those areas for expansion will be discussed in the evaluation. Expansion of the floors and ceilings in the Honolulu, HI, TCA will restrict the airspace to controlled operations in Areas A, B, C, and H and result in a lowered likelihood for fatalities and property damage (namely, aircraft). Due primarily to the proactive nature of this final rule, these safety benefits are extremely difficult, if not impossible, to quantify in monetary terms. The proactive nature of this rule concerns itself with averting a safety problem by taking corrective action towards its symptom. In this case, for example, the symptom is increased complexity primarily near the floors of Areas B, C, and H. In Areas A and B, however, there is also increased complexity near the ceilings. As the result of this increased complexity, the TCA airspace floors will be reduced and the ceilings increased in the aforementioned areas. This action will reduce the likelihood for midair collisions by expanding the TCA airspace. Previous actions such as these have been successful in lowering the likelihood of midair collisions by correcting safety problem symptoms. Thus, such proactive efforts have not afforded sufficient opportunity to quantify potential benefits. Without documented evidence of midair collisions in Hawaii, the probability of their occurrence cannot be determined with a very high degree of certainty. Despite this situation the FAA has managed to derive "best guess" estimates of potential benefits based on potential midair collision data. As a result of such data, the FAA estimates that over the next 10 years there will be an increasing probability of a midair collision taking place near the existing Honolulu TCA, which could result in either a serious injury or fatality. Thus, in monetary terms, this equates to a potential range of benefits between $8,400 and $162,000 (1985 dollars) annually.

Costs

FAA estimates that the total cost of compliance associated with implementation of this final rule will range between $0 and $3,700 (1985 dollars) annually. This assessment is based in part on information received from personnel at FAA's Air Traffic Control Tower in Honolulu, HI, coupled with the analyst's best judgment.

According to ATC facility personnel contacted, the description changes in Areas A, B, C, and H of this final rule is expected to not have much cost impact, if any, on VFR operators and no cost impact on IFR operators because virtually all of GA aircraft in Hawaii sooner or later enter the Honolulu TCA. (This TCA represents the hub of air traffic activity in Hawaii, especially for GA aircraft.) As a result of this situation, it is plausible to assume that such GA aircraft already have the required avionics for operation in the TCA. This point is reinforced in a report published by the FAA entitled, "General Aviation Activity and Avionics Survey (1985)." This report reveals that approximately 81 percent of GA aircraft in Hawaii have transponders (4096 code) and about 96 percent of such aircraft have either 360-channel or 720-channel very high frequency (VHF) two-way communications equipment. In addition, about 84 percent of these aircraft have VOR equipment. (All of this equipment meet the requirements for entrance into the Honolulu TCA.)

The estimated 93 active single-engine (piston) GA aircraft (1–3 seats), without transponders, engaged in VFR activity in Hawaii are expected to either enter, fly under, or circumnavigate Areas A, B, C, and H of the TCA. In instances where there will be no entrance into the TCA, some of these aircraft operators will incur small increases in operation costs per round trip. These cost increases will be small because VFR aircraft operators will not be required to deviate significantly from their current flying practices. If GA aircraft operators without transponders enter the TCA, under an ATC exception (which assumes they will have adequate two-way VHF communications and VOR equipment), no additional costs will be incurred. The extent to which, and the number of, aircraft operators who will elect to exercise this exception is unknown. Therefore, a cost range is employed in the evaluation. On balance, the FAA estimates that this final rule will be cost beneficial.

Regulatory Flexibility Determination

The FAA has determined that under the criteria of the Regulatory Flexibility Act of 1980, the final rule to modify the Honolulu, HI, TCA, evaluated in this report, will not have a significant economic impact on a substantial number of small entities. Practically all of the entities potentially impacted by the final rule will represent operators of unscheduled aircraft for hire, which consist mostly of air taxi operators, who do not have the required avionics. This assessment is based on an FAA report of GA avionics equipment, which reveals that about 98 percent of all air taxis use either 360-channel or 720-channel VHF two-way communications equipment, about 93 percent use VOR equipment, and approximately 89 percent of such unscheduled operators for hire use transponders (4096 code). Given the relatively isolated area of Hawaii, FAA assumes that unscheduled aircraft operators in this state are more likely to have the required avionics than those operators on the mainland. In order for a small entity to incur significant economic impact from this final rule it will have to by-pass Areas A and B of the TCA while in the process of making more than 50 round trips per year. These numbers of trips are considered to be unrealistic and not expected to materialize. Besides, no more than 11 percent of the air taxis in Hawaii are without transponders; therefore, the substantial number criterion for small entities could never be achieved. That is, the number of small entities that will incur significant economic cost will never exceed one-third of the small entities subject to the final rule. In any event, those small entities without transponders could always request an ATC exception to enter the TCA. It is for these reasons that this final rule is not expected to have a significant economic impact on a substantial number of small entities.

Trade Impact Statement

This final rule is expected to have no impact on the trade opportunities for the United States firms doing business overseas or for foreign firms doing business in the United States. The rule will only affect those aircraft that enter the Honolulu TCA without the required avionics. All foreign aircraft that enter the United States airspace in Hawaii are assumed to have all of the required avionics because of the great distance traveled over the ocean.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations: (1) Describes the Honolulu, HI, TCA using the relocated Honolulu, HI, VORTAC; (2) decreases the lateral limits of the Honolulu TCA southern, southeastern, and southwestern perimeters by approximately 12 miles; (3) adjusts the northern lateral limit of the TCA slightly northward in the area west of the airport, and slightly southward in portions of the TCA east of the airport; and (4) adjusts the floors of certain TCA segments upward and others downward to reflect the current traffic flows. These actions are being taken: to eliminate portions of the existing TCA where an evaluation revealed a lessening in complexity of air traffic conditions; and to expand areas of the existing TCA where the evaluation revealed an increasing midair collision potential. The overall result of this action is a reduction in the amount of TCA airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

Adoption of the Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.401 [Amended]

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

Honolulu, HI [Revised]

Area A. That airspace extending upward from the surface to and including 9,000 feet MSL within an area bounded by a line beginning at a point 4 miles north of the Honolulu VORTAC (lat. 21°18'41" N., long. 157°55'59" W.) on the Honolulu VORTAC 001° radial, then clockwise along a 4-mile radius arc of the Honolulu VORTAC to the Honolulu VORTAC 106° radial, then east on the Honolulu VORTAC 106° radial to 5 miles, then clockwise along a 5-mile radius arc of the Honolulu VORTAC to the Honolulu VORTAC 270° radial, then west on the Honolulu VORTAC 270° radial to 5.6 miles, then clockwise along a 5.6-mile radius arc of the Honolulu VORTAC to a point 0.5 miles north of the ILS Runway 8L localizer course, then east along a line 0.5 miles north of and parallel to the ILS Runway 8L localizer course to the Honolulu VORTAC 001° radial, then north on the Honolulu VORTAC 001° radial to the point of beginning.

Area B. That airspace extending upward from 1,500 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at a point 4 miles north of the Honolulu VORTAC on the Honolulu VORTAC 001° radial, then counterclockwise along a 4-mile radius arc of the Honolulu VORTAC to a point 0.5 miles north of the ILS Runway 8L localizer course, then east along a

line 0.5 miles north of and parallel to the ILS Runway 8L localizer course to the Honolulu VORTAC 001° radial, then north on the Honolulu VORTAC 001° radial, to the point of beginning.

Area C. That airspace extending upward from 4,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at a point 12 miles east of the Honolulu VORTAC on the Honolulu VORTAC 091° radial, then east on the Honolulu VORTAC 091° radial to 20 miles, then clockwise along a 20-mile radius arc of the Honolulu VORTAC to the Honolulu VORTAC 106° radial, then west on the Honolulu VORTAC 106° radial to 12 miles, then counterclockwise along a 12-mile radius arc of the Honolulu VORTAC to the point of beginning.

Area D. That airspace extending upward from 1,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at a point 5 miles east southeast of the Honolulu VORTAC on the Honolulu VORTAC 106° radial, then east southeast on the Honolulu VORTAC 106° radial to 15 miles, then clockwise along a 15-mile radius arc of the Honolulu VORTAC to the Honolulu VORTAC 146° radial, then northeast on the Honolulu VORTAC 146° radial to 5 miles, then counterclockwise along a 5-mile radius arc of the Honolulu VORTAC to the point of beginning.

Area E. That airspace extending upward from 1,500 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at a point 5 miles east southeast of the Honolulu VORTAC on the Honolulu VORTAC 146° radial, then southeast on the Honolulu VORTAC 146° radial to 15 miles, then clockwise along a 15-mile radius arc of the Honolulu VORTAC to the Honolulu VORTAC 239° radial, then northeast on the Honolulu VORTAC 239° radial to 5 miles, then counterclockwise along a 5-mile radius arc of the Honolulu VORTAC to the point of beginning.

Area F. That airspace extending upward from 2,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at a point 15 miles east southeast of the Honolulu VORTAC on the Honolulu VORTAC 106° radial, then east southeast on the Honolulu VORTAC 106° radial to 20 miles, then clockwise along a 20-mile radius arc of the Honolulu VORTAC to the Honolulu VORTAC 239° radial, then northeast on the Honolulu VORTAC 239° radial to 15 miles, then counterclockwise along a 15-mile radius arc of the Honolulu VORTAC to the point of beginning.

Area G. That airspace extending upward from 3,000 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at a point 5 miles southwest of the Honolulu VORTAC on the Honolulu VORTAC 239° radial, then southwest on the Honolulu VORTAC 239° radial to 20 miles, then clockwise along a 20-mile radius arc of the Honolulu VORTAC to the Honolulu VORTAC 280° radial, then east southeast on the Honolulu VORTAC 280° radial to 15 miles, then counterclockwise along a 15-mile radius arc of the Honolulu VORTAC to the Honolulu VORTAC 270° radial, then east on the Honolulu VORTAC 270° radial to 5 miles, then counterclockwise along a 5-mile radius arc of the Honolulu VORTAC to the point of beginning.

Area H. That airspace extending upward from 2,200 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at a point 7.7 miles west of the Honolulu VORTAC on the Honolulu VORTAC 270° radial, then west on the Honolulu VORTAC 270° radial to 15 miles, then clockwise along a 15-mile arc to the Honolulu VORTAC 280° radial, then east southeast on the Honolulu VORTAC 280° radial to 7.7 miles, then counterclockwise along a 7.7-mile radius arc of the Honolulu VORTAC to the point of beginning.

Area I. That airspace extending upward from 1,900 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at a point 6.7 miles west of the Honolulu VORTAC on the Honolulu VORTAC 270° radial, then west on the Honolulu VORTAC 270° radial to 7.7 miles, then clockwise along a 7.7-mile radius arc of the Honolulu VORTAC to a point 0.5 miles north of the ILS Runway 8L localizer course, then east along a line 0.5 miles north of and parallel to the ILS Runway 8L localizer course to 6.7 miles, then counterclockwise along a 6.7-mile radius arc of the Honolulu VORTAC to the point of beginning.

Area J. That airspace extending upward from 1,600 feet MSL to and including 9,000 feet MSL within an area bounded by a line beginning at a point 5.6 miles west of the Honolulu VORTAC on the Honolulu VORTAC 270° radial, then west on the Honolulu VORTAC 270° radial to 6.7 miles, then clockwise along a 6.7-mile radius arc of the Honolulu VORTAC to a point 0.5 miles north of the ILS Runway 8L localizer course, then east along a line 0.5 miles north of and parallel to the ILS Runway 8L localizer course to 5.6 miles, then counterclockwise along a 5.6-mile arc of the Honolulu VORTAC to the point of beginning.

Issued in Washington, DC, on March 31, 1987.

Harold H. Downey,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87-7603 Filed 4-6-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ACE-2]

Establishment of VOR Federal Airways V-580 and V-582; Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes new Federal Airways V-580 between St. Louis, MO, and Burlington, IA, and V-582 between St. Louis and Quincy, IL. These new airways are designed to enhance and improve traffic flow in the St. Louis terminal area. This action reduces delays and controller workload.

EFFECTIVE DATE: 0901 U.T.C., June 4, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9231.

SUPPLEMENTARY INFORMATION:

History

On September 24, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish new VOR Federal Airways V-580 and V-582 located in the St. Louis, MO, area (51 FR 33903). The Kansas City Air Route Traffic Control Center has designed a plan to realign the traffic flow north of St. Louis to enhance and improve traffic flow in that area. Currently, extensive use of radar control is used to maneuver traffic, and these new airways provide designated airways along these radar tracks. This reduces controller workload and enhances traffic flow in the St. Louis terminal area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes new VOR Federal Airways V-580 between St. Louis, MO, and Burlington, IA, and V-582 between St. Louis and Quincy, IL. These new airways are designed to enhance and improve traffic flow in the St. Louis terminal area. This action reduces delays and controller workload.

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

is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-580 [New]

From St. Louis, MO, via INT St. Louis 353° and Burlington, IA, 166° radials; to Burlington.

V-582 [New]

From St. Louis, MO, via INT St. Louis 353° and Quincy, IL, 127° radials; to Quincy.

Issued in Washington, DC, on March 31, 1987.

Harold H. Downey,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87-7605 Filed 4-6-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ASO-25]

Alteration of VOR Federal Airways; Georgia and Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the descriptions of two Federal Airways in the states of Georgia and Alabama to correct a potentially confusing situation that exists with two unrelated segments.

EFFECTIVE DATE: 0901 U.T.C., June 4, 1987.

FOR FURTHER INFORMATION CONTACT: William Davis, Airspace and Air Traffic Rules Branch (ATO-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9249.

SUPPLEMENTARY INFORMATION:

History

On December 23, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the segment of V-311 that lies between La Grange, GA, and Wiregrass, AL, and extend V-168 from La Grange to Wiregrass along that segment of V-311 (51 FR 45911). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C, dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations eliminates a segment of VOR Federal Airway V-311 which lies between La Grange, GA, and Wiregrass, AL, and which is logically unrelated to other segments of that same airway. Low altitude navigation between these two points will now be accomplished via V-168 which is being extended from La Grange to Wiregrass.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-311 [Amended]

By removing the words "From Wiregrass, AL, via INT Wiregrass 002° and La Grange, GA, 191° radials; to La Grange."

V-168 [Revised]

From Vulcan, AL; La Grange, GA; INT La Grange 191° and Wiregrass, AL, 002° radials; to Wiregrass.

Issued in Washington, DC, on March 31, 1987.

Harold H. Downey,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87-7604 Filed 4-6-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 86-AWP-12]

Establishment of Restricted Area R-2312 Fort Huachuca, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These actions establish restricted airspace near Fort Huachuca, AZ, for the purpose of providing the U.S. Customs Service the ability to deploy a tethered aerostat borne radar system in the area. These actions provide the U.S. Customs Service with the capability to provide surveillance of a volume of airspace from ground level to an altitude of approximately 15,000 feet mean sea level (MSL) and detect low altitude suspect aircraft attempting to penetrate the airspace.

EFFECTIVE DATE: 0901 U.T.C., June 4, 1987.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

History

On January 23, 1987, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to establish a new Restricted Area R-2312 near Fort

Huachuca, AZ (52 FR 2545). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.51 and 73.23 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6C dated January 2, 1987.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations will establish a new Restricted Area R-2312 located near Fort Huachuca, AZ. These actions establish the necessary restricted airspace required by the U.S. Customs Service to deploy a tethered aerostat borne radar system with the capability to detect low altitude suspect aircraft attempting to penetrate the airspace.

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

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area and restricted areas.

Adoption of the Amendments

PARTS 71 AND 73—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.151 [Amended]

2. Section 71.151 is amended as follows:

R-2312 Fort Huachuca, AZ [New]

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

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

4. Section 73.23 is amended as follows:

§ 73.23 [Amended]

R-2312 Fort Huachuca, AZ [New]

Boundaries. A 2-mile radius circle centered at lat. 31°29'07" N., long. 110°17'45" W.

Designated altitudes. Surface to but not including 15,000 feet MSL.

Times of designation. Continuous.

Using agency. Department of Treasury, Washington, DC.

Issued in Washington, DC, on March 31, 1987.

Harold H. Downey,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87-7602 Filed 4-6-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 87-AGL-4]

Change Time of Designation for Restricted Areas R-3401A and R-3401B, Atterbury Reserve Forces Training Area, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action reduces the time of designation for Restricted Areas R-3401A and R-3401B, Atterbury Reserve Forces Training Area, IN, to more accurately reflect actual use and to return unused airspace for public access. An FAA review of the utilization reports for R-3401A and R-3401B indicated that the usage of the areas did not warrant retention of a "continuous" time of designation on a year-round basis. Consequently, the using agency has submitted revised times of designation based on current requirements for the airspace.

EFFECTIVE DATE: 0901 U.T.C., June 4, 1987.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9253.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations reduces the time of designation for Restricted Areas R-3401A and R-3401B, Atterbury Reserve Forces Training Area, IN, to more accurately reflect actual utilization. Because this action reduces the time of use and returns unused airspace for public access, I find that this is a minor technical amendment on which the public would not have a particular interest in commenting, and that notice and public procedure under 5 U.S.C. 553(b) are, therefore, unnecessary. Section 73.34 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

PART 73—[AMENDED]

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

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

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

§ 73.34 [Amended]

2. Section 73.34 is amended as follows:

R-3401A Atterbury Reserve Forces Training Area, IN [Amended]

By removing the present time of designation and substituting the following:

Time of designation. May 1 through September 30—Continuous; October 1 through April 30—0800-2300 local time, Tuesday through Saturday; other times by NOTAM.

R-3401B Atterbury Reserve Forces Training Area, IN [Amended]

By removing the present time of designation and substituting the following:

Time of designation. May 1 through September 30—Continuous; October 1 through April 30—0800–2300 local time, Tuesday through Saturday; other times by NOTAM.

Issued in Washington, DC, on March 31, 1987.

Harold H. Downey,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87–7601 Filed 4–6–87; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 16

[Docket No. RM87–7–000; Order No. 467]

Information to be Made Available by Hydroelectric Licensees Under Section 4(a) of the Electric Consumers Protection Act of 1986

Issued: March 30, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an interim rule to prescribe the information that an existing hydroelectric licensee must make available to the public upon notifying the Commission of the intention to file for a new license. The Commission is issuing this rule to implement section 4(a) of the Electric Consumers Protection Act of 1986.

DATES: This interim rule will become effective May 7, 1987. Comments must be in writing and received by the Secretary of the Commission prior to 4:30 p.m. E.D.T. on May 22, 1987. An original and fourteen copies should be filed.

ADDRESS: All filings should refer to Docket No. RM87–7–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Grace Kim, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–5768.

SUPPLEMENTARY INFORMATION:

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

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its regulations to implement section 4(a) of the Electric Consumers Protection Act of 1986 (ECPA),[1] which amended section 15 of the Federal Power Act (FPA).[2] These regulations require an existing licensee to make certain information regarding its licensed project reasonably available to the public for inspection and reproduction at reasonable cost. These regulations also prescribe the time by which an existing licensee must notify the Commission whether or not it intends to file an application for a new license, and the time by which an existing licensee or a competitor must file an application for a new license.

Congress required the Commission to issue a rule by April 14, 1987, regarding the information that an existing licensee must make reasonably available to the public for inspection and reproduction. Accordingly, the Commission is issuing this rule as an interim rule which will be effective 30 days after publication in the Federal Register.[3]

II. Background

On October 16, 1986, Congress enacted ECPA. To promote competition in the relicensing process, Congress amended section 15 of the FPA to establish new procedures, timetables, and standards for relicensing proceedings.

Section 4(a) of ECPA adds a new subsection (b) to section 15 of the FPA. Section 15(b)(1) of the FPA[4] requires an existing licensee to notify the Commission at least 5 years before the expiration of its license whether or not it intends to file an application for a new license.[5] Section 15(b)(3) of the FPA requires the Commission to provide public notice and notify fish and wildlife agencies of an existing licensee's intention to file or not to file an application for a new license[6]

Section 15(b)(2) of the FPA provides that, at the time an existing licensee notifies the Commission under section 15(b)(1) of the FPA, it must make reasonably available to the public for inspection at its offices current maps, drawings, data, and such other information as the Commission shall, by rule implemented within 180 days of ECPA's enactment, require regarding the construction and operation of the licensed project. That section provides that such information shall include, to the greatest extent practicable, pertinent energy conservation, recreation, fish and wildlife, and other environmental information. That section further provides that copies of the required information shall be made available by the existing license at reasonable reproduction costs.[7]

The provisions of section 15(b)(2) of the FPA were introduced in the House version of the bill.[8] There was no comparable Senate version. The House Committee Report incorporating these provisions[9] stated that the requirement for reimbursement of reproduction costs was not intended to apply to fish and wildlife agencies, and that the Commission must arrange for such agencies to promptly receive all necessary and pertinent information on a current and timely basis.

Section 4(a) of ECPA also adds a new subsection (c) to section 15 of the FPA. Section 15(c)(1) of the FPA requires an existing licensee or a competitor to file

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[1] Pub. L. No. 99–495.

[2] 16 U.S.C. 808.

[3] This interim rule implements only a portion of new relicensing requirements established under section 4(a) of ECPA. The Commission will address other provisions of section 4(a) of ECPA in a future rulemaking.

[4] Section 15(b)(1) of the FPA states: [e]ach existing licensee shall notify the Commission whether the licensee intends to file an application for a new license or not. Such notice shall be submitted at least 5 years before the expiration of the existing license.

[5] Prior to its amendment by ECPA, section 15 of the FPA did not specify any time period within which an existing licensee had to notify the Commission whether or not it intended to file an application for a new license. However, section 14(b) of the FPA provided that the Commission could entertain applications for a new license no earlier than 5 years before the expiration of the existing license. The Commission's current regulations require an existing licensee either to file an application for a new license or to file a statement of intention not to file an application for a new license no earlier than 5 years and no later than 3 years prior to the expiration of the existing license. *See* 18 CFR 16.3 (1986).

[6] Section 15(b)(3) of the FPA states: [p]romptly following receipt of notice under paragraph (1), the Commission shall provide public notice of whether an existing licensee intends to file or not to file an application for a new license. The Commission shall also promptly notify the National Marine Fisheries Service and the United States Fish and Wildlife Service, and the appropriate state fish and wildlife agencies.

[7] Section 15(b)(2) of the FPA states: [a]t the time notice is provided under paragraph (1), the existing licensee shall make each of the following reasonably available to the public for inspeciton at the offices of such licensee: current maps, drawings, data and other information as the Commission shall, by rule, require regarding the construction and operation of the licensed project. Such information shall include, to the greatest extent practicable pertinent energy conservation, recreation, fish and wildlife, and other environmental information. Copies of the information shall be made available at reasonable costs of reproduction. Within 180 days after the enactment of the Electric Consumers Protection Act of 1986, the Commission shall promulgate regulations regarding the information to be provided under this paragraph.

[8] H.R. 44, 99th Cong., 2nd Sess. (1986).

[9] H.R. Rep. No. 507, 99th Cong., 2nd Sess. at 35 (March 25, 1986).

an application for a new license with the Commission at least 24 months before the expiration of the existing license.[10] Section 15(c)(2) of the FPA [11] authorizes the Commission to adjust, by rule or order, the time periods specified in subsections (b) and (c) where existing licensees are unable to comply with a specified time period because of the expiration date of their licenses.[12]

III. Discussion

A. Notification of Intention to File an Application for a New License and Filing of an Application for a New License

The Commission's current regulations require an existing licensee to file an application for a new license or a statement of intention not to file an application for a new license no earlier than 5 years and no later than 3 years before the expiration of its license.[13] The Commission's current regulations allow a competitor to file an application for a new license within 5 years of expiration of the existing license; these regulations specify that the competitor may not file an application later than 6 months after the issuance of the public notice of the filing of an application or a statement by the existing licensee, or 2½ years before the expiration of the existing license, whichever is earlier.[14]

ECPA established new notification and filing requirements for relicensing. This interim rule amends the Commission's regulations to implement these new requirements.

The regulations implementing the new requirements track the terms of new sections 15(b)(1), 15(b)(3), and 15(c)(1) of the FPA. The Commission is requiring an existing licensee or a competitor to file an application for a new license no later than 2 years before the expiration of the existing license. The Commission is also requiring an existing licensee to notify the Commission whether it intends to file an application for a new license at least 5 years before the expiration of the existing license.[15] The existing licensee must provide such notification in a letter containing an unequivocal statement of the existing licensee's intention to file or not to file an application for a new license. After the Commission receives an existing licensee's notification letter, it will promptly provide public notice and notify the fish and wildlife agencies of the existing licensee's intention.

B. Information Requirements for Existing Licensees

Section 15(b)(2) of the FPA requires an existing licensee to make certain information regarding its licensed project reasonably available to the public for inspection and reproduction. The Commission believes that the requirements of section 15(b)(2) of the FPA are intended to facilitate public access to information relating to the current and past operation and construction of the existing licensee's project. The Commission does not believe that information on a licensee's future plans should be disclosed to the public before an application for a new license is filed. Disclosure of this proprietary information may unfairly disadvantage the existing licensee. Under this rule, therefore, an existing licensee must only make available to the public information pertaining to the existing project as licensed. The information made available by the existing licensee must reflect any license amendments that the Commission has issued for the project as well as any annual licenses issued for the project.

1. Information to be Made Available

The Commission believes that, with respect to project generation, operation and maintenance problems, and operation and maintenance costs, the public will only be interested in current data. To avoid placing any unnecessary burden upon existing licensees, the Commission is requiring the information for these items to cover only the last 5 years preceding the time that the information is required to be made available. For these items, therefore, an existing licensee is not required to make information from prior periods available to the public. However, the Commission encourages existing licensees to make information from prior periods reasonably available to those members of the public requesting such information. Moreover, in prescribing the information a licensee is required to make publicly available pursuant to section 4(a) of ECPA, the Commission is in no way rendering any judgment regarding the availability to the public of any other information regarding the availability to the public of any other information regarding the licensed project or project licensee pursuant to a general information or discovery request.

Consistent with section 15(b)(2) of the FPA, the Commission considered both developmental and non-developmental criteria in determining which information an existing licensee must make available to the public. Developmental criteria are those relating to the construction and operation of the existing project, while non-developmental criteria are those relating to the existing project's impact on the environment. The Commission is therefore requiring existing licensees to make available to the public information regarding construction and operation, safety and structural adequacy, fish and wildlife resources, energy conservation, recreation and land use resources, and cultural resources.

The construction and operation category includes the following items:

(1) The original license application and the order issuing license for the existing project, including approved and as built Exhibit drawings, all orders issuing amendments to the license for the existing project, and all orders issuing annual licenses for the existing project;

(2) All data necessary to enable the public to verify that the project has been and is being operated in accordance with the requirements of each license article, including minimum flow requirements, maximum ramping rates, reservoir elevation limitations, and environmental monitoring;

(3) A compilation of project generation and respective outflow data

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[10] Section 15(c)(1) of the FPA states, in relevant part, that: [e]ach application for a new license pursuant to this section shall be filed with the Commission at least 24 months before the expiration of the term of the existing license.

[11] Section 15(c)(2) of the FPA states: [t]he time periods specified in this subsection and in subsection (b) shall be adjusted, in a manner that achieves the objectives of this section, by the Commission by rule or order with respect to existing licensees who, by reason of the expiration dates of their licenses, are unable to comply with a specified time period.

[12] Section 10 of ECPA identifies nine projects for which special procedures will apply during relicensing. Under this section, an existing licensee may, within 90 days after the enactment of ECPA, elect to negotiate with the competing applicant. If an existing licensee fails to make such an election within 90 days after ECPA's enactment, most of the amendments made by ECPA, including those amendments made by section 4 of ECPA, will not apply to the relicensing proceeding. Section 10(d) of ECPA provides that, if an existing licensee elects to negotiate within 90 days after ECPA's enactment, the competitor has 45 days after notice from the Commission of the existing licensee's election to negotiate to accept or refuse the election. If the competitor refuses the existing licensee's election to negotiate, all of the amendments made by ECPA to the FPA will apply to the relicensing proceeding. Thus, an existing licensee for a project identified in section 10 of ECPA will come under the provisions of sections 15 (b) and (c) of the FPA only if: (1) The existing licensee elects to negotiate within 90 days after the date of ECPA's enactment and; (2) the competitor, within 45 days of notice from the Commission of an existing licensee's election to negotiate, refuses such an election to negotiate.

[13] 18 CFR 16.3 (1986).

[14] *Id.*

[15] Pursuant to section 15(c)(2) of the FPA, the Commission is establishing special timetables for those existing licensees that may be unable to comply with this 5-year time period. *See* Part III.B.4., *infra*.

with time increments not to exceed one hour for the previous 5 years;

(4) All public correspondence relating to the existing project;

(5) All existing reports showing the total actual annual generation and annual operation and maintenance costs for the previous 5 years, original project costs, and current net investment;

(6) A current and complete electrical single-line diagram of the project showing the transfer of electricity from the project to the area utility system; and

(7) All bills issued to the existing licensee by the Commission for annual charges under section 10(e) of the FPA.

The safety and structural adequacy category includes the following items:

(1) The most recent emergency action plan for the project or a letter exempting the project from the emergency action plan requirement;

(2) All independent consultant's reports, if required by Part 12 of the Commission's regulations, filed subsequent to January of 1981;

(3) All existing reports on any operation or maintenance problems, other than routine maintenance, occurring within the last 5 years, and associated costs of such problems under the Commission's Uniform System of Accounts;

(4) The final construction report (or reports if construction occurred in more than one phase) for the existing project; and

(5) All public correspondence relating to the safety and structural adequacy of the existing project.

The fish and wildlife resources category includes the following items:

(1) All existing reports documenting impacts of the project's construction and operation on fish and wildlife resources;

(2) All existing reports documenting the presence or absence of any threatened or endangered species and critical habitat located in the project area, or impacted by the existing project;

(3) All fish and wildlife management plans prepared by the existing licensee or resource agency related to the project area; and

(4) All public correspondence relating to fish and wildlife resources within the project area.

The energy conservation category includes the following items:

(1) If the existing licensee is an electric utility, or a state or municipality that uses any of the power generated by the existing project itself, its plan to conserve electricity or encourage conservation by its customers; and

(2) All public correspondence concerning energy conservation measures related to the existing project.

The recreation and land use resources category includes the following items:

(1) All existing reports on past and current recreational uses of the project area;

(2) All existing maps which show recreational facilities and areas reserved for future development in the project area, designated or proposed wilderness areas in the project area, Land and Water Conservation Fund lands in the project area, and designated or proposed wild and scenic river corridors (state and federal) in the project area;

(3) Documentation showing the entity or entities responsible for operating and maintaining any existing recreational facilities in the project area; and

(4) All public correspondence relating to recreation and land use resources within the project area.

The cultural resources category includes the following items:

(1) All existing reports concerning documented archeological resources identified in the project area;

(2) All existing reports documenting historical and present utilization of the project area and surrounding areas by Native Americans; and

(3) All public correspondence relating to cultural resources within the project area.

2. Form and Availability of Required Information

Section 15(b)(2) of the EPA requires an existing licensee to make the required information reasonably available. The Commission is therefore requiring an existing licensee to make the required information available in a form that is readily accessible, reviewable, and reproducible. The Commission wishes to clarify, however, that an existing licensee is not required to conduct studies or otherwise produce new documents or data in compiling the required information.

The Commission recognizes that an existing licensee may not be able to make some of the required information available for reasons beyond its control. If an existing licensee cannot make certain required information available, it must file a statement of unavailability with the Commission explaining which items cannot be made available. Any member of the public that believes an existing licensee is not making required information reasonably available for public inspection or reproduction may file a petition with the Commission. The petition must set forth in detail the basis for the petitioner's belief that the existing licensee is not making required information reasonably available. The Commission will take appropriate action on the basis of the facts set forth in the petition, the existing licensee's statement of unavailability, and any response filed by the licensee to the petition.

3. Place of Availability, Hours of Availability, and Cost of Reproduction

Section 15(b)(2) of the FPA requires an existing licensee to make the required information available at its offices. Accordingly, the Commission is requiring an existing licensee to make the required information available to the public for inspection and reproduction at the licensee's principal place of business during regular business hours.

Section 15(b)(2) of the FPA requires an existing licensee to make the required information available at reasonable reproduction costs. The Commission recognizes that the term "reasonable" is a relative one and could be interpreted to mean different amounts. The Commission believes that a reasonable amount is no more than 10 cents per page. Therefore, the Commission is requiring an existing licensee to make available, upon request, a copy or copies of the required information at costs of reproduction not to exceed 10 cents per page. If a member of the public wishes to obtain a copy of the required information but is unable to travel to the existing licensee's principal place of business to obtain the requested copy, the existing licensee must mail the requested copy to that entity after obtaining, in advance, reimbursement for postage fees and reasonable costs of reproduction.

The House Committee Report states that "[t]he requirement for reimbursement of reproduction costs is not intended to apply to the fish and wildlife agencies because of their important statutory role under the Fish and Wildlife Coordination Act and the procedural requirements of this legislation." [16] Accordingly, the Commission is exempting the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the state agency responsible for fish and wildlife resources from the requirement of reimbursing the existing licensee for the costs of reproducing the required information. The existing licensee must promptly make requested copies available to those agencies without charge. The Commission is also exempting the United States Fish

[16] H.R. Rep. No. 99-507 99th Cong., 2nd Sess., at 35 (March 25, 1986).

Wildlife Service, the National Marine Fisheries Service, and the state agency responsible for fish and wildlife resources from the payment of postage costs. The Commission believes that since Congress exempted these agencies from the payment of reproduction costs, these agencies should also be exempt from postage costs for items requested by mail.

4. Time of Availability

Section 15(b)(2) of the FPA requires an existing licensee to make the required information available to the public at the same time that it notifies the Commission as required under section 15(b)(1) of the FPA. Section 15(b)(1) of the FPA requires an existing licensee to notify the Commission at least 5 years before the expiration of its license whether or not it intends to file an application for a new license. ECPA therefore establishes a minimum 5-year time period prior to the expiration of a license in which an existing licensee must notify the Commission of its intention to file an application for a new license and make information regarding its project available to the public for inspection and reproduction. The Commission recognizes that it will be difficult or impossible for existing licensees that have relied on the Commission's current notice and filing procedures [17] to comply with this 5-year time period. Section 15(c)(2) of the FPA authorizes the Commission to adjust the time periods specified in subsection (b) with respect to existing licensees that are unable to comply with a specified time period because of the expiration date of their licenses.

The Commission is therefore establishing the following timetables to accommodate those existing licensees with license expiration dates that make it difficult or impossible for them to comply with the 5-year time period established by section 4(a) of ECPA:

(1) an existing licensee of a project that is or will be involved in a relicensing proceeding, with a license that expires on or before October 15, 1991, must make the required information available no later than 60 days after the effective date of this rule, if the licensee filed an application or a statement under the Commission's current regulations [18] before October 16, 1986, or must notify the Commission and make the required information available no later than 90 days after the effective date of this rule, if the licensee did not file an application or a statement under the Commission's current regulations before October 16, 1986 [19];

(2) An existing licensee with a license that expires on or after October 16, 1991, but before October 17, 1992, must notify the Commission and make the required information available on or before October 16, 1987; and

(3) An existing licensee with a license that expires on or after October 17, 1992 must notify the Commission and make the required information available at least 5 years before the expiration of the existing license.

IV. Notice and Comment

This interim rule will become effective without prior notice and comment. Notice and comment procedures are not required under the Administrative Procedure Act when the agency for good cause finds that notice and comment is impracticable, unnecessary, or contrary to the public interest.[20] The legislative history of the Administrative Procedure Act defines the term "impracticable" as a situation in which the due and required execution of the agency function would be unavoidably prevented by its undertaking public rulemaking proceedings.[21]

The Commission finds that the public notice and comment before the issuance of this interim rule would have been impractible. Congress required the Commission to issue this rule within 180 days following the enactment of ECPA. ECPA became law on October 16, 1986. Immediately thereafter the Commission began the process of drafting this rule. This required the Commission to determine the types of information to be made available by existing licensees and the manner in which this information must be made available. Determination of these matters and preparation of the interim rule, within the 180 day period, did not provide sufficient time for comments to be submitted and incorporated into this rule.

The Commission invites all interested persons to submit written data, views, or other information on the matters in this interim rule. The Commission will consider these comments before issuing final regulations. An original and fourteen copies should be submitted within May 22, 1987 to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Comments submitted should refer to Docket No. RM87-7-000. All written submissions will be placed in the Commission's public file and will be available for public inspection through the Commission's Public Reference Section, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426, during regualar business hours.

V. Applicability of Regulatory Flexibility Act

The Regulatory Flexibility Act requires that final rules issued by regulatory agencies contain an analysis of the impact of the rulemaking on small entities.[22] A regulatory analyais is prepared when an agency issues a final rule following a period of notice and comment.[23] This interim rule is being issued without notice and comment. Therefore, the Commission believes that the provisions of the Regulatory Flexibility Act are not applicable to this rulemaking.

In preparing this interim rule, however, the Commission has considered the impact on small entities. Two provisions were included to lessen the impact on small hydroelectric licensees. First, certain information is required to be available for only the previous five years. Second, the rule provides that licensees:

(1) Can inform the Commission if some of the required information is unavailable; and

(2) Are not required to conduct studies or otherwise produce new documents or data in compiling the required information.

VI. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) [24] and the Office of Management and Budget's (OMB) regulations [25] require that OMB approve certain information collection requirements imposed by agency rule. The provisions of this interim rule have been submitted to OMB for its approval. Interested persons can obtain information on those provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (attention: Ellen Brown (202) 357-8272). Comments on the provisions of this interim rule can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (attention: Desk Officer for the Federal Regulatory Commission). If OMB has not approved this interim rule by the

[17] *See* § 16.3 and n. 3, *supra*.

[18] *See* § 16.3

[19] *Id.*

[20] 5 U.S.C. 533(b)(B) (1982).

[21] S. Rep. No. 752, 79th Cong., 1st Sess. at 16 (1945).

[22] 5 U.S.C. 604 (1982).

[23] *Id.*

[24] 44 U.S.C. 3501-3520 (1982).

[25] 5 CFR 1320.13 (1986).

effective date on this rule, the effective date of the rule will be suspended.

EFFECTIVE DATE: This interim rule will become effective May 7, 1987.

List of Subjects in 18 CFR Part 16

Electric power.

In consideration of the foregoing, the Commission amends Part 16, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 16—[AMENDED]

1. The authority citation for Part 16 is revised to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r, as amended by the Electric Consumers Protection Act of 1986, Pub. L. No. 99–495; Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Exec. Order No. 12,009, 3 CFR Part 142 (1978).

2. The table of contents for Part 16 is amended by adding the following entries to read as follows:

* * * * *

16.14 Filing of an application for a new license under ECPA.
16.15 Notification procedures under ECPA.
16.16 Information to be made available to the public under ECPA.

3. Part 16 is amended by revising § 16.1 to read as follows:

§ 16.1 Applicability, purpose, and definitions.

(a) The provisions of this Part apply to projects subject to sections 14 and 15 of the Federal Power Act, as amended.

(b) The provisions of §§ 16.2, 16.3, 16.4, 16.5, 16.7, 16.8, 16.9, 16.10, 16.11, 16.12, and 16.13 of this Part implement the amendments of sections 7(c), 14, and 15 of the Federal Power Act enacted by Pub. L. No. 90–451, approved August 3, 1968.

(c) The provisions of §§ 16.14, 16.15, and 16.16 of this Part implement the amendments of section 15 of the Federal Power Act enacted by section 4(a) of the Electric Consumer Protection Act of 1986 ("ECPA"), Pub. L. No. 99–495, approved October 16, 1986.

(d) To the extent that the provisions of §§ 16.14, 16.15, and 16.16 of this Part are inconsistent with the other provisions of this Part, the provisions of §§ 16.14, 16.15, and 16.16 are controlling.

(e) *Definitions.* (1) "New license" means a license for a power project issued to the existing licensee or a new licensee upon the expiration of the existing license.

(2) "Non-power license" means a license for a nonpower project.

4. Sections 16.14, 16.15 and 16.16 are added to Part 16 to read as follows:

§ 16.14 Filing of an application for a new license under ECPA.

An existing licensee or any other person or municipality must file an application for a new license at least 24 months before the expiration of the existing license.

§ 16.15 Notification procedures under ECPA.

(a) *Requirement to notify.* An existing licensee must notify the Commission by letter whether or not it intends to file an application for a new license. The notification letter must contain an unequivocal statement of the existing licensee's intention to file or not to file an application for a new license and must clearly show:

(1) The license expiration date;

(2) The licensee's name;

(3) The project number;

(4) The type of principal project works licensed, *e.g.*, dam and reservoir, powerhouse, transmission lines;

(5) The location of the project by state, county, and stream, and, when appropriate, city or nearby city; and

(6) The plant installed capacity.

(b) *When to notify.* (1) An existing licensee with a license that expires on or after October 17, 1992, must notify the Commission as required under paragraph (a) of this section at least five years before the expiration of the existing license.

(2) An existing licensee with a license that expires on or after October 16, 1991, but before October 17, 1992, must notify the Commission as required under paragraph (a) of this section by October 16, 1987.

(3) An existing licensee of a project that is or will be involved in a relicensing proceeding, with a license that expires on or before October 15, 1991, must notify the Commission as required under paragraph (a) of this section by August 5, 1987, if the licensee did not file an application or a statement under § 16.3 of this Part before October 16, 1986.

(c) *Commission notice.* Promptly following receipt of the notification required under paragraph (a) of this section, the Commission will provide public notice and notify the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the state agency responsible for fish and wildlife resources of the existing licensee's intention to file or not to file an application for a new license.

§ 16.16 Information to be made available to the public under ECPA.

(a) *Requirement to make information available.* An existing licensee must make information regarding its existing project reasonably available to the public for inspection and reproduction.

(b) *Information to be made available.* An existing licensee must make the following information regarding its existing project reasonably available to the public for inspection and reproduction.

(1) *Construction and operation.* (i) The original license application and the order issuing license for the existing project, including approved and as built Exhibit drawings, all orders issuing amendments to the license for the existing project, and all orders issuing annual licenses for the existing project;

(ii) All data necessary to enable the public to verify that the project has been and is being operated in accordance with the requirements of each license article, including minimum flow requirements, maximum ramping rates, reservoir elevation limitations, and environmental monitoring;

(iii) A compilation of project generation and respective outflow with time increments not to exceed one hour for the previous 5 years;

(iv) All public correspondence relating to the existing project;

(v) All existing reports showing the total actual annual generation and annual operation and maintenance costs for the previous 5 years, original project costs, and current net investment; and

(vi) A current and complete electrical single-line diagram of the project showing the transfer of electricity from the project to the area utility system; and

(vii) All bills issued to the existing licensee for annual charges under section 10(e) of the Federal Power Act, as amended.

(2) *Safety and structural adequacy.* (i) The most recent emergency action plan for the project or a letter exempting the project from the emergency action plan requirement;

(ii) All independent consultant's reports, if required by Part 12 of the Commission's regulations, filed subsequent to January of 1981;

(iii) All existing reports on any operation or maintenance problems, other than routine maintenance, occurring within the last five years, and associated costs of such problems under the Commission's Uniform System of Accounts;

(iv) The final construction report (or reports if construction occurred in more than one phase) for the existing project; and

(v) All public correspondence relating to the safety and structural adequacy of the existing project.

(3) *Fish and Wildlife resources.* (i) All existing reports documenting impacts of the project's construction and operation on fish and wildlife resources;

(ii) All existing reports documenting the presence or absence of any threatened or endangered species and critical habitat located in the project area, or impacted by the existing project;

(iii) All fish and wildlife management plans prepared by the existing licensee or resource agency related to the project area; and

(iv) All public correspondence relating to the fish and wildlife resources within the project area.

(4) *Energy conservation.* (i) If the existing licensee is an electric utility, or a state or municipality that uses any of the power generated by the existing project itself, its plan to conserve electricity or encourage conservation by its customers; and

(ii) All public correspondence concerning energy conservation measures related to the existing project.

(5) *Recreation and land use resources.*—(i) All existing reports on past and current recreational uses of the project area;

(ii) All existing maps which show recreational facilities and areas reserved for future development in the project area, designated or proposed wilderness areas in the project area, Land and Conservation Fund lands in the project area, and designated or proposed wild and scenic river corridors (state and federal) in the project area;

(iii) Documentation showing the entity or entities responsible for operating and maintaining any existing recreational facilities in the project area; and

(iv) All public correspondence relating to recreation and land use resources within the project area.

(6) *Cultural resources.* (i) All existing reports concerning documented archeological resources identified in the project area;

(ii) All existing reports documenting historical and present utilization of the project area and surrounding areas by Native Americans; and

(iii) All public correspondence relating to cultural resources within the project area.

(c) *Form, place of availability, hours of availability, and cost of reproduction.* (1) An existing licensee must compile the information specified in paragraph (b) of this section in a form that is readily accessible, reviewable, and reproducible.

(2) An existing licensee must make the information specified in paragraph (b) of this section available to the public for inspection at its principal place of business during regular business hours.

(3) Except as provided in paragraph (c)(4) of this section, an existing licensee must make requested copies of the information specified in paragraph (b) of this section available at reasonable costs of reproduction, not to exceed 10 cents per page of photocopy, per page on microform, or per page of computer printout. An existing licensee must make such requested copies available either:

(i) At its principal place of business, after obtaining reimbursement for reasonable costs of reproduction, or

(ii) Through the mail, after obtaining reimbursement for postage fees and reasonable costs of reproduction.

(4) *Exception.* An existing licensee must make requested copies of the information specified in paragraph (b) of this section available to the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the state agency responsible for fish and wildlife resources without charge for costs of reproduction or postage fees.

(d) *Unavailability of required information.* (1) An existing licensee must file a statement of unavailability with the Commission regarding the information specified in paragraph (b) of this section that it cannot, for reasons beyond its control, make available to the public for inspection and reproduction. Such statement of unavailability must describe those items that the existing licensee cannot make available and, to the extent known, why those items are not available.

(2) A member of the public that believes an existing licensee is not making the information specified in paragraph (b) of this section reasonably available for public inspection or reproduction may file a petition with the Commission. The petition must describe in detail the basis for the petitioner's belief that the existing licensee is not making required information reasonably available.

(e) *When to make information available.* (1) An existing licensee with a license that expires on or after October 17, 1992, must make the information specified in paragraph (b) of this section available to the public for inspection and reproduction at the same time that it notifies the Commission under § 16.15(b)(1) of this Part.

(2) An existing licensee with a license that expires on or after October 16, 1991, but before October 17, 1992, must make the information specified in paragraph (b) of this section available to the public for inspection and reproduction by October 16, 1987.

(3) An existing licensee of a project that is or will be involved in a relicensing proceeding, with a license that expires on or before October 15, 1991, must make the information specified in paragraph (b) of this section available to the public for inspection and reproduction by:

(i) August 5, 1987, if the licensee did not file an application or a statement under § 16.3 of this Part before October 16, 1986; or

(ii) July 6, 1987, if the licensee filed an application or a statement under § 16.3 of this Part before October 16, 1986.

[FR Doc. 87-7401 Filed 4-6-87; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations reflecting approval of a new animal drug application (NADA) held by Dr. MacDonald's Vitamized Feed Co., Inc. The NADA provides for use of a Type A article containing 0.5 gram of tylosin per pound for making Type C swine feed. FDA is also amending the regulations to remove the firm from the list of sponsors of approved NADA's. Elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the NADA.

EFFECTIVE DATE: April 17, 1987.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3184.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of Dr. MacDonald's Vitamized Feed Co., Inc.'s, NADA 96-782. The NADA provides for use of a 0.5-gram-per-pound tylosin (as tylosin phosphate) Type A article for making Type C swine feed. This document removes and reserves 21 CFR 558.625(b)(37) which reflected approval of the NADA. In addition, because the firm is no longer sponsor of any approved NADA's, the regulation in 21 CFR 510.600(c)(1) and (2) is amended to

remove the firm from the list of sponsors of approved NADA's.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry for "Dr. MacDonald's Vitamized Feed Co., Inc.," and in paragraph (c)(2) by removing the entry for "044142."

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.625 [Amended]

4. Section 558.625 *Tylosin* is amended by removing and reserving paragraph (b)(37).

Dated: March 20, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87–7647 Filed 4–6–87; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations reflecting approval of a new animal drug application (NADA) held by Farm Bureau Services, Inc./Agra Land, Inc. The NADA provides for use of a Type A article containing 4 or 10 grams of tylosin per pound for making Type C swine feeds. FDA is also amending the regulations to remove Farm Bureau Services, Inc., from the list of sponsors of approved NADA's. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the NADA.

EFFECTIVE DATE: April 17, 1987.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3184.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of NADA 118–780 which provides for use of a 4- or 10-gram-per-pound tylosin (as tylosin phosphate) Type A article for making a Type C swine feed. This document removes 21 CFR 558.625(b)(64) that reflects approval of the NADA. Additionally, since the firm is no longer sponsor of any approved NADA's, 21 CFR 510.600(c) (1) and (2) are amended to remove the firm from the list of sponsors of approved NADA's.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Sec. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry for "Farm Bureau Services, Inc.," and in paragraph (c)(2) by removing the entry for "020584."

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.625 [Amended]

4. Section 558.625 *Tylosin* is amended by removing paragraph (b)(64) and reserving it for future use.

Dated: March 20, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87–7648 Filed 4–6–87; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Ivermectin Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories, providing for use of Heartgard 30™ (ivermectin) Tablets for dogs to prevent canine heartworm disease.

EFFECTIVE DATE: April 7, 1987.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, filed NADA 138–412 providing for oral use of Heartgard 30™ (ivermectin) Tablets for dogs to prevent canine heartworm disease. Ivermectin eliminates the tissue stage of heartworm larvae (*Dirofilaria immitis*). The NADA is approved, and the animal drug regulations are amended to reflect this approval by adding § 520.1193 *Ivermectin Tablets* (21 CFR 520.1193). The basis for approval is discussed in the freedom of information summary.

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

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

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

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Part 520 is amended by adding new § 520.1193 *Ivermectin Tablets* to read as follows:

§ 520.1193 Ivermectin Tablets.

(a) *Specifications.* Each tablet contains 68, 136, or 272 micrograms of ivermectin.

(b) *Sponsor.* See 000006 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* 6.0 micrograms per kilogram body weight (2.72 micrograms per pound), minimum. For dogs up to 25 pounds, 68 micrograms; dogs 26 to 50 pounds, 136 micrograms; dogs 51 to 100 pounds, 272 micrograms; dogs over 100 pounds, a combination of the appropriate tablets. The drug is administered at monthly dosing intervals.

(2) *Indications for use.* To prevent canine heartworm disease (*Dirofilaria immitis* infection) by eliminating the tissue stage of larvae.

(3) *Limitations.* Use once-a-month. Not for use in dogs under 6 weeks old. Initial use within a month after first exposure to mosquitoes. Final use within a month after last exposure to mosquitoes. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: March 30, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87–7576 Filed 4–6–87; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Nabilone Into Schedule II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) to place nabilone into Schedule II of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). Nabilone is a synthetic substance which is chemically and pharmacologically similar to the tetrahydrocannabinols. This action is based on a finding that nabilone fits the statutory criteria for inclusion in Schedule II of the CSA. As a result of this rule, the regulatory controls and criminal sanctions of Schedule II of the CSA will be applicable to the manufacture, distribution, importation and exportation of nabilone.

EFFECTIVE DATE: April 7, 1987.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on June 18, 1986 (51 FR 22085–22086), proposing that nabilone be placed into Schedule II of the Controlled Substances Act (21 U.S.C. 801 *et seq.*). All persons were given until July 18, 1986 to submit any comments or objections in writing regarding the proposal.

Two comments, objections or requests for an administrative hearing were filed. Eli Lilly and Company, the manufacturer and developer of the drug supported the action. The other, Unimed, Inc., requested a hearing. Unimed, Inc. stated that it desired a hearing on its contention that a cautionary Statement Policy in DEA's final order controlling Unimed's product Marinol ought, likewise, to apply to nabilone.

DEA's Statement of Policy in the Marinol (dronabinol) order was included to satisfy United States obligations regarding the Schedule I classification of the substance under the Convention on Psychotropic Substances, 1971. Eli Lilly and Company, the manufacturer of nabilone, has advised DEA that it has no objection to the inclusion of a similar statement with respect to its product. However, since nabilone is not controlled under any of the international treaties to which the United States is a party, DEA does not believe that a similar Statement of Policy is required with respect to nabilone. To attach the Statement to substances not controlled under the Psychotropic Convention is not justified in this case. Additionally, DEA has no statutory obligation under the CSA to publish such a Statement regarding initial control measures; nor does the Statement of Policy have any relation to the issue at hand, that is, the listing of nabilone in Schedule II of the CSA

As with any Schedule II drug, the manufacture, distribution and dispensing of nabilone will be closely monitored by DEA. Scheduling II drugs are often subject to diversion into the illicit market, in many cases by DEA registrants. DEA will take action to revoke the registration of any registrant whose diversion of this, or any controlled substance, constitutes a threat to the public health and safety, and in addition will pursue any criminal sanctions which may be warranted under 21 U.S.C. 841(a)(1). See *United States* v. *Moore*, 423 U.S. 122 (1975).

The Unimed, Inc. request for a hearing for the singular purpose of seeking a cautionary Statement of Policy with respect to nabilone is denied. The Administrator finds that the scheduling of nabilone may continue without the need for a time-consuming hearing.

Having considered the comments and objections presented by the above listed parties, the requirements of the CSA, the Food and Drug Administration's conclusion that nabilone is a safe and effective drug under the provisions of the Federal Food, Drug and Cosmetic Act, the scientific and medical evaluation and the recommendation of the Acting Assistant Secretary for Health, acting on behalf of the Secretary of the Department of Health and Human Services, in accordance with 21 U.S.C. 811(b), the Administrator of the Drug Enforcement Administration, pursuant to the provisions of 21 U.S.C. 811(a) and 811(b), finds that:

(1) Based on available information, nabilone has a high potential for abuse

(2) Nabilone, with final approval of a new drug application by the Food and Drug Administration, has a currently accepted medical use in treatment in the United States.

(3) Abuse of nabilone may lead to severe psychological or physical dependence.

The above findings are consistent with the placement of nabilone into Schedule II of the CSA. In order to avoid further delays in the initial marketing of nabilone, the control of nabilone in Schedule II will be effective on April 7, 1987. In the event that the regulations impose special hardships on any registrant, the Drug Enforcement Administration will entertain any justified request for an extension of time to comply with the Schedule II regulations. The applicable regulations are as follows:

1. Registration. Any person who manufactures, distributes, delivers, imports or exports nabilone, or who engages in research or conducts instructional activities with the substance, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. Security. Nabilone must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(a), (c) and (d), 1301.73, 1301.74, 1301.75 (b) and (c) and § 1301.76 of Title 21 of the Code of Federal Regulations.

3. Labeling and Packaging. All labels and labeling for commercial containers of nabilone must comply with the requirements of §§ 1302.03 through 1302.05 and 1302.07–1302.08 of Title 21 of the Code of Federal Regulations.

4. Quotas. All persons required to obtain quotas for nabilone shall submit applications pursuant to §§ 1303.12 and 1303.22 of Title 21 of the Code of Federal Regulations.

5. Inventory. Every registrant required to keep records and who possesses any quantity of nabilone shall take an inventory, pursuant to §§1304.04 and 1304.11 through 1304.19 of Title 21 of the Code of Federal Regulations, of all stocks on hand.

6. Records. All registrants required to keep records pursuant to §§1304.21 through 1304.27 of Title 21 of the Code of Federal Regulations shall do so regarding nabilone.

7. Reports. All registrants required to submit reports pursuant to §§ 1304.34 through 1304.37 of Title 21 of the Code of Federal Regulations shall do so regarding nabilone.

8. Order Forms. All registrants involved in the distribution of nabilone shall comply with the order form requirements of Part 1305 of Title 21 of the Code of Federal Regulations.

9. Prescriptions. FDA approved nabilone drug products may be used in medical treatment and may be dispensed by prescription. All prescriptions for FDA approved nabilone drug products shall comply with §§ 1306.11 through 1306.15 of Title 21 of the Code of Federal Regulations.

10. Importation and Exportation. All importation and exportation of nabilone shall be in compliance with Parts 1311 and 1312 of Title 21 of the Code of Federal Regulations.

11. Criminal Liability. Any activity with respect to nabilone not authorized by or in violation of the Controlled Substances Act or the Controlled Substances Import and Export Act shall be unlawful. The applicable penalties after April 7, 1987 shall be those of a Schedule II substance.

12. Other. In all other respects, this orders is effective on April 7, 1987.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the control of nabilone, as ordered herein, will not have a significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354, September 19, 1980). This action will allow the initial marketing of a drug product which has been approved by the FDA.

In accordance with the provisions of 21 U.S.C. 811(a) (section 201(a) of the CSA), this order to place nabilone into Schedule II is a formal rulemaking "on the record after opportunity for a hearing." Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and as such have been exempted from the consultation requirements of Executive Order 12291.

List of Subjects in 21 CFR Part 1308

Narcotics, Prescription drugs, Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

Pursuant to the authority vested in the Attorney General by 21 U.S.C. 811(a) (section 201(a) of the CSA) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR 0.100), the Administrator hereby orders that 21 CFR 1308.12(f) be amended as follows by the addition of nabilone:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. 21 CFR 1308.12(f) is amended by the addition of a new paragraph (f)(2) to read as follows:

§ 1308.12 Schedule II.

* * * * *

(f) * * *

(2) Nabiline.....7379

[Another name for nabilone: (+)-*trans*-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one].

Dated: March 31, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87–7533 Filed 4–6–87; 8:45 am]

BILLING CODE 4410-09-M

Office of the Attorney General

28 CFR Part 0

[Order No. 1176–87]

Asylum Policy and Review

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order reflects the creation of the Asylum Policy and Review Unit within the Office of Legal Policy. This change to the Department's regulations is being made in order to reflect accurately the agency's internal management structure.

EFFECTIVE DATE: March 30, 1987.

FOR FURTHER INFORMATION CONTACT: Ralph Thomas, Deputy Assistant Commissioner for Refugee, Asylum and Parole, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536 Telephone (202) 633–5463.

SUPPLEMENTARY INFORMATION: The Asylum Policy and Review Unit, located within the Office of Legal Policy, advises the Attorney General and the Deputy Attorney General on matters related to asylum policy. It will compile information relevant to asylum decisions and assist the Attorney General, the Deputy Attorney General, and the Immigration and Naturalization Service in coordinating related matters.

This order has been 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 0

Administrative practice and procedure; Immigration; Organization and functions (Government agencies).

PART 0—[AMENDED]

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Part 0 of Title 28 of the Code of Federal Regulations is amended as follows.

1. The authority citation for Part 0 continues to read as follows:

Authority. 5 U.S.C. 301, 2303, 8 U.S.C. 1103, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621–1645o, 1622 note; 28 U.S.C. 509, 510, 515, 524, 542, 543, 552, 552a, 569; 31 U.S.C. 1108; 50 U.S.C. App. 2001–2017p; Pub. L. No. 91–513, sec. 501; EO 11919; EO 11267; EO 11300.

§ 0.15 [Amended]

2. Section 0.15 is amended by adding new paragraph (f) to read as follows:

* * * * *

(f) The Deputy Attorney General is authorized, and may delegate authority to the Director of the Asylum Policy and Review Unit within the Office of Legal Policy, to:

(1) Compile and disseminate to Immigration and Naturalization Service (INS) officers information concerning the persecution of persons in countries on account of race, religion, nationality, membership in a particular social group, or political opinion.

(2) Review cases decided by the Board of Immigration Appeals pursuant to 8 CFR 3.1(h)(1)(i);

(3) Review INS asylum decisions in cases which the Deputy Attorney General directs INS to refer to him.

(4) Assist INS in conducting training concerning asylum and assist in resolving questions of policy that may arise.

§ 0.105 [Amended]

3. Section 0.105 is amended by adding a new paragraph (k) to read as follows:

* * * * *

(k) Insure that a copy of any asylum application filed with INS shall be sent simultaneously to the Asylum Policy and Review Unit and to the Bureau of Human Rights and Humanitarian Affairs at the Department of State.

4. Subpart D–2—Office of Legal Policy is amended by adding, following § 0.23a, a new section as follows:

§ 0.23b Office of Asylum Policy and Review.

There is established, in the Office of Legal Policy, the Asylum Policy and Review Unit, headed by a Director, under the general supervision and direction of the Assistant Attorney General, Office of Legal Policy, and exercising such duties as the Deputy Attorney General delegates pursuant to 28 CFR 0.15(f) or otherwise assigns to it.

Edwin Meese, III

Attorney General.

[FR Doc. 87–7675 Filed 4–6–87; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; Virginia

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

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is adopting a cooperative agreement between the Department of the Interior and the Commonwealth of Virginia for the regulation of surface coal mining and reclamation operations on Federal lands in Virginia under the permanent regulatory program. Such a cooperative agreement is provided for in Section 523 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

EFFECTIVE DATE: May 7, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Josie Smith, Chief, Branch of Federal Regulatory Activities, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, telephone: (202) 343–1475.

SUPPLEMENTARY INFORMATION: This preamble is divided into three parts as follows:

I. Background.
II. Summary of the Terms of the Cooperative Agreement.
III. Procedural Matters.

I. Background

Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Part 740 and 745 allow a State and the Secretary of the Interior (Secretary) to enter into a permanent program cooperative agreement if the State has an approved State program. Permanent program cooperative agreements are authorized by section 523(c) of SMCRA, which provides that "(a)ny State with an approved State program may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this Act." (30 U.S.C. 1273(c)). OSMRE's rules setting forth the requirements for the development, approval, and administration of cooperative agreements under this section of SMCRA are found at 30 CFR Part 745.

Under these Federal lands rules, the Governor of any State may request that the Secretary enter into a cooperative agreement with the State, provided the State has an approved State regulatory program, or has submitted a regulatory program for approval. The request must be in writing, and must include certain required information on budget, equipment, personnel, organization, inspection and enforcement, etc., as well as a certification that the State has the legal authority to administer the agreement. These conditions have been met in the case of this agreement.

The nature and extent of the Secretary's ability to delegate authority for the regulation of surface coal mining operations of Federal lands to States through cooperative agreements was a subject of a Federal District Court opinion in *In Re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79–1144 (D.D.C.; July 6, 1984). The Virginia Cooperative Agreement (Agreement) is consistent with that opinion.

The Agreement provides for Secretarial delegation of authorities under the Federal lands program of SMCRA while retaining the Secretary's non-delegable responsibilities under the Mineral Leasing Act. Additionally, certain responsibilities under SMCRA that are reserved to the Secretary are not delegated by this agreement, such as determinations of compatibility for forest lands, unsuitability of Federal lands for mining, and valid existing rights. Requests for determinations of valid existing rights will be processed in accordance with the District Court opinion in *In Re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79–1144 (D.D.C.; March 22, 1985).

Although OSMRE has not yet amended the scope of the Federal lands program, 30 CFR Chapter VII Subchapter D, to be consistent with the District Court decision, this agreement encompasses the salient features of that decision. If changes to the Federal lands program are adopted which are not covered by this Agreement, OSMRE and the Secretary will promptly initiate the

steps necessary to conform the Agreement.

The cooperative agreement was published as a proposed rule in 48 FR 29545, June 27, 1983. A notice of the proposed rule and a summary of the terms were also published June 28, 1983, in the "Bristol Herald Courier," a Virginia newspaper of general circulation.

The results of the public notices and consultations are as follows:

- OSMRE received no comments or requests for public hearings from members of the public, and no public meetings or hearings were held.
- OSMRE received comments from, and consulted with, the U.S. Fish and Wildlife Service (FWS) and the U.S. Forest Service (FS).
- FWS agreed that the cooperative agreement was acceptable. However, FWS did express concern over two acre mine sites. OSMRE delayed finalizing the cooperative agreement until these issues were resolved. Virginia had calculated the affected area which qualifies for the 2-acre exemption in a manner less effective than the standards prescribed by 30 CFR 700.11 and 30 CFR 701.5. Pursuant to the litigation of *The Commonwealth of Virginia vs. Clark* (Civil No. 83–0332–B, U.S. District Court for the Western District of Virginia, January 9, 1985), the Secretary and Virginia entered into a consent order requiring retroactive application of the Federal two-acre criteria to all sites. The application of Federal standards alleviated FWS concerns.
- The FS supported the proposed cooperative agreement as it was written.

II. Summary of the Terms of the Cooperative Agreement

Each article of the cooperative agreement is summarized below, and any changes from the proposed rule are discussed. Some minor changes have been made for clarity, brevity, and consistency. Some references to specific OSMRE rules have been changed to reflect renumbering resulting from OSMRE's regulatory reforms. Throughout the document the acronym "OSM" for the Office of Surface Mining Reclamation and Enforcement has been changed to "OSMRE".

Article I: Introduction, Purpose, and Responsible Administrative Agency

This Article sets forth the legal authority for the cooperative agreement, which is provided in section 523(c) of SMCRA. The Article also lists the purposes of the cooperative agreement, the lands affected, and the name of the responsible administrative agency within the Commonwealth of Virginia. It clarifies the role of the Forest Service, which administers most of the lands covered by this agreement, and specifies that this role would apply to any other Federal land management agency which might be affected by the agreement.

The name of the responsible administrative agency within the Commonwealth of Virginia has been changed from the Division of Mined Land Reclamation of the Department of Conservation and Economic Development to The Division of Mined Land Reclamation of the Department of Mines, Minerals and Energy, to be consistent with organizational changes made by the State.

Article II: Effective Date

This Article provides the effective date of the agreement, and specifies that it remains in effect until terminated, as provided in Article XI. The agreement will become effective 30 days after publication in the **Federal Register**. In the proposed cooperative agreement, the provisions for terminating the agreement were in Article X. In the final rule, they are in Article XI.

Article III: Definitions

This Article provides that terms used in this Agreement shall be given the meanings specified in SMCRA, 30 CFR Parts 700, 701, and 740, the State Program, the State Act, and in rules promulgated pursuant to those Acts.

Proposed Article III provided that any terms and phrases used in the Agreement would have the same meanings as in 30 CFR Parts 700, 701, and 740. In the final rule, this Article has been expanded to provide that terms and phrases used in the Agreement will have the same meanings set forth not only in those regulations, but also the meanings given in the approved State Program. Defining terms and phrases in this manner ensures consistency among all applicable authorities and the Agreement. The final Article further adds a provision that where there is a conflict among the referenced State and Federal definitions, State Program definitions will apply unless prohibited by Federal statute. A definition of the specific Federal lands subject to the agreement has been added for clarity.

Article IV: Applicability

This Article specifies the lands covered by the terms of the Agreement.

Article IV makes the laws, rules, terms and conditions of the State Program applicable to all non-Indian Federal lands within Virginia. The Agreement applies to all Federal land except lands containing leased Federal coal or Federal surface over unleased Federal coal. In the proposed Agreement Paragraph B provided that appeals of decisions issued by DMLR in accordance with the State Program would be appealed to the State; appealable decisions issued by the Department would be appealed to the Department's Office of Hearings and Appeals.

In the final rule, the reference to the conditional approval of the Virginia Program has been removed, because there are no longer any conditions attached to OSMRE's approval of that Program. The discussion of the land covered by the Agreement has been changed at the request of the State to specify that the Agreement covers those Federal lands in the State except where there is leased Federal coal or Federal surface over unleased Federal coal. The proposed rule stated only that non-Indian Federal lands except those containing leased Federal coal were covered by the Agreement. The State will regulate operations on lands on which the only interest is Federal surface or those with private surface and Federal coal that is not leased. Because the State does not wish to assume responsibility for regulating surface coal mining and reclamation operations on Federal lands containing leased Federal coal, or those with Federal surface over unleased Federal coal, OSMRE will continue to regulate surface coal mining operation's on such lands. In the final rule, the provisions formerly in Paragraph B concerning appeals have been moved to a new Article, X. This necessitated renumbering subsequent Articles.

Article V: Requirements for Cooperative Agreements

This Article discusses basic requirements for cooperative agreements, including an affirmation by the Governor and the Secretary to meet the requirements of this Agreement, funding of the State's implementation of the Agreement, records and reports which the State is required to make, personnel and equipment which the State must have, and fees charged by the State for processing permit applications.

As proposed, this Article contained an affirmation by the Governor and the Secretary that they would comply with the Agreement. Paragraph A provided that DMLR would continue to have authority to carry out the Agreement. These provisions are unchanged in the final rule.

Proposed Paragraph B provided that the State be given funds by OSMRE to defray the costs associated with

carrying out responsibilities under this Agreement pursuant to SMCRA upon application by DMLR, if funds were available to OSMRE. It also specified the procedures to be followed if insufficient funds were available. It further specified that funds provided to the State were to be adjusted according to Budget Circular A–102 of the Office of Management and Budget. In the final rule, the reference to provisions for terminating the Agreement, found in Article X of the proposed rule, has been changed to Article XI, consistent with renumbering changes in the final rule.

Proposed Program C contained requirements whereby DMLR would submit an annual report to OSMRE concerning implementation of the Agreement, and DMLR and OSMRE would exchange information developed under the Agreement, unless prohibited by Federal law. Additionally, the paragraph specified that OSMRE would provide DMLR a copy of any final evaluation report concerning the State's implementation of the Agreement. In the final rule, Paragraph C has been reworded for clarity.

Proposed Paragraph D required the State to maintain the necessary personnel to fully implement this Agreement. No change has been made in this provision in the final rule.

Proposed Paragraph E required the State to ensure itself of access to equipment, laboratories, and other facilities to perform inspections and analyses necessary to carry out the requirements of the Agreement. In the final rule, this paragraph has been rewritten for clarity.

Proposed Paragraph F established that the amount of the fee accompanying an application for a permit was to be determined in accordance with State regulation V771.25; that fees collected from operations on Federal lands covered by the Agreement were to be retained by the State; that the State's annual financial status report submitted to OSMRE was to include a report on fees collected attributable to Federal lands; and that this amount was to be disposed of according to OMB Circular A–102.

In the final rule, Paragraph F has been changed to specify that application fees are to be determined in accordance with the State mining act, and the list of fees covered by this provision has been expanded to include application fees for permit revisions, renewals, transfers, and sales or assignments. No other provisions of the paragraph have been changed.

Article VI: Review of Permit Application Package(s)

This Article discusses the requirements for permit application packages and how those packages will be reviewed. Such packages must be in the form required by DMLR, and must include any information required by the Federal land management agency. It must also include information needed to make a determination of compliance with the State program and with any special requirements of the Federal land management agency. Review procedures include provisions on consultation requirements with other responsible agencies; technical assistance provided by OSMRE to DMLR; OSMRE responsibility for determinations of compatibility of mining with Forest Service land uses and for determinations of valid existing rights under Section 522 of SMORA; exchange of information between OSMRE and DMLR; DMLR analysis of permit application packages; and a requirement that DMLR include in any permit any conditions imposed by OSMRE or a Federal land management agency.

Proposed Paragraph A of this Article discussed the required contents and form of "Permit Application Packages" (PAP's), which must be submitted by operators proposing to conduct surface coal mining and reclamation operations on Federal lands covered by this Agreement.

The paragraph specified that PAPs had to contain information needed for DMLR to make a determination of compliance with any special conditions imposed by the Federal land manager and with the State program.

In the final rule, a reference to the Secretary requiring an operator to submit a PAP has been deleted, since the Secretary would not be directly involved in this process once this agreement has been finalized. The paragraph provides that the permit application package must be in the form required by DMLR, and include any supplemental information required by the Federal land management agency. It also specifies that the PAP must include information required for DMLR to make a determination of compliance with the State program and with any conditions imposed by the Federal land management agency. Additionally, a new provision has been added, specifying that OSMRE will assist DMLR in identifying Federal agencies which may be affected by a proposed mining operation.

The term "permit application package" (PAP) was adopted by OSMRE in the Federal lands program rules promulgated February 16, 1983 (48 FR 6912). The term includes requirements for mining on Federal lands in addition to those required for permit applications under the approved State program. For example, operations on Federal lands may be subject to requirements of the Federal land management agency under Federal laws other than SMCRA. The package concept allows for any additional information to be submitted along with the application required by the State program.

Proposed Paragraph B was subdivided into five sections. The first stated that DMLR would assume primary responsibility for the analysis, review, and approval or disapproval of the PAPs for Federal lands subject to this agreement, and that DMLR would be the primary point of contact for operators concerning the PAP. In the final rule, this section has been rewritten for clarity. Additionally, provision has been made for DMLR to review permit revisions and renewals, and applications for the transfer, assignment or sale of permit rights, as well as for permit applications. This last provision was added to clarify that an application for a transfer, assignment or sale of permit rights in not a PAP.

The proposed version of the second section of Paragraph B specified that DMLR provide copies of PAPs to the Federal land management agency for review. It also specified that DMLR provide OSMRE with sufficient information to determine whether a proposed operation is prohibited by section 522(e) of SMCRA. Finally, it provided that DMLR was responsible for obtaining the views of any other Federal agencies with responsibility over Federal lands affected by the Agreement.

Language has been added providing that DMLR will provide OSMRE with information to allow OSMRE to determine whether a proposed surface coal mining operation is prohibited or limited by section 522(e) of SMCRA. This will generally involve either a "valid existing rights" or "compatibility" determination. Additionally, a provision has been added requiring DMLR to determine whether leased Federal coal or Federal surface over unleased Federal coal is involved, and to inform OSMRE of these situations.

In the proposed rule, the third section of Article VI B. specified that OSMRE would provide technical assistance when requested by DMLR, if available resource allow. It also provided that OSMRE would process requests for determination of compatibility and valid

existing rights; would promptly provide information from applicants to DMLR; and would provide DMLR a copy of all correspondence with the applicant that had a bearing on permit decisions. This section also provided that OSMRE would have access to DMLR's files. Finally, it reserved the right of the Secretary to act independently of DMLR to carry out the requirements of laws other than SMCRA. The final version of this section has been edited for clarity; no other charges have been made.

The fourth section of Article VI B. specifies that DMLR prepare the required technical analyses and written findings on the permit application packages. Copies of these documents were to be provided upon request to the Federal land management agency for review. No changes have been made in this section in the final rule.

In the proposed rule, the fifth and final section of Article VI B. specified that any permit issued by DMLR would include any terms imposed by the Federal land management agency, including those relating to post mining land use, and those necessary to ensure that the initiation of mining was in compliance with that agency's requirements. The section also provided that notices of permit decisions would go to the applicant, the Federal land management agency, and OSMRE, along with a statement of findings.

In the final rule, the language specifying that DMLR would condition the initiation of mining on compliance with the requirements of the Federal land management agency has been deleted. This language is unnecessary since permits issued by DMLR must incorporate any terms or conditions imposed by OSMRE or the Federal land managing agency.

Article VII: Inspections

This Article provides procedures for inspections, and for exchange of information on inspections between DMLR and OSMRE. It provides that DMLR is the primary inspection authority, and encourages joint inspections by DMLR and OSMRE. However, it also reserves to OSMRE the right to conduct inspections, with or without prior notice to DMLR.

The proposed article on inspections was divided into an introductory statement and four paragraphs, A through D. The introduction specified that DMLR would conduct inspections on Federal lands covered by the Agreement, and would prepare and file reports in accordance with the State program. Paragraph A discussed inspection reports; established 15 days as the time period within which DMLR had to file inspection reports with OSMRE; and specified three items to be included in such reports: (1) General conditions of the lands affected; (2) whether the operator is complying with applicable performance and reclamation requirements; and (3) how operations are being conducted.

Proposed Paragraph B discussed DMLR's authority, and specified that DMLR was the primary inspection authority and point of contact for the operator on compliance with the Agreement. It reserved to authorized Federal or State agencies the right to conduct inspections for purposes other than those covered by the Agreement.

Proposed Paragraph C discussed OSMRE's authority, by and specified that OSMRE could conduct inspections on Federal lands. OSMRE was normally to give DMLR advance notice of such inspections, but this advance notice was not mandatory, especially when OSMRE was conducting an inspection in response to a citizen's complaint of an imminent danger to the health or safety of the public or of a significant imminent environmental harm pursuant to 30 CFR Part 842. Whenever OSMRE conducted an inspection without DMLR, OSMRE was to provide DMLR with a copy of the report within 15 days.

Proposed Paragraph D stated that personnel of the State and the Department were to be mutually available to serve as witnesses in enforcement actions.

In the final rule, this Article has been rewritten and reorganized extensively for clarity and brevity. The introductory statement has been deleted. Paragraphs A and B have been combined and shortened into a new Paragraph A, which covers both DMLR's authority as the primary inspection authority as well as the schedule for filing reports on inspections. The time allowed for the State to file reports has been extended to 30 days, which more realistically reflects the time needed to prepare such reports than did the 15 days allowed in the proposed rule. The final rule no longer specifies the contents of inspection reports. OSMRE believes that omitting a discussion of the specific contents of these reports provides the State with more flexibility to deal with specific structures.

In the final rule, Paragraph B (Paragraph C in the proposed rule) on the Department's authority has been rewritten. The provision reserving to the Secretary the right to conduct inspections without prior notice to DMLR has been placed first, for emphasis. 30 CFR Part 877 has been added as an authority under which OSMRE may conduct inspections in response to information about dangerous conditions. In the final rule, the provision on mutual witness availability for enforcement actions has been moved to Article VIII, which deals specifically with enforcement issues.

Article VIII: Enforcement

This Article provides that DMLR has primary enforcement authority on Federal lands covered by the Agreement, but that the Secretary's authority to enforce other laws is not affected by the Agreement. It also specifies that where OSMRE and DMLR fail to agree on enforcement actions, OSMRE can take any actions necessary to comply with 30 CFR Parts 843 and 845; and that witnesses from DMLR and the Department will be mutually available for enforcement actions.

Proposed Article VIII was divided into three paragraphs. Paragraph A specified that DMLR had primary enforcement authority for lands covered by the Agreement, and that DMLR was to take appropriate enforcement actions during any joint inspections by DMLR and OSMRE.

Proposed Paragraph B specified that DMLR was to notify the Federal land management agencies of all violations subject to the Agreement, and of actions taken by DMLR in response to violations.

Proposed Paragraph C provided that the Secretary's authority to enforce other laws was not limited by the Agreement. It also specified that OSMRE could take any enforcement actions necessary to enforce 30 CFR Parts 843 and 845 during any joint inspection when OSMRE and DMLR could not agree on appropriate enforcement actions. Such actions by OSMRE were to be based on standards in the State Program, and according to the procedures and penalty system in 30 CFR Parts 843 and 845.

In the final rule, proposed paragraphs A and B have been combined into a new Paragraph A. Proposed Paragraph C became final Paragraph B, with one addition to the proposal. A statement has been added to recognize that notwithstanding this cooperative agreement, the Secretary has certain responsibilities to enforce the two-acre exemption set forth in section 528(2) of the Act. The statement makes clear that the cooperative agreement will not preclude the Secretary from fulfilling his obligations under the June 7, 1985, court-approved settlement agreement in *Save Our Cumberland Mountains v. Hodel*, No. 81–2238 (D.D.C.).

A new Paragraph C has been added. This paragraph includes the provision

for mutually available witnesses that was in the proposed version of Article VII.

Article IX: Bonds

This Article discusses performance bonds, which are to be required by DMLR of all operators on lands covered by the Agreement. It covers bond amounts, payees of bonds, procedures to be followed to deal with bonds if the Agreement is terminated, and bond release and forfeiture. In the proposed rule, this Article was divided into two paragraphs. Paragraph A specified that performance bonds were to be required by DMLR to cover operators' responsibilities under SMORA and the State Program, and that such bonds were to be payable both to the United States and to the State. The bond was to be in such amount as would comply with the requirements of both Federal and State laws; and its release was to be conditioned upon compliance with all applicable requirements. DMLR could release an operator from any obligation under a bond with the concurrence of the Federal land manager. The paragraph further specified that if the Agreement were to be terminated, the bond would revert to being payable only to the United States to the extent that Federal lands were involved, and would be delivered by DMLR to OSMRE if only Federal lands were involved.

Paragraph B stated that bonds to be subject to forfeiture under procedures in the State Program.

In the final rule, Article IX has been rewritten and reorganized for clarity and brevity. Proposed Paragraph A has been divided into final Paragraphs A and B. Final Paragraph A includes the provisions on the basic bonding requirement, bond amounts, and procedures in the event the Agreement is terminated. A new provision specifies that DMLR will inform OSMRE of adjustments to the performance bond.

Final Paragraph B includes the provisions from proposed Paragraph A specifying that release of bonds shall be conditioned on compliance with all applicable requirements. The language on bond release has been rewritten to clarify that concurrence of the Federal land manager *must* be obtained prior to releasing an operator from any obligation under a bond.

Forfeiture provisions from proposed Paragraph B have also been included in final Paragraph B. A provision has been added specifying that OSMRE must concur in any bond forfeiture.

Article X: Filing of Appeals

This Article did not appear as a separate provisions in the proposed rule; however, the material contained therein is not new. It specifies that appealable orders issued by DMLR shall be appealed to the State. Appealable orders issued by the Department shall be appealed to the Department's Office of Hearings and Appeals. This section was proposed as Paragraph B of Article IV; in the final rule it has been put in a separate section for organizational purposes and rewritten for clarity and brevity.

Article XI: Termination of Cooperative Agreement

This Article specifies that the Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15. There are no changes from the proposed rule, except that the number of the Article has been changed from X to XI because of the addition of new Article X above.

Article XII: Reinstatement of Cooperative Agreement

This Article provides that if this Agreement is terminated it can be reinstated under the provisions of 30 CFR Part 745. This was proposed as Article XI, but has been renumbered because of the addition of new Article X above.

Article XIII: Amendment of Cooperative Agreement

This Article provides that the Agreement may be amended by mutual consent of the Governor and Secretary in accordance with 30 CFR 745.14. This was proposed as Article XII, but has been renumbered because of the addition of new Article X above.

Article XIV: Changes in State or Federal Standards

Paragraph A of this Article provides for notification of OSMRE and DMLR when one or the other party promulgates any changes in its regulations or laws, and that the party notified shall make any necessary changes in its own laws or regulations to ensure consistency. Paragraph B specifies that both parties shall provide the other with copies of any such changes. The title of Paragraph A has been changed from "Time for Changes" in the proposed rule to "Notification of Changes" in the final rule. This new title more accurately reflects the content of this paragraph. This Article was proposed as Article XIII, but has been renumbered because of the addition of new Article X above. No other changes have been made in the final rule.

Article XV: Changes in Personnel and Organization

This Article specifies that DMLR and the Secretary shall each notify the other of changes in the organization, structure, functions, duties and funds of their respective organizations. Notification of changes of key personnel are to be in writing, as are notifications of changes of mine inspectors and the areas within the State for which such inspectors are responsible. This Article was proposed as Article XIV, but has been renumbered because of the addition of new Article X above. No other changes have been made in the final rule.

Article XVI: Reservation of Rights

This Article specifies that rights that the State or the Secretary may have under other laws or regulations and that are not specifically addressed in the Agreement are not waived. This Article was proposed as Article XV, but has been renumbered because of the addition of new Article X above. The only other change in the final rule is a clarification that the Article does not apply to DOI personnel performing under the *Save Our Cumberland Mountains v. Hodel* two-acre settlement agreement.

IV. Procedural Matters

1. E.O. 12291 and Regulatory Flexibility Act

On October 21, 1982, the Department of the Interior received from the Office of Management and Budget an exemption for Federal/State cooperative agreements from the requirements of sections 3 and 7 of Executive Order 12291.

The Department certifies that this cooperative agreement will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C 605(b). This certification is made based on an assessment of the probable impact of the cooperative agreement on small entities within the State. It is concluded that the effect of the cooperative agreement would be to reduce the cost burden of complying with the Federal lands program found in 30 CFR Chapter VII, Subchapter D. The above findings were made by the Director, OSMRE and approved by the Assistant Secretary for Energy and Minerals. A copy is on file in the OSMRE Administrative Record Room, 5315–A, 1100 L Street NW., Washington, DC 20005.

2. Paperwork Reduction Act of 1980

There are recordkeeping and reporting requirements in this cooperative agreement which are the same as, and required by the permanent program regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of Requirement OMB Clearance Number

Article IV.F (Required by 30 CFR Part 735) 1029–0013
Article V. (Required by 30 CFR Part 740) 1029–0026
Article VIA (Required by 30 CFR Part 840) 1029–0051
Article IX.A (Required by 30 CFR Part 740) 1029–0026

3. National Environmental Policy Act of 1970

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are exempt under section 702(d) of the Act from requirements to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Author

The author of this regulation is Mr. Dyrel Delany, Division of Permit and Environmental Analysis, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240; telephone: (202) 343–1476.

List of Subjects in 30 CFR Part 946

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

For the reasons set forth herein, 30 CFR Part 946 is amended as follows.

Dated: March 23, 1987.

Steven Griles,

Assistant Secretary for Land and Minerals Management.

PART 946—[AMENDED]

1. The authority citation for 30 CFR Part 946 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.* Pub. L. 95–87.

2. Section 946.30 is added to read as follows:

§ 946.30 State-Federal Cooperative Agreement.

This is a Cooperative Agreement (Agreement) between the Commonwealth of Virginia (State) acting by and through the Governor, and the United States Department of the Interior (Department), acting by and through the Secretary of the Interior (Secretary).

Article I: Introduction, Purpose, and Responsible Administrative Agency

A. *Authority:* This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (SMCRA or the Act), 30 U.S.C. 1273(c), which provides that any State with a permanent regulatory program approved under 30 U.S.C. 1253 may enter into an agreement with the Secretary to assume the responsibilities of regulating surface coal mining and reclamation operations on Federal lands within that State. This Agreement provides for such regulation within the Commonwealth of Virginia (State) consistent with SMCRA, the Virginia State Program, and the Federal Lands Program (30 CFR Chapter VII, Subchapter D).

B. *Purpose:* The purpose of this Agreement is to (1) foster State-Federal cooperation in the regulation of coal mining including coal exploration on Federal lands containing non-Federal coal; (2) minimize intergovernmental overlap and duplication; and (3) provide uniform and effective application of the Virginia State Program (State Program) on all Federal lands except those containing leased Federal coal. This agreement does not apply on Indian lands.

C. *Responsible Administrative Agencies:* The Division of Mined Land Reclamation (DMLR) of the Department of Mines, Minerals and Energy is responsible for administering the Agreement on behalf of the Governor. The Office of Surface Mining Reclamation and Enforcement (OSMRE) is responsible for administering this Agreement on behalf of the Secretary. The Federal lands in Virginia covered by this Agreement are predominantly administered by the U.S. Department of Agriculture, Forest Service, and include in part the Jefferson National Forest and the George Washington National Forest. It is understood by all parties that the Forest Service or the applicable Federal agency will continue to regulate mining operations on lands under its jurisdiction pursuant to the laws, regulations, agreements, and restrictions governing those lands. These requirements are in addition to the requirements discussed in this Agreement.

Article II: Effective Date

The Agreement shall take effect May 7, 1987. This Agreement shall remain in effect until terminated as provided in Article XI.

Article III: Definitions

The terms and phrases used in this Agreement which are defined in the Act, 30 CFR Chapter VII, and the approved State Program shall be given the meanings set forth in said definitions. Where there is a conflict among the above referenced State and Federal definitions, the definitions used in the approved State Program will apply unless prohibited by Federal law.

The term "Federal lands covered by the agreement" means all Federal lands in Virginia except those lands containing leased Federal coal or those consisting of Federal surface over unleased Federal coal.

Article IV: Applicability

The laws, rules, terms, and conditions of the State Program are applicable to all Federal lands in Virginia. The State is authorized to conduct regulatory activities on all Federal lands with cooperative agreement.

Article V: Requirements for Cooperative Agreement

The Governor and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in the Agreement.

A. *Authority of State Agency:* DMLR has and shall continue to have authority under State law to carry out this Agreement.

B. *Funds:* Upon application by the DMLR and subject to the availability of appropriations, the Department shall provide the State with the funds to defray the costs associated with carrying out responsibilities under this Agreement as provided by section 705(c) of the SMORA and 30 CFR Part 735. If sufficient funds have not been appropriated to OSMRE, OSMRE and DMLR shall meet promptly to decide on measures that will insure that mining operations are regulated in accordance with the State Program. If agreement cannot be reached, then either party may terminate the Agreement in accordance with Article XI.

Funds provided to the State shall be adjusted in accordance with the Office of Management and Budget Circular A–102, Attachment E.

C. *Reports and Records:* DMLR shall make annual reports to OSMRE pursuant to 30 CFR 745.12(d) on the results of the State's implementation and administration of this cooperative agreement. DMLR and OSMRE shall exchange, upon request, information developed under this Agreement except where prohibited by Federal law. OSMRE shall provide DMLR with a copy of any final evaluation report concerning State administration and enforcement of this Agreement.

D. *Personnel:* DMLR shall provide the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal and State Acts and the State Program.

E. *Equipment and Laboratories:* DMLR shall have access to equipment, laboratories, and facilities necessary to carry out inspections, investigations, studies, tests, and analyses necessary to implement this Agreement.

F. *Permit Application Fees:* The amount of the fee accompanying an application for a permit shall be determined in accordance with the Virginia Coal Surface Mining Control and Reclamation Act of 1979 and 19 CV 45.1–235.(E). All permit fees, including fees for permits, permit revisions, renewals, transfers, sales or assignments, application fees, and civil penalties collected from

operations on Federal lands covered by this agreement shall be retained by the State and deposited with the State Treasurer. The financial status report submitted pursuant to 30 CFR 735.26 shall include a report of the amount of the permit application and other fees collected and attributable to Federal lands during the prior Federal fiscal year. This amount shall be disposed of in accordance with Federal regulations and OMB Circular No. A–102 Attachment E.

Article VI: Review of Permit Application Package(s)

A. *Permit Application Package:* DMLR shall require an operator proposing to conduct surface coal mining and reclamation operations on Federal lands covered by this Agreement to submit the appropriate permit application package (PAP) for a permit, permit revision, or permit renewal in an appropriate number of copies to DMLR. DMLR will furnish OSMRE a copy if OSMRE so requests. The permit application package shall be in the form required by DMLR and include any supplemental information required by the Federal land management agency. The PAP shall include the information required by, or necessary for, DMLR to make a determination of compliance with the State program and, under 30 CFR 740.4(c)(2), with any conditions or special requirements imposed by the Federal land management agency.

As requested, OSMRE will assist DMLR in identifying Federal agencies which may be affected by the proposed mining operation.

B. *Review Procedures:* 1. DMLR shall assume primary responsibility for the analysis, review, and approval or disapproval of PAPs for a permit, permit revision, or permit renewal for operations on Federal lands covered by this agreement. DMLR shall also assume primary responsibility for the review and analysis of applications for transfer, assignment or sale of permit rights required by 30 CFR 740.13 for surface coal mining operations on Federal lands covered by this agreement. DMLR shall be the primary point of contact for operators regarding PAPs and applications for the transfer, sale, or assignment of permit rights and will be responsibile for informing the applicant of all joint State-Federal or Federal determinations.

2. Upon receipt of PAP that involves surface coal mining and reclamation operations on lands covered by this Agreement, DMLR shall (a) transmit a copy of the complete PAP to the Federal land management agency with a request for review pursuant to 30 CFR 740.13(c)(4); (b) provide OSMRE with information necessary to allow OSMRE to determine whether or not a proposed surface coal mining and reclamation operation is prohibited or limited by the requirements of Section 522(e) of SMORA (30 U.S.C. 1272(e)) and 30 CFR Part 761 and Part 762; (c) determine whether leased Federal coal or Federal surface over unleased Federal coal is involved and immediately inform OSMRE in these situations; and (d) obtain, in a timely manner, the views and determinations of any other Federal agencies with jurisdiction or responsibility over Federal lands affected by a PAP in Virginia. These consultation comments shall be forwarded to OSMRE to be considered in any compatibility or valid existing rights determination;

3. OSMRE will provide technical assistance when requested, if available resources allow, and will process requests for determinations of compatibility and valid existing rights under 30 CFR Part 761 and Part 762. OSMRE will be responsible for ensuring that any information OSMRE receives from an applicant is promptly sent to DMLR. OSMRE shall have access to DMLR files concerning mines on Federal lands. The Secretary reserves the right to act independently of DMLR to carry out his responsibilities under laws other than SMORA. A copy of all correspondence with the applicant that may have a bearing on decisions regarding the PAP shall be sent to the State.

4. DMLR shall prepare the required technical analysis and written findings on the PAP. If requested by the Federal land management agency, a draft of these documents shall be sent to it for review and comment.

5. Any permit including permit revisions, renewals, transfers, sales, or assignments approved or issued by DMLR shall incorporate any terms or conditions imposed by OSMRE or the Federal land management agency, including conditions relating to post mining land use. After DMLR reaches a decision on a PAP, it shall send a notice to the applicant, the Federal land management agency, and OSMRE with a statement of all findings and conclusions on which the decision is based.

Article VII: Inspections

A. *DMLR Authority*: DMLR shall be the point of contact and primary inspection authority in dealing with the operator concerning operations on lands covered by this Agreement, except as described in this Agreement and the Secretary's regulations. DMLR must conduct inspections on Federal lands covered by this agreement and shall, within 30 days of conducting an inspection on Federal lands, prepare and file with OSMRE a legible copy of the State's completed inspection report. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies.

B. *DOI Authority:* The Secretary reserves the right to conduct inspections without prior notice of DMLR to carry out his responsibilities under SMORA. For the purposes of evaluating the manner in which this Agreement is being carried out and to insure that performance and reclamation standards are being met, OSMRE may periodically conduct inspections of surface coal mining and reclamation operations on Federal lands. OSMRE will attempt to give DMLR notice of its intent to conduct inspections and encourage joint inspections. However, pursuant to 30 CFR Part 842 or 30 CFR Part 877, OSMRE may conduct an inspection without the State when responding to information that there exists any condition, practice, or violation which creates an imminent danger to the health or safety of the public or is causing or could reasonably be expected to cause a significant, imminent environmental harm to land, air, or water resources. If an inspection is make without DMLR inspectors, OSMRE shall provide DMLR with a copy of the inspection report within 15 days after inspection.

Article VIII: Enforcement

A. *DMLR Enforcement:* DMLR shall have primary enforcement authority on Federal lands covered by this Agreement in accordance with the State Program and this Agreement, and DMLR shall take appropriate enforcement action whenever necessary, including issuance of orders of cessation and notices of violation.

DMLR shall promptly notify the Federal land management agency of all violations of applicable laws, regulations, orders, and approved permits subject to this Agreement and of all actions taken with respect to such violations.

B. *Secretary's Authority:* (1) This Agreement does not affect or limit the Secretary's authority to enforce provisions of laws other than the SMORA. (2) During an inspection made solely by OSMRE or any joint inspection where DMLR and OSMRE fail to agree regarding the propriety of any particular enforcement action, OSMRE may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845 or with SMORA. Such enforcement action shall be based on the substantive standards included in the approved State Program and shall be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845. (3) Nothing in this agreement shall preclude the Secretary from performing his responsibilities in *Save Our Cumberland Mountains* v. *Hodel*, No. 81–2238 (D.D.C.).

C. *Witness Availability:* Personnel of the State and Interior shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article IX: Bonds

A. DMLR shall require all operators on Federal lands covered by this Agreement to submit a performance bond, payable to both the United States and Virginia. The performance bond shall be of sufficient amount to comply with the bonding requirements of both SMORA and the State Program. Such bond shall provide that if this Cooperative Agreement is terminated, (1) the bond will revert to being payable only to the United States to the extent that Federal lands are involved, and (2) the bond will be delivered by DMLR to OSMRE if only Federal lands are covered by the bond. The DMLR shall also advise OSMRE of adjustment to the performance bond, pursuant to the Program.

B. Release of the performance bond shall be conditioned upon compliance with all applicable requirements. Prior to releasing the operator from any obligation under such bond, the DMLR shall obtain the concurrence of the Federal land management agency. Such bond shall be subject to forfeiture, with the concurrence of OSMRE, in accordance with the procedures and requirements of the State Program

Article X: Filing of Appeals

Orders and decisions issued by DMLR in accordance with the State Program that are appealable shall be appealed to the

Commonwealth of Virginia in accordance with the State Program. Orders and decisions issued by the Department that are appealable shall be appealed to the Department of the Interior's Office of Hearings and Appeals.

Article XI: Termination of Cooperative Agreement

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement

If this Agreement has been terminated in whole or part, it may be reinstated under the provisions of 30 CFR 745.16.

Article XIII: Amendment of Cooperative Agreement

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in State or Federal Standards

A. *Notification of Changes:* The Secretary or the State may from time to time promulgate new Federal or State regulations, including new or revised permitting or performance standards, or administrative and enforcement procedures. OSMRE and DMLR shall immediately inform each other of any final changes in their respective laws or regulations as provided in 30 CFR Part 732. Each party shall, if it is determined to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the State Program and section 501 of the SMORA for changes to the Federal lands program.

B. *Copies of Changes:* The State and OSMRE shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the administration and enforcement of this Agreement.

Article XV: Changes in Personnel and Organization

DMLR and the Secretary shall, consistent with 30 CFR Part 745, advise each other of changes in the organization, structure, functions, duties, and funds of the offices, departments, divisions, and persons within their organizations which could affect administration and enforcement of this Agreement. Each shall promptly advise the other in writing of changes in key personnel, including the head of department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the program. DMLR and OSMRE shall advise each other in writing of changes in the location of offices, addresses, telephone numbers, and changes in the names, location, and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible. This provision does not apply to Department of the Interior personnel performing activities under *Save Our Cumberland Mountains* v. *Hodel* referenced in Article VIII of this Agreement.

Article XVI: Reservation of Rights

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or the Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Approved:

Dated: March 18, 1987.

Signed:

Jerold L. Baliles,

Governor of Virginia.

Dated: January 29, 1987.

Signed:

Donald Paul Hodel,

Secretary of the Interior.

(Reporting and recordkeeping requirements approved by the Office of Management and Budget under Control Numbers 1029–0013, 1029–0026, and 1029–0051)

Appendix A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.
2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations including 43 CFR Parts 3480–3487.
3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations, including 40 CFR Part 1500.
4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations, including 50 CFR Part 402.
5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR Part 800.
6. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.
7. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.
8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.
9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*
10. Executive Order 1593 (May 13, 1971), Cultural Resources Inventories on Federal Lands.
11. Executive Order 11988 (May 24, 1977), for flood plain protection. Executive Order 11990 (May 24, 1977), for wetlands protection.
12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.
13. The Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa *et seq.*
14. The Constitution of the United States.
15. The Constitution of the State and State Law.

[FR Doc. 87–7612 Filed 4–6–87; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule sets forth an amended regulation pertaining to the Department of the Navy Privacy Act Program. The rule reflects changes in the Secretary of the Navy Instruction 5211.5 series from which it is derived.

EFFECTIVE DATE: April 7, 1987.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken (OP–09B30), Office of the Chief of Naval Operations, Washington, DC 20350–2000. Telephone: (202) 694–2004.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below the Department of the Navy amends 32 CFR Part 701, Subparts F and G, derived from the Secretary of the Navy Instruction 5211.5 series, which implements within the Department of the Navy the provisions of Department of Defense Directive 5400.11, Department of Defense Privacy Program (32 CFR Part 286a) pertaining to action on requests for release of personal information contained in systems of records under the Privacy Act (5 U.S.C. 552a). It has been determined that invitation of public comment on these changes to the Department of the Navy's implementing instruction prior to adoption would be impracticable and unnecessary, and it is therefore not required under the public rulemaking provisions of 32 CFR Parts 296 and 701, Subpart E. Interested persons, however, are invited to comment in writing on this amendment. All written comments received will be considered in making subsequent amendments or revisions to 32 CFR Part 701, Subparts F and G, or the instruction upon which it is based. Changes may be initiated on the basis of comments received. Written comments should be addressed to Gwendolyn R. Aitken (OP–09B30), Office of the Chief of Naval Operations, Washington, DC 20350–2000. It has been determined that this final rule is not a "major rule" within the criteria specified in section 1(b) of Executive Order 12291 and does not have substantial impact on the public.

List of Subjects in 32 CFR Part 701

Administrative practice and procedure; Freedom of Information; Navy Department; Privacy.

Accordingly, 32 CFR Part 701, Subparts F and G are revised. Subparts A, B, C, D, and E remain unaffected by this amendment. Subparts F and G are revised to read as follows:

PART 701—AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

* * * * *

Subpart F—Personal Privacy and Rights of Individuals Regarding Their Personal Records

Subpart G—Privacy Act Exemptions

Subpart F—Personal Privacy and Rights of Individuals Regarding Their Personal Records

Authority: 5 U.S.C 552a, 32 CFR Part 286a.

§ 701.100 Purpose.

32 CFR Part 701, Subparts F and G delineate revised policies, conditions, and procedures that govern collecting personal information, and safeguarding, maintaining, using, accessing, amending, and disseminating personal information kept by the Department of the Navy in systems of records. They implement 5 U.S.C. 552a (the Privacy Act of 1974), and the Department of Defense Directive 5400.11 series, Personal Privacy and Rights of Individuals Regarding Their Personal Records (DOD Dir. 5400.11) (32 CFR Part 286a), and prescribe:

(a) Procedures whereby individuals can be notified if any system of records contain a record pertaining to them.

(b) Requirements for verifying the identity of individuals who request their records before the records are made available to them.

(c) Procedures for granting access to individuals upon request for their records.

(d) Procedures for reviewing a request from individuals to amend their records, for making determinations on requests, and for appealing adverse determinations.

(e) Procedures for notifying the public of the existence and character of each system of records.

(f) Procedures for disclosing personal information to third parties.

(g) Procedures for exempting systems of records from certain requirements of 5 U.S.C. 552a.

(h) Procedures for safeguarding personal information.

(i) Rules of conduct for the Department of the Navy personnel, who will be subject to criminal penalties for noncompliance with 5 U.S.C. 552a. *See* § 701.115.

§ 701.101 Scope and effect.

(a) *Applicability.* 32 CFR Part 701, Subparts F and G apply throughout the Department of the Navy, and to any contractor maintaining a system of records to accomplish a Department of the Navy mission. For the purposes of any criminal liabilities adjudged, any contractor and any employee of such contractor shall be considered to be an employee of the Navy Department. Additionally, all requests by individuals for records (located in a system of records) pertaining to themselves which specify either the Freedom of Information Act or the Privacy Act (but not both) shall be treated under the procedures established under the Act specified in the request. When the request specifies, that it be processed under both the Freedom of Information Act and the Privacy Act, Privacy Act procedures should be employed. The individual should be advised that, while the Department of the Navy has elected to process his/her request in accordance with Privacy Act procedures, he/she can be assured that he/she will be provided with all the information that can be released under either the Privacy Act or the Freedom of Information Act. Requests may fall, however, within the scope of other applicable directives as follows:

(1) Requests from an individual about another individual are governed by the provisions of 5 U.S.C. 552 (Freedom of Information Act) and the SECNAVINST 5720.42 series (32 CFR Part 701, Subparts A through D).

(2) Requests by the General Accounting Office for information or records pertaining to individuals, except with respect to the requirements for disclosure accountings as provided in § 701.107(c) are governed by the SECNAVINST 5740.26 series, Relations with the General Accounting Office.

(3) Official and third party requests for information from systems of records controlled by the Office of Personnel Management shall be governed by 5 CFR Part 297 and the Federal Personnel Manual.

(b) *Other directives.* In case of a conflict, 32 CFR Part 701, Subparts F and G, take precedence over any existing Navy directive that deals with the personal privacy and rights of individuals regarding their personals records, except for disclosure of personal information required by 5 U.S.C. 552 (Freedom of Information Act) and implemented by the SECNAVINST 5720.42 series (32 CFR Part 701, Subparts A through D).

§ 701.102 Policy, responsibilities and authority.

(a) *Policy.* Subject to the provisions of 32 CFR Part 701, Subparts F and G, it is the policy of the Department of the Navy to:

(1) Ensure that all its personnel at all echelons of command or authority comply fully with 5 U.S.C. 552a to protect the privacy of individuals from unwarranted invasions. Individuals covered by this protection are living citizens of the United States or aliens lawfully admitted for permanent residence. A legal guardian of an individual or parent of a minor has the same rights as the individual or minor and may act on the individual's or minor's behalf. (A member of the Armed Forces is not a minor for the purposes of 32 CFR Part 701, Subparts F and G).

(2) Collect, maintain, and use only that personal information needed to support a Navy function or program as authorized by law or Executive order, and disclose this information only as authorized by 5 U.S.C. 552a and 32 CFR Part 701, Subparts F and G. In assessing need, consideration shall be given to alternatives, such as use of information not individually identifiable or use of sampling of certain data for certain individuals, only. Additionally, consideration is to be given to the length of time information is needed, and the cost of maintaining the information compared to the risks and adverse

consequences of not maintaining the information.

(3) Keep only that personal information that is timely, accurate, complete, and relevant to the purpose for which it was collected.

(4) Let individuals have access to, and obtain copies of, all or any portions of their records, subject to exemption procedures authorized by law and 32 CFR Part 701, Subparts F and G.

(5) Let individuals request amendment of their records when discrepancies proven to be erroneous, or untimely, incomplete, or irrelevant, are noted.

(6) Let individuals request an administrative review of decisions that deny them access to, or refuse to amend their records.

(7) Ensure that adequate safeguards are enforced to prevent misuse, unauthorized disclosure, alteration, or destruction of personal information in records.

(8) Maintain no records describing how an individual exercises his/her rights guaranteed by the First Amendment (freedom of religion, speech, and press; peaceful assemblage; and petition for redress of grievances), unless they are:

(i) Expressly authorized by statute;

(ii) Authorized by the individual about whom the records is maintained;

(iii) Within the scope of an authorized law enforcement activity; or

(iv) For the maintenance of certain items of information relating to religious affiliation for members of the naval service who are chaplains. This should not be construed, however, as restricting or excluding solicitation of information which the individual is willing to have in his/her record concerning religious preference, particularly that required in emergency situations.

(9) Maintain only systems of records which have been published in the **Federal Register.**

(b) *Responsibilities.* (1) The Chief of Naval Operations (OP–09B) is responsible for administering and supervising the execution of 5 U.S.C. 552a and 32 CFR Part 701, Subparts F and G within the Department of the Navy. Additionally, the Chief of Naval Operations (OP–09B) is designated as the principal Privacy Act coordinator for the Department of the Navy.

(2) The Commandant of the Marine Corps is responsible for administering and supervising the execution of 5 U.S.C. 552a and 32 CFR Part 701, Subparts F and G within the Marine Corps.

(3) Each addressee is responsible for the execution of the requirements of 5 U.S.C. 552a within his/her organization and for implementing and administering a Privacy Act program in accordance with the provisions of 32 CFR Part 701, Subparts F and G. Each addressee shall designate an official to be Privacy Act coordinator to:

(i) Serve as the principal point of contact on all Privacy Act matters.

(ii) Provide training for activity/command personnel in the provisions of 5 U.S.C. 552a.

(iii) Issue implementing instruction.

(iv) Review internal directives, practices, and procedures, including those for forms and records, for comformity with 32 CFR Part 701, Subparts F and G, when applicable.

(v) Compile and submit input for the annual report and record systems notices.

(vi) Maintain liaison with records management officials as appropriate (e.g., maintenance and disposal procedures and standards, forms, and reports).

(4) The systems managers are responsible for (with regard to systems of records under their cognizance):

(i) Ensuring that all personnel who in any way have access to the system or who are engaged in the development of procedures or handling records be informed of the requirements of 5 U.S.C. 552a and any unique safeguarding or maintenance procedures peculiar to that system.

(ii) Determining the content of and setting rules for operating the system.

(iii) Ensuring that the system has been published in the **Federal Register** and that any additions or significant changes are prepublished in the **Federal Register.**

(iv) Answering requests for information from individuals.

(v) Keeping accountability records of disclosures.

(vi) Evaluating information proposed for each system for relevance and necessity during the developmental phase of a new system or when an amendment to an existing system is proposed; in addition, annually comparing the system with the records system notice published in the **Federal Register** and considering:

(A) Relationship of each item of information to the statutory or regulatory purpose for which the system is maintained.

(B) Specific adverse consequences of not collecting each category of information.

(C) Possibility of meeting the information requirement through use of information not individually identifiable or through sampling techniques.

(D) Length of time the information is needed.

(E) Cost of maintaining the data compared to the risk or adverse consequences of not maintaining it.

(F) Necessity and relevance of the information to the mission of the command.

(vii) Keeping the Privacy Act coordinator informed of non-routine Privacy Act requests.

(5) Each employee of the Department of the Navy has certain responsibilities for safeguarding the rights of others. Employees shall:

(i) Not disclose any information contained in a system of records by any means of communication to any person, or agency, except as authorized in 32 CFR Part 701, Subparts F and G.

(ii) Not maintain unpublished official files which would fall under the provisions of 5 U.S.C. 552a.

(iii) Safeguard the privacy of individuals and the confidentiality of personal information contained in a system of records.

(iv) Familiarize themselves with the Rules of Conduct. *See* § 701.115.

(c) *Denial authority.* Only the following chief officials, their respective vice commanders, deputies, and those principal assistants specifically designated by the chief official are authorized to deny requests for notification, access, and amendment made under 32 CFR Part 701, Subparts F and G, when the records relate to matters within their respective areas of command, technical, or administrative responsibility, as appropriate.

(1) *For the Navy Department.* The Civilian Executive Assistants; the Chief of Naval Operations; the Commandant of the Marine Corps; the Chief of Naval Personnel; the Commanders of Naval Systems Commands; the Commanders of the Naval Intelligence Command, Naval Security Group Command, and Naval Telecommunications Command; the Commander, Naval Medical Command; the Auditor General of the Navy; the Naval Inspector General; the Assistant Deputy Chief of Naval Operations (Civilian Personnel/Equal Employment Opportunity); the Chief of Naval Education and Training; the Chief of Naval Reserve; the Chief of Naval Research; the Commander, Naval Oceanography Command; the Director, Naval Civilian Personnel Command; the heads of Department of the Navy Staff Offices, Boards, and Councils; the Assistant Judge Advocate General (Civil Law); and the Assistant Judge Advocate General (Military Law).

(2) *For the Shore Establishment.* (i) All officers authorized pursuant to 10 U.S.C. 822, or designated as empowered in Section 0103d, JAGINST 5800.7 series,

Manual of the Judge Advocate General, to convene general courts martial.

(ii) The Director, Naval Security and Investigative Command and the Assistant Commander (Management and Operations), Naval Legal Service Command.

(3) *In the Operating Forces.* (i) All officers authorized pursuant to 10 U.S.C. 822, or designated as empowered in Section 0103d, JAGINST 5800.7 series, *Manual of the Judge Advocate General*, to convene general courts martial.

(d) Review authority. (1) The Assistant Secretary of the Navy (Manpower and Reserve Affairs), as the Secretary's designee, shall act upon requests for administrative review of initial denials of requests for amendment of records related to fitness reports and performance evaluations of military personnel.

(2) The Judge Advocate General and the General Counsel, as the Secretary's designees, shall act upon requests for notification, access, or amendment of records, as set forth in § 701.104 (b), (c), and (d), other than as indicated in paragraph (d)(1) of this section, and other than initial denials of requests for notification, access, or amendment of records from civilian Official Personnel Folders or records contained on any other Office of Personnel Management (OPM) forms, which will be reviewed by OPM.

(e) The authority of the Secretary of the Navy, as the head of an agency, to request records subject to the 5 U.S.C. 552a from an agency external to the Department of Defense for civil or criminal law enforcement purposes, pursuant to subsection (b)(7) of 5 U.S.C. 552a, is delegated to the Commandant of the Marine Corps, the Director of Naval Intelligence, the Judge Advocate General, and the General Counsel.

§ 701.103 Definitions.

For the purposes of 32 CFR Part 701, Subparts F and G, the following meanings apply:

(a) *Access.* Reviewing or obtaining copies by individuals of records that pertain to themselves, or by agents designated by the individuals, or by individual's legal guardians, that are a part of a system of records.

(b) *Agency.* For purposes of disclosing records, the Department of Defense is an "agency". For all other purposes, to include applications for access and amendment, denial of access and amendment, appeals from denials, and recordkeeping about release to non-DOD agencies, each DOD component is considered a separate "agency".

(c) *Confidential source.* Any individual or organization that has given information to the Federal government under: (1) An express promise that the identity of the source would be withheld, or (2) an implied promise to withhold the identity of the source made before September 27, 1975.

(d) *Disclosure.* The conveyance of information about an individual, by any means of communication, to an organization or to an individual who is not the subject of the record. In the context of the 5 U.S.C. 552a and 32 CFR Part 701, Subparts F and G, this term only applies to personal information that is part of a system of records.

(e) *Individual.* A living citizen of the United States, or an alien lawfully admitted for permanent residence; or a member of the United States naval service, including a minor. Additionally, the legal guardian of an individual or a parent of a minor has the same rights as the individual, and may act on behalf of the individual concerned under 32 CFR Part 701, Subparts F and G. Members of the naval service, once properly accepted, are not minors for purposes of 32 CFR Part 701, Subparts F and G. The use of the term "individual" does not, however, vest rights in the representatives of decedents to act on behalf of the decedent under 32 CFR Part 701, Subparts F and G (except as specified in § 701.105(b), nor does the term embrace individuals acting in an entrepreneurial capacity (e.g., sole proprietorships and partnerships).

(f) *Maintain.* When used in the context of records on individuals, includes collect, file or store, preserve, retrieve, update or change, use, or disseminate.

(g) *Official use.* Within the context of 32 CFR Part 701, Subparts F and G, this term encompasses those instances in which officials and employees of the Department of the Navy have a demonstrated need for use of any record to complete a mission or function of the Department, or which is prescribed or authorized by a directive.

(h) *Personal information.* Information about an individual that is intimate or private to the individual, as distinguished from information related solely to the individual's official function or public life.

(i) *Privacy Act request.* A request from an individual for information about himself/herself concerning the existence of, access to, or amendment of records that are located in a system of records. (The request must cite or reasonably imply that it is pursuant to 5 U.S.C. 552a).

(j) *Record.* Any item, collection, or grouping of information about an individual that is maintained by or for the Department of the Navy or by an element of the Navy Department, operating forces, or shore establishment, including, but not limited to, the individual's education, financial transactions, medical history, and criminal or employment history, and that contains his/her name, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(k) *Risk assessment.* An analysis which considers information sensitivity, vulnerability, and cost to a computer facility or word processing center in safeguarding personal information processed or stored in the facility or center.

(l) *Routine use.* The disclosure of a record outside the Department of Defense for a use that is compatible with the purpose for which the records were collected and maintained by the Department of Defense. The routine use must be included in the published system notice for the system of records involved.

(m) *Statistical record.* A record maintained for statistical research or reporting purposes only, which may not be used in whole or in part in making any determination about an identifiable individual.

(n) *System of records.* A group of records from which information "is", as opposed to "can be", retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The capability to retrieve information by personal identifiers alone does not subject a system of records to 5 U.S.C. 552a and 32 CFR Part 701, Subparts F and G.

(o) *System manager.* That official who has overall responsibility for records within a particular system. He/she may serve at any level in the Department of the Navy. Systems managers are indicated in the published record systems notices. If more than one official is indicated as a system manager, initial responsibility resides with the manager at the appropriate level (e.g., for local records, at the local activity).

(p) *Working day.* All days excluding Saturday, Sunday, and legal holidays.

§ 701.104 Notification, access, and amendment procedures.

(a) *General*—(1) *Summary of requirements.* (i) Notification procedures are provided under subsection (e)(4) of 5 U.S.C. 552a to enable an individual to ascertain from the appropriate system manager whether or not a particular system of records contains information pertaining to him/her. If the system does

contain such a record, the individual may request access to the record, pursuant to subsection (d)(1) of 5 U.S.C. 552a, to ascertain the contents. Amendment procedures are provided under subsections (d) (2) and (3) of 5 U.S.C. 552a, to enable the individual to seek correction or deletion of information about himself/herself in the record which he/she considers to be erroneous. If a request for amendment is denied after a final determination, the individual may file a "statement of dispute," to be noted in the pertinent records and to be shown in connection with disclosures of such records. Individuals have a statutory right to obtain administrative review of denials of requests for amendment, and by 32 CFR Part 701, Subparts F and G, are accorded the right to obtain similar review of denials of requests for notification and access.

(ii) The provisions of this section apply to requests by individuals, or their authorized representatives, for records pertaining to themselves that are contained in systems of records. 32 CFR Part 701, Subparts F and G does not, however, require that an individual be given notification or access to a record that is not retrieved by name or other individual identifier. Requests for amendment of records contained in a system of records will normally be processed in accordance with 32 CFR Part 701, Subparts F and G, unless: (A) they are routine requests for administrative corrections not specifying that they are made under 32 CFR Part 701, Subparts F and G or 5 U.S.C. 552a, or (B) they are requests addressed to the Board for Correction of Naval Records, which is governed by other authority.

(2) *System rules.* Systems managers are responsible for ensuring that, for each system of records maintained, a records system notice is published in the **Federal Register,** stating the procedures by which an individual may be notified whether the system contains records pertaining to him/her. Additionally, systems managers are responsible for establishing, and making available to individuals upon request, rules applicable to requests for access or amendment of records within each system. Such rules must conform to the requirements of 32 CFR Part 701, Subparts F and G, and to matters indicated in §§ 701.113 and 701.114. In addition, they should contain the following:

(i) A statement of custodial officials other than the system manager, if any, authorized to grant requests for notification or access;

(ii) The minimum formal requirements for requests, including applicable requirements for requests to be reduced to writing; and, in the case of a request to provide the requester's records directly to an authorized representative who is other than the parent of a minor, or other legal guardian—an authorization signed within the past 45 days specifying the records to be released and the recipient of the records (notarized authorizations may be required if the sensitivity of the information in the records warrants);

(iii) The information which should be provided by the individual to assist in identifying relevant systems of records and the individual identifiers (e.g., full name, social security number, etc.) needed to locate records in the particular system; and,

(iv) The requirements for verifying the requester's identity, to which the following policies apply:

(A) Prior to being given notification or access to personal information, an individual is required to provide reasonable verification of his/her identity. No verification of identity, however, shall be required of an individual seeking notification or access to records which are otherwise available to any member of the public under 32 CFR Part 701, Subparts A through D.

(B) In the case of an individual who seeks notification, access, or amendment in person, verification of identity will normally be made from those documents that an individual is likely to have readily available, such as an employee or military identification card, driver's license, or medical card.

(C) When notification, access, or amendment is requested by mail, verification of identity may be obtained by requiring the individual to provide certain minimum identifying data, such as date of birth and some item of information in the record that only the concerned individual would likely know. If the sensitivity of the information in the record warrants, a signed and notarized statement of identity may be required.

(D) When a record has already been identified, an individual shall not be denied notification or access solely for refusing to disclose his/her social security number.

(3) *Responsibilities for action on initial requests.* (i) Subject to the provisions of this section and the applicable system manager's rules, requests for notification and access may be granted by officials having custody of the records, even if they are not systems managers or denial authorities. Requests for amendment may be granted by the cognizant system manager. Denials of initial requests for notification, access, or amendment of records under 32 CFR Part 701, Subparts F and G, however, may be made only by those officials designated as denial authorities under § 701.102(c).

(ii) *Investigative/non-investigative records.* (A) Copies of investigative records that are compiled by an investigative organization, but are in the temporary custody of another organization, which is holding the record for disciplinary, administrative, judicial, investigative, or other purposes, are the records of the originating investigative organization. Upon completion of the official action, the investigative reports are required to be destroyed or returned, in accordance with the instructions of the originating investigative activity. Individuals seeking notification or access, or making other requests under 32 CFR Part 701, Subparts F and G, concerning such records, shall be directed to the originating investigative organization. For example, a request for notification or access to a Naval Investigative Service report in the temporary custody of another activity should be forwarded directly to the Commander, Naval Security and Investigative Command.

(B) Copies of non-investigative records (including medical and/or personnel) located in the files of another agency must be referred for release determination. The originating agency may either authorize the records' release by the agency that located them or request that they be referred for processing. The individual requesting his/her records will be notified of records referred for processing.

(4) *Blanket requests not honored.* Requests seeking notification and/or access concerning all systems of records within the Department of the Navy, or a component thereof, shall not be honored. Individuals making such requests shall be notified that: (i) Requests for notification and/or access must be directed to the appropriate system manager for the particular record system, as indicated in the current **Federal Register** systems notices (a citation should be provided), and (ii) requests must either designate the particular system of records to be searched, or provide sufficient information for the system manager to ascertain the appropriate system. Individuals should also be provided with any other information needed for obtaining consideration of their requests.

(5) *Criteria for determinations.* (i) As further explained in Sec. 701.108, portions of designated records systems (indicated in subpart G of this part) are exempt, in certain circumstances, from the requirement to provide notification, access, and/or amendment. Only denial authorities (and the designated review authority) may exercise an exemption and deny a request, and then only in cases where there is specifically determined to be a significant and legitimate governmental purpose served by denying the request. A request for notification may be denied only when an applicable exemption has been exercised by a denial or review authority. A request for access may be denied by a denial or review authority, in whole or part, on the basis of the exercise of an applicable exemption or for the reasons set forth in paragraph (a)(5) (ii) or (iii) of this section.

(ii) Where a record has been compiled in reasonable anticipation of a civil action or proceeding, a denial authority (or the designated review authority) may deny an individual's request for access to that record pursuant to subsection (d)(5) of 5 U.S.C. 552a, provided that there is specifically determined to be a significant and legitimate governmental purpose to be served by denying the request. Consultation with the Office of the Judge Advocate General, Office of General Counsel, or other originator, as appropriate, is required prior to granting or denying access to attorney-advice material. This includes, but is not limited to, legal opinions.

(iii) As indicated in § 701.103(e), where a record pertains to an individual who is a minor, the minor's parent or legal guardian is normally entitled to obtain notification concerning, and access to, the minor's record, pursuant to the provisions of this section. When, however, an applicable law or regulation prohibits notification to, or access by, a parent or legal guardian with respect to a particular record, or portions of a record, pertaining to a minor, the provisions of the governing law or regulation and § 701.105, shall govern disclosures of the existence or contents of such records to the minor's parent or legal guardian. (Members of the naval service, once properly accepted, are not minors for the purposes of 32 CFR Part 701, Subparts F and G.)

(iv) Subject to the provisions of this section, a medical record shall be made available to the individual to whom it pertains unless, in the judgment of a physician, access to such record could have an adverse effect upon the individual's physical or mental health. When it has been determined that granting access to medical information could have an adverse effect upon the individual to whom it pertains, the individual may be asked to name a physician to whom the information shall then be transmitted. This shall not be deemed a denial of a request for access.

(6) *Time requirements for making acknowledgements and determinations.* (i) A request for notification, access, or amendment of a record shall be acknowledged in writing within 10 working days (Saturdays, Sundays, and legal holidays excluded) of receipt by the proper office. The acknowledgement shall clearly identify the request and advise the individual when he/she may expect to be advised of action taken on the request. No separate acknowledgement of receipt is necessary if a request for notification or access can be acted upon, and the individual advised of such action, within the 10 working day period. If a request for amendment is presented in person, written acknowledgement may be provided at the time the request is presented.

(ii) Determinations and required action on initial requests for notification, access or amendment of records shall be completed, if reasonably possible, within 30 working days of receipt by the cognizant office.

(b) *Notification procedures* (1) *Action upon receipt of request.* Subject to the provisions of this section, upon receipt of an individual's initial request for notification, the system manager or the other appropriate custodial official shall acknowledge the request as required by paragraph (a)(6)(i) of this section, and take one of the following actions:

(i) If consideration cannot be given to the request, because—

(A) The individual's identity is not satisfactorily verified;

(B) The record system is not adequately identified, or the individual has not furnished the information needed to locate a record within the system; or

(C) The request is erroneously addressed to an official having no responsibility for the record or system of records in question;

inform the individual of the correct means, or additional information needed, for obtaining consideration of his/her request for notification.

(ii) Notify the individual, in writing, whether the system of records contains a record pertaining to him/her (a notification that a system of records contains no records pertaining to the individual shall not be deemed a denial);

(iii) If it is determined that notification should be denied under an available exemption and the official is not a denial authority, forward the request to the cognizant denial authority, with a copy of the requested record, and comments and recommendations concerning disposition; or

(iv) If the official is a denial authority, take the appropriate action prescribed in paragraph (b)(2) of this section.

(2) *Action by denial authority.* (i) If the denial authority determines that no exemption is available or that an available exemption should not be exercised, he/she shall provide the requested notification, or direct the system manager or appropriate custodial official to do so.

(ii) If the denial authority determines that an exemption is applicable and that denial of the notification would serve a significant and legitimate governmental purpose (e.g., avoid interfering with an on-going law enforcement investigation), he/she shall promptly send the requesting individual an original and one copy of a letter stating that no records from the systems of records specified in the request are available to the individual under 5 U.S.C. 552a. The letter shall also inform the individual that he/she may request further administrative review of the matter within 60 calendar days from the date of the denial letter, by letter to the:

Judge Advocate General (Code 14),
Department of the Navy, 200 Stoval Street,
Alexandria, VA 22332

The individual shall be further informed that a letter requesting such review should contain the enclosed copy of the denial letter and a statement of the individual's reasons for requesting the review.

(iii) A copy of the letter denying notification shall be forwarded directly to the Chief of Naval Operations (OP–09B30) or the Commandant of the Marine Corps (Code M), as appropriate. These officials shall maintain copies of all denial letters in a form suitable for rapid retrieval, periodic statistical compilation, and management evaluation.

(3) *Action by reviewing authority.* Upon receipt of a request for review of a determination denying an individual's initial request for notification, the Judge Advocate General shall obtain a copy of the case file from the denial authority, review the matter, and make a final administrative determination. That official is designated to perform such acts as may be required by or on behalf of the Secretary of the Navy to accomplish a thorough review and to effectuate the determination Within 30

working days of receipt of the request for review, whenever practicable, the Judge Advocate General shall inform the requesting individual, in writing, of the final determination and the action thereon. If the final determination is to grant notification, the Judge Advocate General may either provide the notification or direct the system manager to do so. If the final determination is to deny notification, the individual shall be informed that it has been determined upon review that there are no records in the specified systems of records that are available to him/her under 5 U.S.C. 552a.

(c) *Access procedures*—(1) *Fees.* When a copy of a record is furnished to an individual in response to a request for access, he/she will normally be charged duplication fees only. When duplication costs for a Privacy Act request total less than $30, fees may be waived automatically. Normally, only one copy of any record or document will be provided.

(i) Use the following fee schedule:

Office copy (per page)	$.10
Microfiche (per fiche)	.25

(ii) Checks or money orders to defray fees/charges should be made payable to the Treasurer of the United States and deposited to the miscellaneous receipts of the Treasury account maintained at the finance office servicing the activity.

(iii) Do not charge fees for:

(A) Performing record searches.

(B) Reproducing a document for the convenience of the Navy.

(C) Reproducing a record in order to let a requester review it if it is the only means by which the record can be shown to him/her (e.g., when a copy must be made in order to delete information).

(D) Copying a record when it is the only means available for review.

(2) *Action upon receipt of request.* Subject to the provisions of this section, upon receipt of an individual's initial request for access, the system manager or other appropriate custodial official shall acknowledge the request as required by paragraph (a)(6)(i) of this section, and take one of the following actions:

(i) If consideration cannot be given to the request because—

(A) The individual's identity is not satisfactorily verified;

(B) The record system is not adequately identified or the individual has not furnished the information needed to locate a record within a system; or

(C) The request is erroneously addressed to an official not having responsibility for granting access to the record or system of record in question;

inform the individual of the correct means, or additional information needed, for obtaining consideration of his/her request for access.

(ii) If it is determined that the individual should be granted access to the entire record requested, the official shall inform the individual, in writing, that access is granted, and shall either:

(A) Inform the individual that he/she may review the record at a specified place and at specified times, that he/she may be accompanied by a person of his/her own choosing to review the record (in which event he/she may be asked to furnish written authorization for the record to be discussed in the accompanying person's presence), and that he/she may further obtain a copy of the record upon agreement to pay a duplication fee; or

(B) Furnish a copy of the record, if the individual requested that a copy be sent and agreed in advance to pay duplication fees unless such fees are waived.

(iii) If it is necessary to deny the individual access to all or part of the requested record, and,

(A) The official is not a denial authority—forward the request to the cognizant denial authority, with a copy of the requested record, and comments and recommendations concerning disposition; or

(B) The official is a denial authority—take the action prescribed in paragraph (c)(3) (ii) or (iii) of this section.

(3) *Action by denial authority.* (i) If the denial authority determines that access should be granted to the entire record, he/she shall promptly make it available to the requesting individual in the manner prescribed in paragraph (c)(2)(ii) of this section, or direct the system manager to do so.

(ii) If the denial authority determines that access to the entire record should be denied under the criteria specified in paragraph (a)(5) (i), (ii), or (iii) of this section, he/she shall promptly send the requesting individual an original and one copy of a letter informing the individual of the denial of access and the reasons therefor, including citation of any applicable exemptions and a brief discussion of the significant and legitimate governmental purpose(s) served by the denial of access. The denial letter shall also inform the individual that he/she may request further administrative review of the matter within 60 calendar days from the date of the denial letter, by letter:

(A) if the record is from a civilian Official Personnel Folder or is contained on any other OPM form, to—

Director, Bureau of Manpower Information Systems, Office of Personnel Management, 1900 E. Street, NW, Washington, DC 20415; or

(B) If the record pertains to the employment of a present or former Navy civilian employee, such as, Navy civilian personnel records or an employee's grievance or appeal file, to—

General Counsel, Department of the Navy, Washington, DC 20360; or

(C) If for any other record, to—

Judge Advocate General (Code 14), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332

The individual shall be further informed that a letter requesting such review should contain the enclosed copy of the denial letter and a statement of the individual's reasons for seeking review of the initial determination.

(iii) A copy of the denial letter shall be forwarded directly to the Chief of Naval Operations (OP–09B30) or the Commandant of the Marine Corps (Code M), as provided in paragraph (b)(2)(iii) of this section.

(iv) If the denial authority determines that access to portions of the record should be denied under the criteria specified in paragraph (a)(5) (i), (ii), (iii) of this section, he/she shall promptly make an expurgated copy of the record available to the requesting individual and issue a denial letter as to the portions of the record that are required to be deleted.

(4) *Action by reviewing authority.* Upon receipt of a request for review of a determination denying an individual's initial request for access, the Judge Advocate General or the General Counsel shall obtain a copy of the case file from the denial authority, review the matter, and make a final administrative determination. He/she is designated to perform such acts as may be required by or on behalf of the Secretary of the Navy to accomplish a thorough review and to effectuate the determination.

(i) Within 30 working days of receipt of the request for review, if practicable, the Judge Advocate General or the General Counsel shall inform the requesting individual, in writing, of the final determination and the action thereon.

(ii) If such a determination has the effect of granting a request for access, in whole or in part, the Judge Advocate General or the General Counsel may either provide access in accordance with paragraphs (c)(2)(ii) (A) or (B) of

this section, or direct the system manager to do so.

(iii) If the final determination has the effect of denying a request for access, in whole or part, the individual shall be informed of the reason(s) and statutory basis for the denial—including regulatory citations for any exemption exercised and an explanation of the significant and legitimate governmental purpose served by exercising the exemption—and his/her rights to seek judicial review.

(iv) If the determination is based, in whole or part, on a security classification, the individual shall be apprised of the matters set forth in § 701.9(d)(4)(ii) of this part relating to declassification review and appeal.

(d) *Amendment procedures*—(1) *Criteria for determinations on requests for amendment.* (i) As further explained in § 701.108, many of the systems of records listed in Subpart G of this part, are exempt, in part, from amendment requirements. Such exemptions, where applicable, may be exercised only by denial authorities (and by the designated review authorities upon requests for review of initial denials), and then only in cases where there is specifically determined to be a significant and legitimate governmental purpose to be served by exercising the exemption.

(ii) If an available exemption is not exercised, an individual's request for amendment of a record pertaining to himself/herself shall be granted if it is determined, on the basis of the information presented by the requester and all other reasonably available related records, that the requested amendment is warranted in order to make the record sufficiently accurate, relevant, timely, and complete as to ensure fairness in any determination which may be made about the individual on the basis of the record. If the requested amendment would involve the deletion of particular information from the record, the information shall be deleted unless it is determined that in addition to being accurate, relevant to the individual, timely, and complete—the information is relevant and necessary to accomplish a purpose or function required to be performed by the Department of the Navy pursuant to a statute or Executive order.

(iii) The foregoing is not intended to permit the alteration of evidence presented in the course of judicial or quasi-judicial proceedings. Any changes in such records should be made only through the procedures established for changing such records. These provisions are also not designed to permit collateral attack upon that which has already been the subject of a judicial or quasi-judicial action. For example, an individual would not be permitted to challenge a courts-martial conviction under 32 CFR Part 701, Subparts F and G, but the individual would be able to challenge the accuracy with which a conviction has been recorded in a record.

(iv) The procedures in paragraph (d) of this section may be applied to requests for amendment of records contained in a system of records, provided they can be identified and located.

(2) *Action upon receipt of request.* Subject to the provisions of this section, upon receipt of an individual's initial request to amend a record, the system manager (or official occupying a comparable position with respect to a record not contained in a system of records) shall acknowledge the request in the manner prescribed by paragraph (a)(6)(i) of this section, and, within 30 days, if reasonably possible, take one of the following actions:

(i) If consideration cannot be given to the request because—

(A) The individual's identity is not satisfactorily verified;

(B) The individual has not furnished the information needed to locate the record;

(C) The individual has not provided adequate information as to how or why the record should be amended; or

(D) The request is erroneously addressed to an official having no responsibility for the record or systems of records in question;

inform the individual of the correct means or additional information needed for obtaining consideration of his/her request for amendment (a request may not be rejected, nor may the individual be required to resubmit his/her request, unless this is essential for processing the request).

(ii) If the system manager determines that the individual's request to amend a record is warranted under the criteria in paragraph (d)(1) of this section, he/she shall promptly amend the record and advise the individual, in writing, of that action and its effect. (The system manager also should attempt to identify other records under his/her responsibility affected by the requested amendment, and should make other necessary amendments, accordingly.) Amendments to records should be made in accordance with existing directives and established procedures for changing records, if applicable and consistent with 32 CFR Part 701, Subpart F. The system manager shall advise previous recipients of the record from whom a disclosure accounting has been made that the record has been amended, and of the substance of the correction.

(iii) If the system manager is a denial authority, and denial of the request for amendment, in whole or part, is warranted, take the appropriate action prescribed in paragraph (d)(3) (ii) or (iii) of this section; or

(iv) If the system manager is not a denial authority, but denial of the request for amendment, in whole or part, appears to be warranted, forward the request to the cognizant denial authority with a copy of the disputed record, and comments and recommendations concerning disposition.

(3) *Action by denial authority.* (i) If the denial authority determines that amendment of the record is warranted under the criteria in paragraph (d)(1) of this section, he/she shall direct the system manager to take the action prescribed in paragraph (d)(2)(ii) of this section.

(ii) If the denial authority determines that amendment of the record is not warranted under the criteria in paragraph (d)(1) of this section, he/she shall promptly send the requesting individual an original and one copy of a letter informing him/her of the denial of the request and the reason(s) for the denial, including a citation of any exemption exercised and a brief discussion of the significant and legitimate governmental purpose(s) served by exercising the exemption. The denial letter shall inform the individual that he/she may request further administrative review of the matter, as follows:

(A) If the record is a fitness report or performance evaluation (including proficiency and conduct marks) from a military personnel file—by letter, within 60 calendar days from the date of the denial letter, to:

Assistant Secretary of the Navy (Manpower and Reserve Affairs), Department of the Navy, Washington, DC 20350; or

(B) If the record is from a civilian Official Personnel Folder or is contained in any other Office of Personnel Management form—by letter, within 60 calendar days from the date of the denial letter, to:

Director, Bureau of Manpower Information Systems, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415; or

(C) If the record pertains to the employment of a present or former Navy civilian employee, such as Navy civilian personnel records or an employee's grievance or appeal file—by letter,

within 60 calendar days from the date of the denial letter, to:

General Counsel, Department of the Navy, Washington, DC 20360

(D) For any other record—by letter, within 60 calendar days from the date of the denial letter, to:

Judge Advocate General (Code 14), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332

The individual shall be further informed that a letter requesting such review should contain the enclosed copy of the denial letter and a statement of the reasons for seeking review of the initial determination denying the request for amendment. A copy of the denial letter shall be forwarded to the Chief of Naval Operations or the Commandant of the Marine Corps, as provided in paragraph (b)(2)(ii) of this section.

(iii) If the denial authority determines that a request for amendment of a record should be granted in part and denied in part, he/she shall take the action prescribed in paragraph (d)(3)(ii) of this section with respect to the portion of the request which is denied.

(4) *Action by reviewing authority.* Upon receipt of a request for review for a determination denying an individual's initial request for amendment of a record, the Assistant Secretary of the Navy (Manpower and Reserve Affairs), the General Counsel, or the Judge Advocate General, as appropriate, shall obtain a copy of the case file from the denial authority, review the matter, and make a final administrative determination, either granting or denying amendment, in whole or in part. Those officials are designated to perform such acts as may be required by or on behalf of the Secretary of the Navy to accomplish a thorough review and effectuate the determination.

(i) Within 30 working days of receipt of the request for review, the designated reviewing official shall inform the requesting individual, in writing, of the final determination and the action thereon, except that the Assistant Secretary of the Navy (Manpower and Reserve Affairs) may authorize an extension of the time limit where warranted because a fair and equitable review cannot be completed within the prescribed period of time, or for other good cause. If an extension is granted, the requesting individual shall be informed, in writing, of the reason for the delay, and the approximate date on which the review will be completed and the final determination made.

(ii) If, upon completion of review, the reviewing official determines that denial of the request of amendment is warranted under the criteria in paragraph (d)(1) of this section, the individual shall be informed, in writing:

(A) Of the final denial of the request for amendment of the record, and the reason(s) therefor;

(B) Of the right to file with the appropriate system manager a concise statement of the individual's reason(s) for disagreeing with the decision of the agency, and that such statement of dispute must be received by the system manager within 60 calendar days following the date of the reviewing authority's final determination;

(C) Of other procedures for filing such statement of dispute, and that a properly filed statement of dispute will be made available to anyone to whom the record is subsequently disclosed, together with, if deemed appropriate, a brief statement summarizing the reason(s) why the Department of the Navy refused the request to amend the record;

(D) That prior recipients of the disputed record, to the extent that they can be ascertained from required disclosure accountings, will be provided a copy of the statement of dispute and, if deemed appropriate, a brief statement summarizing the reason(s) why the Department of the Navy refused the request to amend the record; and

(E) Of his/her right to seek judicial review of the reviewing authority's refusal to amend a record.

(iii) If the reviewing official determines upon review that the request for amendment of the record should be granted, he/she shall inform the requesting individual of the determination, in writing, and he/she shall direct the system manager to amend the record accordingly, and to inform previous recipients of the record for whom disclosure accountings have been made that the record has been amended and the substance of the correction.

(5) *Statements of dispute.* When an individual properly files a statement of dispute under the provisions of paragraphs (d)(4)(ii) (B) and (C) of this section, the system manager shall clearly annotate the record so that the dispute is apparent to anyone who may subsequently access, use, or disclose it. The notation itself should be integral to the record. For automated systems of records, the notation may consist of a special indicator on the entire record or on the specific part of the record in dispute. The system manager shall advise previous recipients of the record for whom accounting disclosure has been made that the record has been disputed, if the statement of dispute is germane to the information disclosed, and shall provide a copy of the individual's statement, together with, if deemed appropriate, a brief statement summarizing the reason(s) why the Department of the Navy refused the request to amend the record.

(i) The individual's statement of dispute need not be filed as an integral part of the record to which it pertains provided the record is integrally annotated as required above. It shall, however, be maintained in such a manner as to permit ready retrieval whenever the disputed portion of the record is to be disclosed. When information which is the subject of a statement of dispute is subsequently disclosed, the system manager shall note that the information is disputed, and provide a copy of the individual's statement of dispute.

(ii) The system manager may include a brief summary of the reasons for not making an amendment when disclosing disputed information. Summaries normally will be limited to the reasons stated to the individual. Although these summaries may be treated as part of the individual's record, they will not be subject to the amendment procedures of this section.

§ 701.105 Disclosure to others and disclosure accounting.

(a) *Summary of requirements.* Subsection (b) of 5 U.S.C. 552a prohibits an agency from disclosing any record contained in a system of records to any person or agency, except pursuant to the written request or consent of the individual to whom the record pertains, unless the disclosure is authorized under one or more of the 11 exceptions noted in paragraph (b) of this section. Subsection i(1) of 5 U.S.C. 552a outlines criminal penalties (as prescribed in 32 CFR 701.110) for personnel who knowingly and willfully make unauthorized disclosures of information about individuals from an agency's records. Subsection (c) of 5 U.S.C. 552a requires accurate accountings to be kept, as prescribed in paragraph (c) of this section, in connection with most disclosures of a record pertaining to an individual (including disclosures made pursuant to the individual's request or consent). This is to permit the individual to determine what agencies or persons have been provided information from the record, enable the agency to advise prior recipients of the record of any subsequent amendments or statements of dispute concerning the record, and provide an audit trail for review of the agency's compliance with 5 U.S.C. 552a.

(b) *Conditions of disclosure.* No record contained in a system of records shall be disclosed, except pursuant to a written request by, or with the prior

written consent of, the individual to whom the record pertains, unless disclosure of the record falls within one of the exceptions. Where the record subject is mentally incompetent, insane, or deceased, no medical record shall be disclosed except pursuant to a written request by, or with the prior written request of, the record subject's next of kin or legal representative, unless disclosure of the record falls within one of the exceptions. Disclosure to third parties on the basis of the written consent or request of the individual is permitted, but not required, by 32 CFR Part 701, Subparts F and G.

(1) *Intra-agency.* Disclosure may be made to personnel of the Department of the Navy or other components of the Department of Defense (DOD) (including private contractor personnel who are engaged to perform services needed in connection with the operation of a system of records for a DOD component), who have a need for the record in the performance of their duties, provided this use is compatible with the purpose for which the record is maintained. This provision is based on the "need to know" concept.

(i) This may include, for example, disclosure to personnel managers, review boards, discipline officers, courts-martial personnel, medical officers, investigating officers, and representatives of the Judge Advocate General, Auditor General, Naval Inspector General, or the Naval Investigative Service, who require the information in order to discharge their official duties. Examples of personnel outside the Navy who may be included are: Personnel of the Joint Chiefs of Staff, Armed Forces Entrance and Examining Stations, Defense Investigative Service, or the other military departments, who require the information in order to discharge an official duty.

(ii) It may also include the transfer of records between Naval components and non-DOD agencies in connection with the Personnel Exchange Program (PEP) and interagency support agreements. Disclosure accountings are not required for intraagency disclosure and disclosures made in connection with interagency support agreements or the PEP. Although some disclosures authorized by paragraph (b) of this section might also meet the criteria for disclosure under other exceptions specified in paragraphs (b) (2) through (12) of this section, they should be treated under paragraph (b)(1) of this section for disclosure accounting purposes.

(2) *Freedom of Information Act.* Disclosure may be made of those records, or information obtained from records, required to be released under the provisions of 5 U.S.C. 552 and 32 CFR Subparts A through D. Disclosure accountings are not required when information is disclosed under the Freedom of Information Act. That act has the general effect of requiring the release of any record which does not fall within one of the nine exemptions specified in Subpart A, § 701.5(b)(4)(ii), including an exemption for records which, if disclosed, would result in a clearly unwarranted invasion of the personal privacy of an individual. The phrase "clearly unwarranted invasion of personal privacy" states a policy which balances the interest of individuals in protecting their personal affairs from public scrutiny against the interest of the public having available information relating to the affairs of government. The interests of the recipient or of society must be weighed against the degree of the invasion of privacy. Numerous factors must be considered such as: The nature of the information to be disclosed (i.e., Do individuals normally have an expectation of privacy in the type of information to be disclosed?); importance of the public interest served by the disclosure and probability of further disclosure which may result in an unwarranted invasion of privacy; relationship of the requester to the public interest being served; newsworthiness of the individual to whom the information pertains (e.g., high ranking officer, public figure); degree of sensitivity of the information from the standpoint of the individual or the individual's family, and its potential for being misused to the harm, embarrassment, or inconvenience of the individual or the individual's family; the passage of time since the event which is the topic of the record (e.g., to disclose that an individual has been arrested and is being held for trial by court-martial is normally permitted, while to disclose an arrest which did not result in conviction might not be permitted after the passage of time); and the degree to which the information is already in the public domain or is already known by the particular requester. Examples of information pertaining to civilian personnel, which are normally released without an unwarranted invasion of privacy are: name, present and past grades, present and past position titles, present and past salaries, present and past duty stations, and office or duty telephone numbers. Disclosure of other personal information pertaining to civilian employees shall be made in accordance with 5 CFR Part 297, and the Federal Personnel Manual. Determinations as to disclosure of personal information regarding military personnel shall be made using the same balancing test as explained above. The following are examples of information concerning military personnel, which can normally be released without the consent of the individual upon request, as they are a matter of public record: name, rank, date of rank, gross salary, present and past duty assignments, future assignments which are officially established, office or duty telephone numbers, source of commission, promotion sequence number, awards and decorations, attendance at professional military schools (major area of study, school, year of education, and degree), and duty status at any given time. When the information sought relates to a list of members who are attached to a unit located in foreign territory, routinely deployable, or engaged in sensitive operations, the policy set forth in paragraph (b)(2)(vi) of this section shall be applied. In instances where the duty address or phone number of a specifically named member who is attached to such a unit is sought, the concerns underlying the policy involved when releasing such information as to a list of members should be weighed along with the other considerations required in the case of all other members.

(i) Disclosure of home addresses and home telephone numbers without permission shall normally be considered a clearly unwarranted invasion of personal privacy. Accordingly, disclosure pursuant to 5 U.S.C. 552 is normally prohibited. Requests for home addresses (includes barracks and Government-provided quarters) may be referred to the last known address of the individual for reply at the person's discretion. In such cases, requesters will be notified accordingly.

(ii) Disclosure is permitted pursuant to the balancing test when circumstances of a case weigh in favor of disclosure. Disclosure of home address to individuals for the purpose of initiating court proceedings for the collection of alimony or child support, and to state and local tax authorities for the purpose of enforcing tax laws, are examples of circumstances where disclosure could be appropriate. However, care must be taken prior to release to ensure that a written record is prepared to document the reasons for the release determination.

(iii) Lists or compilations of names and home addresses, or single home addresses will not be disclosed without the consent of the individual involved, to the public including, but not limited to, individual Members of Congress,

creditors, and commercial and financial institutions. Requests for home addresses may be referred to the last known address of the individual for reply at the individual's discretion and the requester will be notified accordingly. This prohibition may be waived when circumstances of a case indicate compelling and overriding interests of the individual involved.

(iv) An individual shall be given the opportunity to elect not to have his/her home address and telephone number listed in a Navy activity telephone directory. The individual shall also be excused from paying additional costs that may be involved in maintaining an unlisted number for Government-owned telephone service if the individual complies with regulations providing for such unlisted numbers. However, the exclusion of a home address and telephone number from a Navy activity telephone directory does not apply to the mandatory listing of such information on a command's recall roster.

(v) Information regarding nonjudicial punishment normally will not be released in response to Freedom of Information Act requests. However, the usual balancing of interests must be done. It is possible that in a particular case, information regarding nonjudicial punishment should be disclosed pursuant to an FOIA request, i.e., the facts leading to a nonjudicial punishment are particularly newsworthy or the case involves a senior official abusing the public trust through office-related misconduct, such as embezzlement. (Note: Announcement of nonjudicial punishment dispositions under JAGMAN, subsection 0107, is a proper exercise of command authority and not a release of information under 32 CFR Part 701, Subparts A through D or 32 CFR Part 701, Subparts F and G.)

(vi) Unclassified information about service members may be withheld when disclosure "would constitute a clearly unwarranted invasion of personal privacy" under 5 U.S.C. 552 (exemption (b)(6) applies). Disclosure of lists of names and duty addresses or duty telephone numbers of members assigned to units that are stationed in foreign territories, routinely deployable, or sensitive can constitute a clearly unwarranted invasion of personal privacy. Disclosure of such information poses a security threat to those service members because it reveals information about their degree of involvement in military actions in support of national policy, the type of naval unit to which they are attached, and their presence or absence from their households. Release of such information aids the targeting of service members and their families by terrorists or other persons opposed to implementation of national policy. Only an extraordinary public interest in disclosure of this information can outweigh the need and responsibility of the Navy to protect the tranquility and safety of service members and their families who repeatedly have been subjected to harassment, threats and physical injury. Units covered by this policy are:

(A) Those located outside the 50 states, District of Columbia, Commonwealth of Puerto Rico, Guam, U.S. Virgin Islands and American Samoa.

(B) Routinely deployable units. Those units forming the core of the operating forces, i.e., organized, equipped and specifically tasked to participate directly in strategic or tactical operations. As such, they normally deploy from home port or permanent station on a periodic or rotating basis to meet operational requirements or participate in scheduled exercises. For the Marine Corps, this includes all Fleet Marine Forces. For the Navy, this includes routinely deployable ships, aviation squadrons and operational staffs. It does not include ships undergoing yard work or whose primary mission is support or training, e.g., yard craft and auxiliary aircraft landing training ships.

(C) Units engaged in sensitive operations. Those primarily involved in the conduct of covert, clandestine or classified missions, including units primarily involved in collecting, handling, disposing or storing of classified information and materials. This also includes units engaged in training or advising foreign personnel. Examples of units covered by this exception are SEAL Teams, Security Group Commands, Weapons Stations, and Communication Stations. Exception to this policy must be coordinated with the Chief of Naval Operations (OP–09B30) or the Commandant of the Marine Corps (MPI–60) prior to responding to requesters, including all requests for this type of information from Members of Congress. See paragraph (b)(2) of this section regarding requests for duty telephone numbers or addresses of named service members with overseas, routinely deployable, or sensitive units.

(vii) Disclosure of addresses of Navy civilian employees is governed by Office of Personnel Management regulations.

(3) *Routine use.* Disclosure may be made for a "routine use" (as defined in § 701.103(k)) that is compatible with the purpose for which the record is collected and listed as a routine use in the applicable record system notice published in the **Federal Register.** Routine use encompases the specific ways or processes in which the information is used, including the persons or organizations to whom the record may be disclosed, even if such use occurs infrequently. In addition to the routine uses established by the Department of the Navy for each system of records, common blanket routine uses, applicable to all record systems maintained within the Department of the Navy, have been established. *See* § 701.116. In the interest of simplicity and economy, these blanket routine uses are published only once at the beginning of the Department of the Navy's **Federal Register** compilation of record systems notices rather than in each system notice. Disclosure accountings are required for all disclosures made pursuant to a routine use. Disclosures from a record maintained by the Navy to officers and employees of Department of Defense who have a need for information, and disclosure from such records made pursuant to a Freedom of Information Act request, are not "routine use" disclosures, and no disclosure accountings need be made for them.

(4) *Bureau of the Census.* Disclosure may be made to the Bureau of the Census for purpose of planning or carrying out a census of survey or related activity authorized by law. Disclosure accountings are required for disclosures made to the Bureau of the Census.

(5) *Statistical research or reporting.* Disclosure may be made to a recipient who has provided adequate written assurance that the record will be used solely as a statistical research or reporting record, provided the record is transferred in a form that is not individually identifiable (i.e., the identity of the individual cannot be deduced by tabulation or other methodology). The written request must state the purpose of the request, and will be made a part of the activity's accounting for the disclosure. When activities publish gross statistics concerning a population in a system of records (e.g., statistics on employer turnover rates, military reenlistment rates, and sick leave usage rates), these are not considered disclosures of records and accountings are not required.

(6) *National Archives.* Disclosure may be made to the National Archives when the record has sufficient historical or other value to warrant continued

preservation by the U.S. Government, or for evaluation by the Administrator of General Services or his/her designee to determine whether the record has such value. (Records transferred to a federal records center for storage or safekeeping do not fall under this provision. Such transfers are not considered disclosures under this Act, since the records remain under the control of the transferring element. Therefore, disclosure accounting is not required for transfers of records to federal records centers.) Disclosure accountings are required for disclosures made to the National Archives.

(7) *Civil or criminal law enforcement activity.* Disclosure may be made to another agency or instrumentality of any government jurisdiction within or under the control of the United States, for a civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the activity which mantains the record, specifying the particular record desired and the law enforcement purpose for which the record is sought. The head of the agency or instrumentality may have delegated authority to request records to other officials. Requests by these designated officials shall be honored if they provide satisfactory evidence of their authorization to request records. Blanket requests for all records pertaining to an individual shall not be honored. A record may also be disclosed to a law enforcement activity, provided that such disclosure has been established as a "routine use" in the published record system notice. Disclosure to foreign law enforcement agencies is not governed by the provisions of 5 U.S.C. 552a and this section, but may be made only pursuant to established "blanket routine uses" contained in § 701.116, pursuant to an established "routine use" published in the individual record system notice, or pursuant to other governing authority. Disclosure accountings are required for disclosures to civil or criminal law enforcement agencies, and also for disclosures pursuant to a routine use, but need not be disclosed to the individual if the law enforcement agency has requested in writing that it not be.

(8) *Emergency conditions.* Disclosure may be made under emergency conditions involving compelling circumstances affecting the health and safety of a person, provided that notification of the disclosure is transmitted to the last known address of the individual to whom the record pertains. For example, an activity may disclose records when the time required to obtain the consent of the individual to whom the record pertains might result in a delay which could impair the health or safety of a person. The individual about whom the records are disclosed need not necessarily be the individual whose health or safety is in peril (e.g., release of dental charts on several individuals in order to identify a person injured in an accident). In instances where information under alleged emergency conditions is requested by telephone, an attempt will be made to verify the inquirer's and medical facility's identities and the caller's telephone number. The requested information, if then considered appropriate and of an emergency nature, may be provided by return call. Disclosure accountings are required for disclosures made under emergency conditions.

(9) *Congress and Members of Congress.* Disclosure may be made to either House of Congress, or, to the extent of matters within its jurisdiction, to any committee or subcommittee thereof, or to any joint committee of Congress or subcommittee thereof. Disclosure may not be made, however, to a Member of Congress requesting in his/her individual capacity or on behalf of a constituent, except in accordance with the following rules:

(i) Upon receipt of an oral or written request from a Member of Congress on his/her staff, inquiry should be made as to the identity of the originator of the request. If the request was prompted by a request for assistance by the individual to whom the record pertains, the requested information may be disclosed to the requesting Congressional office.

(ii) If the request was originated by a person other than the invididual to whom the record pertains, the Congressional office must be informed that the requested information cannot be disclosed without the written consent of the individual to whom the record pertains. If the Congressional office subsequently states that it has received a request for assistance from the individual or has obtained the individual's written consent for disclosure to that office, the requested information may be disclosed.

(iii) If the Congressional office requests the Department of the Navy to obtain the consent of the individual to whom the record pertains, that office should be informed that it is the policy of the Department not to interfere in the relationship of a Member of Congress and his/her constituent, and that the Department therefore does not contact an individual who is the subject of a congressional inquiry.

(iv) If the Congressional office insists on Department of the Navy cooperation, an effort should be made to contact, through his/her command, the individual to whom the records pertain and ascertain whether the individual consents to the disclosure. If neither the Congressional office nor the Department of the Navy obtains the individual's written consent, only information required to be released under 5 U.S.C. 552 and 32 CFR Part 701, Subparts A through D should be disclosed. Disclosure accountings are required for disclosures made to Congress or Members of Congress, except nonconsensual disclosures pursuant to 5 U.S.C. 552 provided for in paragraph (b)(9)(iv) of this section.

(10) *Comptroller General.* Disclosure may be made to the Comptroller General of the United States, or to any of his/her authorized representatives, in the course of the performance of the duties of the General Accounting Office. *See* § 701.101(a)(2) and the SECNAVINST 5740.26 series. Disclosure accountings are required for disclosures to the Comptroller General or General Accounting Office.

(11) *Court of competent jurisdiction.* Disclosure may be made in response to an order from a court of competent jurisdiction (signed by a state or Federal court judge), subject to the following provisions:

(i) When a record is disclosed under compulsory legal process, and the issuance of that order is made public by the court which issued it, activities shall make reasonable efforts to notify the individual to whom the record pertains of the disclosure and the nature of the information provided. This requirement may be satisfied by notifying the individual by mail at the last known address contained in the activity records. Disclosure accountings are required for disclosures made pursuant to court orders.

(ii) Upon being served with an order which is not a matter of public record, an activity shall seek to be advised as to when it will become public. An accounting for the disclosure shall be made at the time the activity complies with the order, but neither the identity of the party to whom the disclosure was made nor the purpose of the disclosure shall be made available to the concerned individual unless the court order has become a matter of public record.

(12) *Consumer reporting agencies.* Certain personal information may be disclosed to consumer reporting

agencies as defined by the Federal Claims Collection Act of 1966. Under the Federal Claims Collection Act of 1966, the following information may be disclosed to a consumer reporting agency:

(i) Name, address, taxpayer identification number (SSN), and other information necessary to establish the identity of the individual.

(ii) The amount, status and history of the claim.

(iii) The agency or program under which the claim arose.

The Federal Claims Collection Act of 1966 specifically requires that the system notice for the systems of records from which the information will be disclosed indicates that the information may be disclosed to a consumer reporting agency.

(c) *Disclosure accountings*—(1) *Responsibilities.* With respect to a disclosure of a record which it maintains in a system of records, each activity is responsible for keeping an accurate accounting of the date, nature, and purpose of the disclosure, and the name and address of the person or agency to whom the disclosure is made. When disclosure is made by an activity other than the activity that is responsible for maintaining the record, the activity making the disclosure is responsible for giving written notification of the above information to the activity responsible for maintaining the record, to enable the latter activity to keep the required disclosure accounting.

(2) *Disclosure for which accountings are required.* A disclosure accounting is required for all disclosures of records maintained in a system of records, except: Intra-agency disclosures pursuant to paragraph (b)(1) of this section; Freedom of Information Act disclosures pursuant to paragraph (b) (2) of this section or paragraph (b)(9)(iv) of this section; or disclosure pursuant to paragraph (b)(12) of this section; or disclosures for statistical research or reporting purposes pursuant to paragraph (b)(5) of this section. A disclosure accounting is required for a disclosure made to another person or agency pursuant to the request or consent of the individual to whom the record pertains. There is no requirement for keeping an accounting for disclosures of disclosure accountings.

(3) *Accounting method.* Since the characteristics of various records maintained within the Department of the Navy vary widely, no uniform method for keeping disclosure accountings is prescribed. For most paper records, it may be suitable to maintain the accounting on a record-by-record basis, physically affixed to the records. The primary criteria are that the selected method be one which will:

(i) Enable an individual to ascertain what persons or agencies have received disclosures pertaining to him/her;

(ii) Provide a basis for informing recipients of subsequent amendments or statements of dispute concerning the record; and

(iii) Provide a means to prove, if necessary, that the activity has complied with the requirements of 5 U.S.C. 552a and this subpart.

(4) *Retention of accounting record.* A disclosure accounting, if one is required, shall be maintained for the life of the record to which the disclosure pertains, or for at least five years after the date of the disclosure for which the accounting is made, whichever is longer. Nothing in 5 U.S.C. 552a or 32 CFR Part 701, Subparts F and G requires retaining the disclosed record itself longer than for the period of time provided for it in the SECNAVINST 5212.5 series, but the disclosure accounting must be retained for at least five years.

(5) *Accounting to the individual.* Unless an applicable exemption has been exercised, systems managers or other appropriate custodial officials shall provide all information in the disclosure accounting to an individual requesting such information concerning his/her records, except entries pertaining to disclosures made pursuant to paragraph (b)(11)(ii) of this section and disclosures made at the written request of the head of another agency or government instrumentality for law enforcement purposes under paragraph (b)(7) of this section. Activities should maintain the accounting of the latter two types of disclosures in such a manner that the notations are readily segregable, to preclude improper release to the individual. The process of making the accounting available may also require transformation of the data in order to make it comprehensible to the individual. Requests for disclosure accountings otherwise available to the individual may not be denied unless a denial authority for the designated review authority has exercised an applicable exemption and denied the request, and then only when it has been determined that denial of the request would serve a significant and legitimate Government purpose (e.g., avoid interfering with an ongoing law enforcement investigation). Appropriate procedures prescribed in § 701.104(b), for exercising an exemption, denying a request and reviewing a denial apply also to disclosure accounting to the individual.

(d) *Accuracy requirements.* Prior to disclosing any record about an individual to any person other than to personnel of the agency, with a need to know, and other than pursuant to 5 U.S.C. 552 and 32 CFR Part 701, Subparts A through D, reasonable efforts are required to ensure that such records are accurate, complete, timely and relevant for Department of the Navy purposes. It may be appropriate to advise the recipient that the information was accurate as of a specific date, or otherwise give guidance concerning its quality.

(e) *Mailing lists.* No activity nor any member or employee of the Department of the Navy shall sell or rent individuals' names and addresses unless such action is authorized by law. This provision should not be construed to require the withholding of names and addresses otherwise permitted to be made public.

§ 701.106 Collection of personal information from individuals.

(a) *Collection directly from the individual.* Personal information shall be collected, to the greatest extent practicable, directly from the individual when the information may adversely affect an individual's rights, benefits, and privileges under Federal programs. The collection of information from third parties shall be minimized. Exceptions to this policy may be made when warranted. The following are examples, not necessarily exhaustive, of situations which may warrant exceptions:

(1) There is need to ensure the accuracy of information supplied by an individual by verifying it through a third party, e.g., verifying information for a security clearance;

(2) The nature of the information is such that it can be obtained only from a third party, such as supervisor's assessment of an employee's performance in a previous job or assignment; or

(3) Obtaining the information from the individual would present exceptional practical difficulties or would result in unreasonable cost.

(b) *Informing individuals from whom personal information is requested.* (1) Individuals who are asked to supply personal information about themselves for a system of records must be advised of:

(i) The authority (statute or Executive order) which authorizes the solicitation;

(ii) All major purposes for which the Department of the Navy uses the information (e.g., pay entitlement, retirement eligibility, or security clearance);

(ii) A brief summary of those routine uses to be made of the information as published in the **Federal Register** and distributed by current OPNAVNOTE 5211, and

(iv) Whether disclosure is mandatory or voluntary, and the possible consequences for failing to respond.

(2) This statement, which is referred to as a "Privacy Act statement," must be given regardless of the medium used in requesting the information, e.g., a blank sheet, preprinted form with a control number, format, questionnaire, survey sheet, or interview. It may be provided on the form used to collect the information, or on a separate form or sheet, a copy of which may be retained by the individual. There is no requirement that the individual sign the statement.

(3) When the Privacy Act statement is to be attached or provided with the form, the statement will be assigned the same identifying number as the form used in collecting the information, and the suffix, "Privacy Act Statement." For example, a DD Form 398 would be identified as "DD Form 398—Privacy Act Statement . . ." For unnumbered formats, such as questionnaires and survey report forms, the Privacy Act statement will bear the report control symbol, if one applies, or the OMB number, i.e., "OMB Approval No. 21–R0268, Privacy Act Statement." The statement will be positioned in such a manner that individuals from whom the information is being collected will be informed about the act before they begin to furnish any of the information requested.

(4) For the purpose of determining whether a Privacy Act statement is required, "personal information" should be considered to be information about an individual that is intimate or private to the individual, as distinguished from information related solely to the individual's official functions. *See* § 701.105(b)(2). It ordinarily does not include such information as the time, place, and manner of, or reasons or authority for, an individual's execution or omission of acts directly related to the duties of his/her Federal employment or military assignment.

(5) The head of the proponent activity (i.e., the initiating or sponsoring activity) is responsible for determining whether a Privacy Act statement is required, and for ensuring that it is prepared and available as an attachment or as a part of the form, etc.

(c) *Social Security Numbers*—(1) *Requesting an individual's social security number (SSN).* Department of the Navy activities may not deny an individual any right, benefit, or privilege provided by law because the individual refuses to disclose his/her SSN, unless such disclosure is required by Federal statute or, in the case of systems of records in existence and operating before January 1, 1975, where such disclosure was required under statute or regulation adopted prior to January 1, 1975 to verify the identity of an individual. E.O. 9397 authorizes this Department to use the SSN as a system of numerical identification of individuals.

(2) *Informing an individual when requesting his/her SSN.* When an individual is requested to disclose his/her social security number, he/she must be given a statement containing information required in paragraph (b) of this section.

(3) An activity may request an individuals's SSN even though it is not required by Federal statute, or is not for a system of records in existence and operating prior to January 1, 1975. However, the separate Privacy Act statement for the SSN, along, or a merged Privacy Act statement, covering both the SSN and other items of personal information, must make clear that disclosure of the number is voluntary. If the individual refuses to disclose his/her SSN, the activity must be prepared to identify the individual by alternate means.

(4) Once a military member or civilian employee of the Department of the Navy has disclosed his/her SSN for purposes of establishing personnel, financial, or medical records upon entry into naval service or employment, the SSN becomes his/her service or employment identification number. After an individual has provided his/her SSN for the purpose of establishing a record, the notification is not required if the individual is only requested to furnish or verify the SSN for identification purposes in connection with the normal use of his/her records. However, if the SSN is to be written down and retained for any purpose by the requesting official, the individual must be provided the notification required in paragraph (b)(1) of this section.

§ 701.107 Safeguarding personal information.

(a) *Legislative requirement.* The Privacy Act requires establishment of appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records, and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is required.

(b) *Responsibilities.* At each location, and for each system of records, an official shall be designated as having responsibility for safeguarding the information therein. Specific safeguards for individual systems must be tailored to the existing circumstances, with consideration given to sensitivity of the data, need for continuity of operations, need for accuracy and reliability in operations, general security of the area, cost of safeguards, etc.

(c) *Minimum safeguards.* Ordinarily, personal information should be afforded at least the protection required for information designated as "For Official Use Only". For privacy, the guideline is to provide reasonable safeguards to prevent inadvertent or unauthorized disclosures of record content, during processing, storage, transmission, and disposal.

(d) *Automatic data processing.* The Chief of Naval Operations (Code Op–945) is responsible for determining and formulating policies and procedures, as necessary, to ensure that ADP systems containing personal information contain adequate safeguards to protect personal privacy, and are in accordance with the OPNAVINST 5239.1 series.

(e) *Disposal*—(1) *General.* Reasonable care must be taken to ensure that personal information is not subject to unauthorized disclosure during records disposal. Records which contain personal information pertaining to individuals should be disposed of in such a manner as to preclude recognition or reconstruction of information contained therein, such as by pulping, tearing, shredding, macerating or burning. Records recorded on magnetic tapes or other magnetic media may be disposed of by degaussing or erasing. If contractors are hired to haul trash containing personal information, contract provisions as specified in § 701.109(a) should be incorporated into the contract. If paper trash containing personal information is sold for recycling, legal assistance should be obtained to insert in the sale contract clauses that will make the buyer a Government contractor subject to the provisions of 5 U.S.C. 552a.

(2) *Massive computer cards and printouts.* (i) The transfer of large quantities of computer cards and printouts in bulk to a disposal activity, such as the Defense Property Disposal Office, is not a release of personal information under 32 CFR Part 701, Subparts F and G. The volume of such data when turned over in bulk transfers make it difficult, if not impossible, to

identify a specific individual record. Therefore, there are no special procedures required when disposing of large numbers of punch cards, computer printouts or other large detailed listings and normal document disposal procedures may be followed.

(ii) If the systems manager believes that the data to be transferred in bulk for disposal is in a form where it is individually recognizable or is not of a sufficient quantity to preclude compromise, the records should be disposed of in accordance with this section.

§ 701.108 Exemptions.

(a) *Summary.* Subsections (j) and (k) of 5 U.S.C. 552a authorize the Secretary of the Navy to adopt rules designating eligible systems of records as exempt from certain requirements of 5 U.S.C. 552a. In accordance with 32 CFR Part 701, subpart E, publication of a general notice of a proposed rule concerning exemptions for systems of records is required to appear in the **Federal Register** at least 30 days prior to the effective date, in order to afford interested persons an opportunity to comment. 32 CFR Part 701, Subpart G indicates the systems designated as exempted, the type of exemption claimed, the authority and reasons for invoking the exemption, and the provisions of 5 U.S.C. 552a from which each system has been exempted. The two categories of exemptions are general and specific. No system of records, however, is automatically exempt from all provisions of 5 U.S.C. 552a.

(b) *General exemption.* To be eligible for a general exemption under the authority of subsection (j)(2), 5 U.S.C. 552a, the system of records must be maintained by an activity whose principal function involves the enforcement of criminal laws and must consist of:

(1) Data, compiled to identify individual criminals and alleged criminals which consists only of identifying data and arrest records and type and disposition of charges; sentencing, confinement, and release records; and parole and probation status;

(2) Data that supports criminal investigations (including efforts to prevent, reduce, or control crime) and reports of informants and investigators that identify an individual; or

(3) Reports on a person, compiled at any state of the process of law enforcement, from arrest or indictment through release from supervision.

(c) *Specific exemptions.* To be eligible for a specific exemption under the authority of subsection (k) of 5 U.S.C. 552a, the pertinent records within a designated system must contain one or more of the following:

(1) Information specifically authorized to be classified. Before denying a person access to classified information, the denial authority must make sure that it is properly classified under the criteria of E.O. 12356, and that it must remain so in the interest of national defense or foreign policy ((k)(1) exemption).

(2) Investigative records compiled for law enforcement purposes (other than that claimed under the general exemption). If this information has been used to deny someone a right, however, the Department of the Navy must release it unless doing so would reveal the identity of a confidential source ((k)(2) exemption).

(3) Records maintained in connection with providing protective services to the President of the United States or other individuals protected pursuant to 18 U.S.C. 3056 ((k)(3) exemption).

(4) Records used only for statistical, research, or other evaluation purposes, and which are not used to make decisions on the rights, benefits, or privileges of individuals, except as permitted by 13 U.S.C. 8 (Use of census data) ((k)(4) exemption).

(5) Data compiled to determine suitability, eligibility, or qualifications for Federal service, Federal contracts, or access to classified information. This information may be withheld only if disclosure would reveal the identity of a confidential source ((k)(5) exemption).

(6) Test or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process ((k)(6) exemption).

(7) Information to determine promotion potential in the Armed Forces. This information may be withheld only to the extent that disclosure would reveal the identity of a confidential source ((k)(7) exemption).

(d) *Limitations on denying notification, access, and/or amendment on the basis of an exemption.*—(1) *Classified information.* Prior to denying a request for notification, access or amendment concerning a classified record on the basis of a subsection (k)(1) exemption, denial authorities having classification jurisdiction over the classified matters in the record shall review the record to determine if the classification is proper under the criteria of the OPNAVINST 5510.1 series. If the denial authority does not have classification jurisdiction, immediate coordination shall be effected with the official having classification jurisdiction, in order to obtain a review of the propriety of the classification. If it is determined upon review that the classification is proper, consideration shall also be given to the appropriateness of permitting the requester to view the record in classified form, provided that he/she has or can be given the requisite security clearance.

(2) *Law enforcement records.* Requests for notification or access shall not be denied on the basis of a subsection (k)(2) exemption if the requested record has been used as a basis for denying the individual a right, benefit, or privilege to which he/she would be entitled in the absence of the record, except that access may be limited to the extent necessary to protect the identity of a confidential source, as defined in paragraph (e) of this section. Additionally, neither a subsection (j)(2) nor a subsection (k)(2) exemption shall be the basis for a denial of a request for notification or access concerning a record, or a portion thereof, unless granting the request is in accordance with the exemptions specified in 5 U.S.C. 552a, and would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source or disclose confidential information furnished only by a confidential source in the course of a criminal investigation or in the course of a lawful national security intelligence investigation;

(v) Disclose investigative techniques and procedures not already in the public domain and requiring protection from public disclosure to ensure their effectiveness;

(vi) Endanger the life or physical safety of law enforcement personnel; or

(vii) Otherwise be deemed not releasable under 5 U.S.C. 552 and 32 CFR Part 701, Subparts A through D.

(e) *Confidential sources.* For the purposes of subsection (k) exemptions, a "confidential source" is a person who has furnished information to the Federal government under:

(1) An express promise that his/her identity would be held in confidence, or

(2) An implied promise made prior to September 27, 1975, that his/her identity would be held in confidence.

(f) *Promises of confidentiality.* Express promise of confidentiality shall be granted on a selective basis, and only when such promises are needed and are

in the interest of the service. Officials exercising denial authority shall establish appropriate procedures and standards governing the granting of confidentiality for records systems under their cognizance.

§ 701.109 Contractors.

(a) *Contracts to maintain records.* Any unit, activity, or official letting a contract that involves the maintenance of a system of records to accomplish a Department of the Navy purpose shall include in that contract such terms as are necessary to incorporate the relevant provisions of 5 U.S.C. 552a in accordance with the Federal Acquisition Regulation Part 24.1, "Protection of Individual Privacy," April 1, 1984.

(b) *Contracting officers.* Contracting officers shall review all requirements for service contracts to determine if the requirements may result in the design, development, or operation of a system of records on individuals. If it is determined that such is involved, the solicitation to meet the requirement shall contain notice similar to the following:

Warning

This procurement action requires the contractor to do one or more of the following: Operate, use or maintain a system of records on individuals to accomplish an agency function. The Privacy Act of 1974 (Pub. L 93–597; 5 U.S.C. 552a) imposes requirements on how these records are collected, maintained, used, and disclosed. Violations of the Privacy Act may result in termination of any contract resulting from this solicitation as well as imposition of criminal or civil penalties.

§ 701.110 Judicial sanctions.

(a) Subsection (i)(1) of 5 U.S.C. 552a prescribes criminal penalties for violation of its provisions. Any member or employee of the Department of the Navy may be found guilty of a misdemeanor and fined not more than $5,000 for willfully:

(1) Maintaining a system of records without first meeting the public notice requirements.

(2) Disclosing information protected under the Privacy Act to any unauthorized person/agency.

(3) Obtaining or disclosing information about an individual under false pretenses.

§ 701.111 Government contractors.

(a) *Applicability to government contractors.* (1) When a naval activity contracts for the operation or maintenance of a system of records or a portion of a system of records by a contractor, the record system or the portion of the record system affected are considered to be maintained by the naval activity and are subject to 32 CFR Part 701, Subparts F and G. The naval activity is responsible for applying the requirements of 32 CFR Part 701, Subparts F and G to the contractor. The contractor and its employees are to be considered employees of the Navy for purposes of the sanction provisions of the Privacy Act during the performance of the contract. Consistent with the Federal Acquisition Regulation Part 24.1, Protection of Individual Privacy, contracts requiring the maintenance of a system of records or the portion of a system of records shall identify specifically the record system and the work to be performed and shall include in the solicitation and resulting contract such terms as are prescribed by the Federal Acquisistion Regulation Part 24.1.

(2) If the contractor must use or have access to individually identifiable information subject to 32 CFR Part 701, Subparts F and G to perform any part of a contract, and the information would have been collected and maintained by the Naval activity but for the award of the contract, these contractor activities are subject to 32 CFR Part 701, Subparts F and G.

(3) The restriction in § 701.111(a) (1) and (2) do not apply to records:

(i) Established and maintained to assist in making internal contractor management decisions, such as records maintained by the contractor for use in managing the contract.

(ii) Maintained as internal contractor employee records even when used in conjunction with providing goods and services to the Department of Defense; or

(iii) Maintained as training records by an educational organization contracted by the Department of the Navy to provide training when the records of the contract students are similar to and comingled with training records of other students (e.g., admissions forms, transcripts, academic counselling and similar records).

(iv) Maintained by a consumer reporting agency to which records have been disclosed under contract in accordance with the Federal Claims Collection Act of 1966.

(b) *Disclosure of records to contractors.* The disclosure of records required by the contractor for the operation, use or maintenance of a system of records in the performance of a government contract shall not require the consent of the individual to whom the record pertains or the maintenance of a disclosure accounting record since systems of records operated under contract to accomplish a Navy function, are, in effect, maintained by the Department of the Navy. Disclosure of personal information between the Department of the Navy and the contractor is considered to be the same as between those officers and employees of the Department of the Navy who have a need for the records in the performance of their duties.

§ 701.112 Matching program procedures.

The Office of Management and Budget (OMB) has issued special guidelines to be followed in programs that match the personal records in the computerized data bases of two or more federal agencies by computer. These guidelines are intended to strike a balance between the interest of the government in maintaining the integrity of federal programs and the need to protect individual privacy expectations. They do not authorize matching programs as such and each matching program must be justified individually in accordance with the OMB guidance.

§ 701.113 Rules of access to agency records.

5 U.S.C. 552a, as implemented in 32 CFR Part 701, Subparts F and G, provides for individuals to have access to agency records, pertaining to themselves, with certain limited exceptions. The following rules of access are in effect:

(a) Requests for access must be submitted in writing to *(name or organizational title of record custodian).*

(b) Individuals desiring to review records pertaining to themselves are urged to submit their requests by mail or in person, 10 days before the desired review date. Every effort will be made to expedite access when necessary, but records ordinarily cannot be made available for review on the day of the request. In the case of a request to provide records directly to an authorized representative who is other than the parent of a minor or other legal guardian, an authorization signed within the preceding 45 days, by the individual to whom the records pertain, specifying the records to be released, will be required. Notarized authorizations may be required if the sensitivity of the information in the records warrants.

(c) Information should be provided by the individual to assist in identifying relevant systems of records and individual identifiers should also be furnished (e.g., full name, social security number, etc.) to locate records in the particular system.

(d) Review of the record may be accomplished between the hours of _____ and _____ in room _____ of building _____.

(e) When the individual reviews records in person, the custodian will require the presentation of identification before permitting access to the record. Acceptable forms of identification include military identification card, base or building pass, driver's license, or similar document. When the individual requests access to information by mail, verification of identity may be obtained by requiring him/her to provide certain minimum identifying data such as date of birth and any other item in the record that only the concerned individual would likely know.

(f) Individuals may be accompanied by a person of their own choosing when reviewing the record. The custodian will not, however, discuss the record in the presence of the third person without the written authorization of the individual to whom the record pertains.

(g) On request, copies of the record will be provided at a cost specified. Fees will not be assessed if the cost is less than $30.

(h) A medical record will not be released to the individual if, in the judgment of a physician, the information contained therein could have an adverse affect on the individual's physical or mental well-being. In such circumstances, the individual will be asked to provide to the record custodian the name of a personal physician along with written authorization for release of the record to that physician. The record will then be provided to the named physician.

(i) Questions concerning these Rules of Access, or, information contained in the record, should be addressed to *(title or official of organizational title)*, room _____, building _____, telephone number _____.

§ 701.114 Rules for amendment requests.

5 U.S.C. 552a, as implemented by 32 CFR Part 701, Subparts F and G, provides for individuals to request amendment of their personal records when the individuals believe the records are inaccurate, irrelevant, untimely, or incomplete. The following rules for amendment requests are in effect:

(a) Requests must be in writing and must indicate that they are being made under the Privacy Act (5 U.S.C. 552a), 32 CFR Part 701, Subparts F and G, or the SECNAVINST 5211.5 series. Requests should contain sufficient information to locate and identify the particular record which the requester is seeking to amend (e.g., full name, social security number, date of birth, etc.). A request should also contain a statement of the changes desired to be made to the record, the reasons for requesting amendment, and any available information the requester can provide in support of the request, including pertinent documents and related records.

(b) Requests for amendment must be submitted to the appropriate system manager designated in the published record system notice.

(c) A letter indicating receipt will be sent to the requester within 10 working days after the request has been received by the appropriate system manager. The letter will contain details as to when the requester may expect to be advised of action taken on the request. The requester may also be asked to provide additional verification of his/her identity. This is to protect the privacy of other individuals by ensuring that the requester is seeking to amend his/her own records and not, inadvertently or intentionally, the records of another individual.

(d) A letter indicating whether or not the request for amendment has been granted will be sent to the requester as soon as a decision has been reached by the appropriate authority. If it is determined that the requested amendment is warranted, the requester will be advised of the action taken and of the effect of that action. If it is determined that the requested amendment is not warranted, the requester will be advised of the reasons for the refusal and of the procedures and time limits within which the requester can seek further review of the refusal.

§ 701.115 Rules of conduct under the Privacy Act.

(a) *Maintaining personal records.* It is unlawful to maintain systems of records about individuals without prior announcement in the **Federal Register.** Anyone who does is subject to criminal penalties up to $5,000. Even with such notice, care shall be taken to keep only such personal information as is necessary to do what law and the President, by Executive order, require. The information is to be used only for the purposes described in the **Federal Register.**

(b) *Disclosure.* Information about an individual shall not be disclosed to any unauthorized individual. Anyone who makes an unauthorized disclosure on purpose may be fined up to $5,000. Every member or employee of the Department of the Navy who maintains records about individuals has an obligation to do his/her part in protecting personal information from unauthorized disclosure. 32 CFR Part 701, Subpart F and G describes when disclosures are authorized.

(c) *Individual access.* Every individual, with certain exceptions, has the right to look at any record the Department of the Navy keeps on him/her, to copy it, and to request to have it corrected if he/she considers it wrong. The individual attempting to exercise these right shall be given courteous and considerate assistance.

(d) *Ensuring accuracy.* The Department of the Navy has an obligation to use only accurate, timely, relevant, and complete information when making decisions about individuals. Every member, official, and employee involved in keeping records on individuals shall assist in the discharge of this obligation.

§ 701.116 Blanket routine uses.

(a) *Routine use—Law enforcement.* In the event that a system of records maintained by this component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

(b) *Routine use—Disclosure when requesting information.* A record from a system of records maintained by this component may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information, relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(c) *Routine use—Disclosure of requested information.* A record from a system of records maintained by this component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(d) *Routine use—Congressional inquiries.* Disclosure from a system of records maintained by this component

may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(e) *Routine use—Disclosure to the Department of Justice for litigation.* A record from a system of records maintained by this component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the DOD, or any officer, employee, or member of the Department in pending or potential litigation to which the record is pertinent.

(f) *Routine use—Private relief legislation.* Relevant information contained in all systems of records of the Department of Defense published on or before August 22, 1975, will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

(g) *Routine use—Disclosures required by international agreements.* A record from a system of records maintained by this component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities in order to comply with requirements imposed by, or to claim rights conferred in international agreements and arrangements including those regulating the stationing and status in foreign countries of Department of Defense military and civilian personnel.

(h) *Routine use—Disclosure to state and local taxing authorities.* Any information normally contained in IRS Form W–2, which is maintained in a record from a system of records maintained by this Component may be disclosed to state and local taxing authorities with which the Secretary of the Treasury has entered into agreements pursuant to Title 5, U.S.C., Sections 5516, 5517, 5520, and only to those state and local taxing authorities for which an employee or military member is or was subject to tax regardless of whether tax is or was withheld. This routine use is in accordance with Treasury Fiscal Requirements Manual Bulletin Nr. 76–07.

(i) *Routine use—Disclosure to the Office of Personnel Management (OPM).* A record from a system of records subject to the Privacy Act and maintained by this component may be disclosed to the OPM concerning information on pay and leave, benefits, retirement deductions, and any other information necessary for OPM to carry out its legally authorized Government-wide personnel management functions and studies.

Subpart G—Privacy Act Exemptions

Authority: 5 U.S.C. 552a, 32 CFR Part 286a.

§ 701.117 Purpose.

32 CFR Part 701, Subparts F and G contains rules promulgated by the Secretary of the Navy, pursuant to 5 U.S.C. 552a (j) and (k), and Subpart F, § 701.108, to exempt certain systems of Department of the Navy records from specified provisions of 5 U.S.C. 552a.

§ 701.118 Exemption for classified records.

All systems of records maintained by the Department of the Navy and its components shall be exempted from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1), to the extent that the system contains any information properly classified under E.O. 12356 and that is required by that Executive order to be kept secret in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records including those not otherwise specifically designated for exemptions herein which contain isolated items of properly classified information.

§ 701.119 Exemptions for specific Navy record systems.

(a) *Office of the Assistant Deputy Chief of Naval Operations (Civilian Personnel/Equal Employment Opportunity).*

(1) *ID—N05527–5.*

Sysname. Navy Central Clearance Group (NCCG) Records.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(4) (G) and (H), and (f).

Authority. 5 U.S.C. 552a(k) (1) and (5).

Reasons. Exempted portions of this system contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment, or access to classified information, and that was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record.

(2) *ID—N05520–3.*

Sysname. Civilian Personnel Security Files.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a (c)(3), (d), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k) (1), (2), and (5).

Reasons. Exempted portions of this system contain information which has been properly classified under E.O. 12356, and which is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment or access to classified information, and that was obtained by providing express or implied promise to the source that his/her identity would not be revealed to the subject of the record. Granting individuals access to certain information compiled for law enforcement purposes in this system of records could interfere with orderly investigations by disclosing the existence of investigations and investigative techniques, and result in the concealment, destruction, or fabrication of evidence.

(b) *Naval Military Personnel Command.*

(1) *ID—N05520–1.*

Sysname. Personnel Security Eligibility Information System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k) (1), (2), (5) and (7).

Reasons. Granting individuals access to information collected and maintained in this system of records could interfere with orderly investigations; result in the disclosure of classified material; jeopardize the safety of informants, witnesses, and their families; disclose investigative techniques; and result in the invasion of privacy of individuals only incidentally related to an investigation. Material will be screened to permit access to unclassified information that will not disclose the identity of sources who provide information to the Government under an express or implied promise of confidentiality.

(2) *ID—N01610–1.*

Sysname. Navy Personnel Evaluation System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k) (1), (2), (5), and (7).

Reasons. Granting individuals access to information collected and maintained in this system could result in disclosure of classified material, jeopardize the safety of informants and witnesses and their families, and result in the invasion of privacy of individuals only

incidentally related to an investigation. Material will be screened to permit access to unclassified material and to information that will not disclose the sources who provided the information under an express or implied promise of confidentiality.

(3) *ID—N05354–1.*

Sysname. Equal Opportunity Information and Support System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k) (1), and (5).

Reasons. Granting access to information in this system of records could result in the disclosure of classified material, or reveal the identity of a source who furnished information to the Government under an express or implied promise of confidentiality. Material will be screened to permit access to unclassified material and to information that will not disclose the identity of a confidential source.

(4) *ID—N01420–1.*

Sysname. Officer Promotion System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k) (1), (5), (6), and (7).

Reasons. Granting individuals access to this system of records could result in the disclosure of classified material, or the identification of sources who provided information to the Government under an express or implied promise of confidentiality. Material will be screened to permit access to unclassified material and to information that does not disclose the identity of a confidential source.

(5) *ID—N01070–3.*

Sysname. Navy Personnel Records System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k) (1) and (5).

Reasons. Granting individuals access to certain portions of the information collected and maintained in this system of records could result in the unauthorized disclosure of classified material. Material will be screened in order to provide access to unclassified information that does not disclose the identity of a source who provided information under an express or implied promise of confidentiality.

(6) *ID—N01640–1.*

Sysname. Individual Correctional Records.

Exemption. Portions of this system are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4) (G) through (I), (e)(5), (e)(8), (f), and (g).

Authority. 5 U.S.C. 552a(j)(2).

Reasons. Granting individuals access to portions of these records pertaining to or consisting of, but not limited to, disciplinary reports, criminal investigations, and related statements of witnesses, and such other related matter in conjunction with the enforcement of criminal laws, could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by these components and could result in the invasion of the privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to portions of these records, and the reasons therefor, necessitate the exemption of this system of records from the requirement of the other cited provisions.

(c) *Navy Recruiting Command.*

(1) *ID—N01131–1.*

Sysname. Officer Selection and Appointment System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(1), (5), (6), and (7).

Reasons. Granting individuals access to portions of this system of records could result in the disclosure of classified material, or the identification of sources who provided information to the Government under an express or implied promise of confidentiality. Material will be screened to permit access to unclassified material and to information that does not disclose the identity of a confidential source.

(2) *ID—N01133–2.*

Sysname. Recruiting Enlisted Selection System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k) (1), (5), (6), and (7).

Reasons. Granting individuals access to portions of this system of records could result in the disclosure of classified material, or the identification of sources who provided information to the Government under an express or implied promise of confidentiality. Material will be screened to permit access to unclassified material and to information that does not disclose the identity of a confidential source.

(d) *Naval Security Group Command.*

(1) *ID—N05527–4.*

Sysname. Naval Security Group Personnel Security/Access Files.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k) (1) through (5).

Reasons. Exempted portions of this system contain information that has been properly classified under E.O. 12356, and that is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualification, eligibility or suitability for access to classified special intelligence information, and that was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record.

(e) *Naval Investigative Service.*

(1) *ID—N05520–4.*

Sysname. NIS Investigative Files System.

Exemption (1). Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e) (2), and (3), (e)(4) (G) through (I), (e)(5), (e)(8), (f) and (g).

Authority (1). 5 U.S.C. 552a(j)(2).

Reasons (1). Granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this Component and could result in the invasion of the privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to his/her records, and the reasons therefore, necessitate the exemption of this system

of records from the requirements of the other cited provisions.

Exemption (2). Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority (2). 5 U.S.C. 552a (k)(1), (k)(3), (k)(4), (k)(5), and (k)(6).

Reasons (2). The release of disclosure accountings would permit the subject of an investigation to obtain valuable information concerning the nature of that investigation, and the information contained, or the identity of witnesses or informants, and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record. Access to the records contained in this system would inform the subject of the existence of material compiled for law enforcement purposes, the premature release of which could prevent the successful completion of investigation, and lead to the improper influencing of witnesses, the destruction of records, or the fabrication of testimony.

Exempt portions of this system also contain information that has been properly classified under E.O. 12356, and that is required to be kept secret in the interest of national defense or foreign policy.

Exempt portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal civilian employment, military service, Federal contracts, or access to classified information, and was obtained by providing an express or implied assurance to the source that his/her identity would not be revealed to the subject of the record. The notice for this system of records published in the **Federal Register** sets forth the basic statutory or related authority for maintenance of the system.

The categories of sources of records in this system have been published in the **Federal Register** in broad generic terms. The identity of specific sources, however, must be withheld in order to protect the confidentiality of the source, of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

This system of record is exempted from procedures for notice to an individual as to the existence of records pertaining to him/her dealing with an actual or potential civil or regulatory investigation, because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation, pending or future. Mere notice of the fact of an investigation could inform the subject or others that their activities are under, or may become the subject of, an investigation. This could enable the subjects to avoid detection, to influence witnesses improperly, to destroy records, or to fabricate testimony.

Exempt portions of this system contain screening board reports. Screening board reports set forth the results of oral examination of applicants for a position as a special agent with the Naval Investigative Service. Disclosure of these records would reveal the areas pursued in the course of the examination and thus adversely affect the result of the selection process. Equally important, the records contain the candid views of the members composing the board. Release of the records could affect the willingness of the members to provide candid opinions and thus diminish the effectiveness of a program which is essential to maintaining the high standard of the Special Agent Corps, i.e., those records constituting examination material used solely to determine individual qualifications for appointment in the Federal Service.

(f) *Naval Intelligence Command.*

(1) *ID—N03834–1.*

Sysname. Special Intelligence Personnel Access File.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k) (1) and (5).

Reasons. Exempted portions of this system contain information that has been properly classified under E.O. 12356, and that is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for access to classified information and was obtained by providing an express or implied assurance to the source that his/her identity would not be revealed to the subject of the record.

(g) *Naval Inspector General.*

(1) *ID—N04385–1.*

Sysname. IG Investigatory System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4) (G) through (I), (e)(5), (e)(8), (f), and (g).

Authority. 5 U.S.C. 552a(j)(2).

Reasons. Granting individuals access to information collected and maintained by these activities relating to the enforcement of criminal laws could interfere with orderly investigations, the orderly administration of justice, and might enable suspects to avoid detection and apprehension. Disclosures of this information could result in the concealment, destruction, or fabrication of evidence, and possibly jeopardize the safety and well-being of informants, witnesses and their families. Such disclosures could also reveal and render ineffectual investigatory techniques and methods and sources of information and could result in the invasion of the personal privacy of individuals only incidentally related to an investigation.

The exemption of the individual's right of access to his/her records, and the reasons therefore, necessitate the exemption of this system of records from the provisions of the other cited sections of 5 U.S.C. 552a.

(h) *Naval Resale System Office.*

(1) *ID—N12930–1.*

Sysname. Industrial Relations Personnel Records.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (d), (e)(4) (G) and (H), and (f).

Authority. 5 U.S.C. 552a(k) (5) and (6).

Reasons. Exempted portions of this system contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment, and was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record. Exempted portions of this system also contain test or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would comprise the objectivity or fairness of the testing or examination process.

(i) *Navy and Marine Corps Exchanges and Commissaries.*

(1) *ID—N04060–1.*

Sysname. Navy and Marine Corps Exchange and Commissary Security Files.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a (k)(2).

Reasons. Granting individuals access to information collected and maintained by these activities relating to the enforcement of criminal laws could interfere with orderly investigations, with orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication

of evidence, and could also reveal and render ineffectual investigative techniques, sources, and methods used by these activities.

(j) *Naval Clemency and Parole Board.*

(1) *ID—N05819–3.*

Sysname. Naval Clemency and Parole Board Files.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(4), (d), (e)(4)(G), and (f).

Authority. 5 U.S.C. 552a(j)(2).

Reasons. Granting individuals access to records maintained by this Board could interfere with internal processes by which Board personnel are able to formulate decisions and policies with regard to clemency and parole in cases involving naval prisoners and other persons under the jurisdiction of the Board. Material will be screened to permit access to all material except such records or documents as reflect items of opinion, conclusion, or recommendation expressed by individual board members or by the board as a whole.

The exemption of the individual's right of access to portions of these records, and the reasons therefore, necessitate the partial exemption of this system of records from the requirements of the other cited provisions.

(k) *Office of the Secretary.*

(1) *ID—N01070–9.*

Sysname. White House Support Program.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k) (1), (2), (3), and (5).

Reasons. Exempted portions of this system contain information which has been properly classified under E.O. 12356, and which is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system may also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for access to classified information, and which was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record. Exempted portions of this system may also contain information collected and maintained in connection with providing protective services to the President and other individuals protected pursuant to 18 U.S.C. 3056. Exempted portions of this system may also contain investigative records compiled for law enforcement purposes, the disclosure of which could reveal the identity of sources who provide information under an express or implied promise of confidentiality, compromise investigative techniques and procedures, jeopardize the life or physical safety of law-enforcement personnel, or otherwise interfere with enforcement proceedings or adjudications.

(l) *Security Operations Activities.*

(1) *ID—N05527–1.*

Sysname. Security Incident System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2) and (3) (e)(4) (G) through (I), (e)(5), (e)(8), (f) and (g).

Authority. 5 U.S.C. 552a(j)(2).

Reasons. Granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in concealment, destruction, or fabrication of evidence, and jeopardize the safety and well being of informants, witnesses and their families, and of law enforcment personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of privacy of individuals only incidentally related to an investigation.

The exemption of the individual's right of access to his/her records, and the reason therefore, necessitate the exemption of this system of records from the requirements of other cited provisions.

(m) *Naval Medical Command.*

(1) *ID—N06320–2.*

Sysname. Family Advocacy Program System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3) and (d).

Authority. 5 U.S.C. 552a(k) (2) and (5).

Reasons. Exemption is needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information, and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Additionally, granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accountings, could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders or alleged offenders and the disposition of charges; and could jeopardize the safety and well being of parents and their children.

Exempted portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal employment and Federal contracts, and that was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record.

(n) *Naval Postgraduate School.*

(1) *ID—N05300–3.*

Sysname. Faculty Professional Files.

Exemption. Portions of this system of records are exempt from the following portions of 5 U.S.C. 552a: (c)(3), (d), (e)(4) (G) and (H), and (f).

Authority. 5 U.S.C. 552a(k)(5).

Reasons. Exempted portions of this system contain information considered relevant and necessary to make a release determination as to qualifications, eligibility, or suitability for Federal employment, and was obtained by providing an express or implied promise to the source that his/her identity would not be revealed to the subject of the record.

§ 701.120 Exemptions for specific Marine Corps record systems.

a. *ID—MMN00018.*

Sysname. Base Security Incident Reporting System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e) (2) and (3), (e)(4) (G) through (I), (e)(5), (e)(8), (f), and (g).

Authority. 5 U.S.C. 552a(j)(2).

Reasons. Granting individuals access to information collected and maintained by these activities relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and might enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence, and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation.

The exemption of the individual's right of access to his/her records, and the reasons therefore, necessitate the exemption of this system of records from the requirements of other cited provisions.

b. *ID—MIN00001.*

Sysname. Personnel Security Eligibility and Access Information System.

Exemption. Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

Authority. 5 U.S.C. 552a(k) (2), (3), and (5) as applicable.

Reasons. Exempt portions of this system contain information that has been properly classified under E.O. 12356, and that is required to be kept secret in the interest of national defense or foreign policy.

Exempt portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal civilian employment, military service, Federal contracts, or access to classified, compartmented, or otherwise sensitive information, and was obtained by providing an expressed or implied assurance to the source that his/her identity would not be revealed to the subject of the record.

Exempted portions of this system further contain information that identifies sources whose confidentiality must be protected to ensure that the privacy and physical safety of these witnesses and informants are protected.

Dated: March 31, 1987.

Harold L. Stoller,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 87-7588 Filed 4-6-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

42 CFR Part 7

Distribution of Reference Biological Standards and Biological Preparations; User Charge

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This regulation provides for the assessment of charges to private entities to cover the cost of producing and distributing reference biological standards and biological preparations by the Centers for Disease Control (CDC).

EFFECTIVE DATE: April 7, 1987.

FOR FURTHER INFORMATION CONTACT: William K. Harrell, Ph.D., Center for Infectious Diseases, Centers for Disease Control, 1600 Clifton Road NE., Atlanta, Georgia 30333, Telephone (404) 329-3352 or FTS 236-3352.

SUPPLEMENTARY INFORMATION: CDC has been delegated the authority under section 352 of the Public Health Service (PHS) Act (42 U.S.C. 263), as amended, to produce and distribute biological products in the conduct of its functional responsibilities. Under Title V of the Independent Offices Appropriation Act (IOAA) of 1952 (31 U.S.C. 9701), a federal agency may charge for the services it provides when such services confer a special benefit upon an identifiable recipient. On April 29, 1986, CDC published a notice of Proposed Rulemaking in the **Federal Register** (51 FR 15919) to establish a program whereby private organizations would be assessed a user fee to cover the cost to CDC of producing and distributing reference biological standards and biological preparations.

User Charge

This final rule imposes a user charge for the distribution of biological products to private entities. Based on the same level of services as in the past, these user charges would be expected to generate about $95,000 annually toward the cost of producing and distributing reference biological standards and biological preparations. CDC has estimated that currently it will cost an average of $24 to produce, distribute, and recover the administrative costs for a unit of reagents to these organizations.

Computation of User Charge

1. *Program cost.* The cost to CDC in Fiscal Year 1985 for producing and distributing reference biological standards and biological preparations to private entities is estimated to be $95,000. This cost includes both direct costs such as salaries and equipment, and indirect costs such as rent, telephone service, and a proportionate share of management and administrative costs.

2. *Computation of user charge.* In this program, CDC is attempting to generate, through a user charge, a sum equal to the $95,000 in program costs. CDC receives requests from private entities for approximately 4,000 units of reference biological standards and biological preparations each year. For purposes of this program, CDC will impose a user charge per unit distributed. The cost will vary, depending upon the type of preparation requested.

Exemptions

CDC will not impose a user charge on State and local health departments, governmental institutions (e.g., State hospitals and universities), the World Health Organization, or ministries of health of foreign governments when these materials are provided to those agencies for public health reasons and not for the benefit of the requesters.

Terms of Payment

CDC's initial procedure will require a purchase order at the time the request for the materials is received. The organization will be billed at the end of each month for materials distributed. Users may obtain information about ordering and payment procedures by writing CDC.

Economic Impact

The Secretary has determined that this final rules does not significantly impact on a substantial number of small entities and therefore does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96-354.

The Secretary has also determined that this final rule is not a "major rule" under Executive Order 12291. Thus, a regulatory impact analysis is not required because it will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions; or

(3) Result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Discussion of Comments

Comments were received from only two sources in response to the NPRM. One commenter, a commercial manufacturer of biological preparations, suggested that if there is to be a charge for biological standards and preparations, it should be applied uniformly to public and private organizations because the ultimate benefit is to the public at large. In response, this Department feels that commercial manufacturers of biological preparations are using CDC's standards to ensure that products they

manufacture meet or exceed the CDC standards thereby helping to ensure the reliability and, therefore, the profitability of these products. Thus, the manufacturer receives benefits above and beyond those accuring to the general public. Although CDC's production and distribution of reference biological standards and biological preparations also serve the public interest by providing the mechanism for ensuring reliable clinical diagnostic tests, the existence of a public benefit does not prohibit the imposition of a user charge, provided that the Government service bestows a distinct benefit upon identifiable beneficiaries.

The same commenter suggested that private producers of diagnostic products may decide to create their own standards or purchase standards, possibly of lower quality, from a private source. They further suggest that charging for these standards open the possibility for competitive private standards. In response, there is no legal requirement for the use of CDC standards and private entities may use any standard for comparative purposes. CDC believes that imposing a user fee for these standards would not necessarily create competitive private standards. The cost of the CDC standards are now comparable to those of the private sector.

This commenter also suggested that the legal justification for limiting the charge to private entities is inadequate. The commenter questioned the applicability of using section 311(b) of the Public Health Service Act (42 U.S.C. 243) as a precedent for only charging private entities. They argued that charging private entities for training for State and local health work is different from charging private entities for biological preparations used in the same manner by both the public and private sector. CDC maintains that the precedent is applicable. Personnel from private entities that receive training for State and local public health work acquire skills that enhance the marketability of the service provided by the private entity. Thus, the private entity receives benefits above and beyond those accruing to the general public.

The other commenter, a private medical association, supported the proposed rule in its entirety.

At its own initiative, the Department has expanded Section 7.4 to incorporate the criteria to be used in establishing the schedule of charges. These criteria were previously explained in the preamble to the NPRM.

List of Subjects in 42 CFR Part 7

Administrative practice and procedure, Biologics.

Accordingly, Title 42 of the Code of Federal Regulations is amended by adding a new Part 7 to Subchapter A as set forth below.

Dated: October 28, 1986.

Robert E. Windom,

Assistant Secretary for Health.

Approved: March 12, 1987.

Don M. Newman,

Acting Secretary.

PART 7—DISTRIBUTION OF REFERENCE BIOLOGICAL STANDARDS AND BIOLOGICAL PREPARATIONS

Sec.

Authority: Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216); Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701); and Sec. 352 of the Public Health Service Act, as amended (42 U.S.C. 263).

§ 7.1 Applicability.

The provisions of this Part are applicable to private entities requesting from the Centers for Disease Control (CDC) reference biological standards and biological preparations for use in their laboratories.

§ 7.2 Establishment of a user charge.

Except as otherwise provided in § 7.6, a user charge shall be imposed to cover the cost to CDC of producing and distributing reference biological standards and biological preparations.

§ 7.3 Definitions.

"Biological standards" means a uniform and stable reference biological substance which allows measurements of relative potency to be made and described in a common currency of international and national units of activity.

"Biological preparations" means a reference biological substance which may be used for a purpose similar to that of a standard, but which has been established without a full collaborative study, or where a collaborative study has shown that it is not appropriate to establish the preparation as an international standard.

§ 7.4 Schedule of charges.

The charges imposed in § 7.2 are based on the amount published in CDC's price list of available products. These charges will reflect direct costs (such as salaries and equipment), indirect costs (such as rent, telephone service, and a proportionate share of management and administrative costs), and the costs of particular ingredients. Charges may vary over time and between different biological standards or biological preparations, depending upon the cost of ingredients and the complexity of production. An up-to-date schedule of charges is available from the Biological Products Branch, Center for Infectious Diseases, Centers for Disease Control, 1600 Clifton Road, Atlanta, Georgia 30333.

§ 7.5 Payment procedures.

The requester may obtain information on terms of payment and a fee schedule by writing the "Centers for Disease Control," Financial Management Office, Buckhead Facility, Room 200, Centers for Disease Control, 1600 Clifton Road, Atlanta, Georgia 30333.

§ 7.6 Exemptions.

State and local health departments, governmental institutions (e.g., State hospitals and universities), the World Health Organization, and ministries of health of foreign governments may be exempted from paying user charges, when using biological standards or biological preparations for public health purposes.

[FR Doc. 87-7615 Filed 4-6-87; 8:45 am]

BILLING CODE 4160-18-M

Family Support Administration

45 CFR Chs. II, III, IV, and X

Correction of Headings to Reflect Establishment of the Family Support Administration

AGENCY: Family Support Administration (FSA), HHS.

ACTION: Final rule.

SUMMARY: This rule revises the name of several chapter headings currently contained in 45 CFR Chapters II, III, IV, and X to reflect the placement of certain programs within the newly-established Family Support Administration.

EFFECTIVE DATE: This renaming of chapter headings is effective April 7, 1987.

FOR FURTHER INFORMATION CONTACT: Howard Rolston, (202) 245-0392.

SUPPLEMENTARY INFORMATION: On April 4, 1986, the Secretary announced in the **Federal Register** (51 FR 11641) the establishment of the Family Support

Administration consisting of the following HHS units:

1. The Office of Family Assistance, transferred from the Social Security Administration (SSA);

2. The Office of Refugee Resettlement, also transferred from SSA;

3. The Office of Child Support Enforcement, a separate unit within HHS;

4. The Office of Community Services, also a separate HHS unit; and

5. The Work Incentive Program, transferred from the Office of the Assistant Secretary for Human Development Services.

Regulatory Provisions

These programs' regulations, rules, orders, statements of policy and interpretations remain in full force and effect. However, to correct reference to these programs in the Code of Federal Regulations and to enable interested individuals and organizations to locate pertinent regulations, this document corrects chapter headings in 45 CFR Chapters II, III, IV, and X to reference the Family Support Administration.

Paperwork Reduction Act

This regulation contains no information collection requirements that are subject to OMB review under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Regulatory Flexibility Act

The Secretary certifies that this regulation will not result in a significant impact on a substantial number of small entities and therefore does not require preparation of a regulatory flexibility analysis as provided in Pub. L. 96–354 (5 U.S.C. 605(b)), the Regulatory Flexibility Act.

Executive Order 12291

The Secretary has determined that this final rule is not a "major rule" under Executive Order 12291. Thus, a regulatory impact analysis is not required because it will not:

1. Have an annual effect on the economy of $100 million or more;

2. Impose a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or

3. Result in significant adverse effects on competition employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Waiver of Proposed Rule Making

We are publishing this regulation in final form, without notice of proposed rule making. Under 5 U.S.C. 553(b), notice of proposed rule making may be waived for rules of agency organization, procedure or practice, or when the agency for good cause finds that notice is impracticable, unnecessary, or contrary to the public interest. Since this regulation merely corrects regulatory chapter headings to refer to the Family Support Administration, the result of a departmental reorganization, and in no way revises regulatory substance, notice of proposed rule making is unnecessary, impracticable and contrary to the public interest.

TITLES 45, CHAPTERS II, III, IV, AND X—[AMENDED]

1. 45 CFR Chapters II, III, IV, and X are amended by revising the Chapter titles to read as follows:

CHAPTER II—OFFICE OF FAMILY ASSISTANCE (ASSISTANCE PROGRAMS), FAMILY SUPPORT ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHAPTER III—OFFICE OF CHILD SUPPORT ENFORCEMENT (CHILD SUPPORT ENFORCEMENT PROGRAM), FAMILY SUPPORT ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHAPTER IV—OFFICE OF REFUGEE RESETTLEMENT, FAMILY SUPPORT ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHAPTER X—OFFICE OF COMMUNITY SERVICES, FAMILY SUPPORT ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

(Catalog of Federal Domestic Assistance Programs, Program No. 13.808, Public Assistance—Maintenance Assistance; Program No. 13.679, Child Support Enforcement Program; Program No. 13.814, Refugee and Entrant Program; Program No. 13.665, Community Services Block Grant; Program No. 13.646, Work Incentive Program.)

Dated: February 5, 1987.

Wayne A. Stanton,

Administration, Family Support Administration, and Director, Office of Child Support Enforcement.

Approved: March 17, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87–7495 Filed 4–6–87; 8:45 am]

BILLING CODE 4910–11–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Part 7 and Appendices

[AIDAR Notice 87–7]

Acquisition Regulation Concerning Contracts for Personal Services Abroad

AGENCY: Agency for International Development, (A.I.D.), IDCA.

ACTION: Final rule.

SUMMARY: The A.I.D. Acquisition Regulation (AIDAR) is being amended to add guidance concerning solicitation and negotiation of personal services contracts in paragraphs five and six of AIDAR Appendices D and J concerning A.I.D. contracts for personal services abroad.

EFFECTIVE DATE: April 7, 1987.

FOR FURTHER INFORMATION CONTACT: M/SER/PPE, Mrs. Patricia L. Bullock, telephone (703) 875–1534.

SUPPLEMENTARY INFORMATION: Pursuant to 40 U.S.C. 474, section 706.302–70 of the AIDAR now provides an exception to other than full and open competition when foreign assistance objectives would be impaired. Contracts for personal services are specified in AIDAR 706.302–70(b) as cases in which the requirement for full and open competition would impair foreign aid programs.

FAR 6.303–1(c) permits justifications supporting less than full and open competition to be made on a class basis. Given the number of contract actions involved and the similarity of the circumstances existing to support such justifications, a class justification was approved by the A.I.D. Procurement Executive on January 20, 1987.

Guidance on soliciting and negotiating personal services contracts had been reserved pending development and approval of the class justification. The AIDAR is now being amended to incorporate such guidance.

This AIDAR Notice is not a major rule and is exempt from the requirements of Executive Order 12291 by OMB Bulletin 85–7. The changes are not considered "significant" under FAR 1.301 or FAR 1.501, and public comments have not been solicited. This Notice will not have an impact on a substantial number of small entities or require any information collection, as contemplated by the Regulatory Flexibility Act or the Paperwork Reduction Act respectively.

List of Subjects in 48 CFR Ch. 7, Appendices

Government procurement.

For the reasons set out in the preamble, Chapter 7 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citation for the Appendices to Chapter 7 is unchanged and continues to read as follows:

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E. O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

Appendices to Chapter 7

2. Paragraphs 5, *Soliciting for Personal Services Contracts*, and 6, *Negotiating a Personal Services Contract*, which were previously [Reserved], are added to read as follows:

Appendix D—Direct A.I.D. Contracts With U.S. Citizens or U.S. Resident Aliens for Personal Services Abroad

* * * * *

5. Soliciting for Personal Services Contracts

(a) *Project Officer's responsibilities.* The Project Officer will prepare a written detailed statement of duties and a statement of minimum qualifications to cover the position being recruited for. The statement shall be included in the procurement request (e.g., A.I.D. Form 1350-1, Project Implementation Order/Technical Services (PIO/T)); the request shall also include the following additional information as a minimum:

(1) The specific foreign location(s) where the work is to be performed, including any travel requirements (with an estimate of frequency);

(2) The length of the contract, with beginning and ending dates, plus any options for renewal or extension;

(3) The basic education, training, experience, and skills required for the position;

(4) An estimate of what a comparable GS/FS position should cost, including basic salary, allowances, and differentials, if appropriate;

(5) A list of Government or host country furnished items (e.g., housing); and

(6) If the PSC will be providing consulting services, include the justification required by AIDAR 737.270(b).

(b) *Contracting Officer's Responsibilities.*

(1) The Contracting Officer will prepare the solicitation for personal services which shall contain:

(i) Three sets of SF 171s and 171As. (Upon receipt, one copy of each 171 and 171A shall be forwarded to the Project Officer.)

(ii) A detailed statement of duties or a completed position description for the position being recruited for.

(iii) A copy of the prescribed contract Cover Page, Contract Schedule, General Provisions and Additional General Provisions, if applicable, as well as the FAR clauses to be incorporated by reference.

(iv) A copy of Attachment 2C to Chapter 2 of A.I.D. Handbook 24, entitled Employee Responsibilities and Conduct.

(2) The Contracting Officer shall comply with the requirements of AIDAR 706.302-70(c) as detailed in paragraph 5(c) below.

(c) *Competition.*

(1) Under AIDAR 706.302-70(b)(1), personal services contracts are exempt from the requirements for full and open competition with two limitations that must be observed by Contracting Officers:

(i) Offers are to be requested from as many potential offerors as is practicable under the circumstances, and

(ii) A justification supporting less than full and open competition must be prepared in accordance with FAR 6.303.

(2) A class justification was approved by the A.I.D. Procurement Executive on January 20, 1987 which will satisfy the requirements of AIDAR 706.302-70(c)(2) for a justification in accordance with FAR 6.303 subject to the following conditions for use for personal services contracts with U.S. citizens or U.S. resident aliens:

(i) If recruited from the United States, the position was either publicized in a U.S. trade/professional/ technical publication, the Commerce Business Daily or a newspaper or similar publication, or the procedure in paragraph (iii) below was followed.

(ii) If recruited locally, the position was publicized in the same way that the Mission announces direct hire U.S. citizen positions, or the procedure in paragraph (iii) below was followed.

(iii) As an alternative to the procedures in paragraphs (i) and (ii) above, at least 3 individuals were considered by consulting source lists (e.g., applications or resumes on hand) or conducting other informal solicitation.

(iv) A copy of the class justification (which was distributed to all A.I.D. Contracting Officers via Contract Information Bulletin) must be included in the contract file, together with a written statement, signed by the Contracting Officer, that the contract is being awarded pursuant to AIDAR 706.302-70(b)(1); that the conditions for use of this class justification have been met; and that the cost of the contract is fair and reasonable.

(3) Since the award of a personal services contract is based on technical qualifications, not price, and since the SF 171, "Personal Qualifications Statement", and SF 171A, "Continuation Sheet for Standard Form 171", are used to solicit for such contracts, FAR Subparts 15.4 and 15.5 and FAR Parts 52 and 53 are inappropriate and shall not be used. Instead, the solicitation and selection procedures outlined in this Appendix shall govern.

(4) If the appropriate competitive procedure in paragraph (2) above is not followed, the Contracting Officer must prepare a separate justification as required under AIDAR 706.302-70(c)(2).

6. Negotiating a Personal Services Contract

Negotiating a personal services contract is significantly different from negotiating a nonpersonal services contract because of the employer-employee relationship; therefore, the selection procedures are more akin to the personnel selection procedures.

(a) *Project Officer's responsibilities.* The Project Officer shall be responsible for reviewing and evaluating the applications (i.e., SF 171s) received in response to the solicitation issued by the Contracting Officer. If deemed appropriate, interviews may be conducted with the applicants before the final selection is submitted to the Contracting Officer.

(b) *Contracting Officer's responsibilities.*

(1) The Contracting Officer shall forward a copy of each SF 171 received under the solicitation to the Project Officer for evaluation.

(2) On receipt of the Project Officer's recommendation, the Contracting Officer shall conduct negotiations with the recommended applicant. Normally, the Contracting Officer shall negotiate only the salary (see the salary setting coverage in paragraph 4(f) of this Appendix). The terms and conditions of the contract, including differentials and allowances, are not negotiable or waivable without a properly approved deviation (see AIDAR 701.470). If the Contracting Officer can negotiate a salary that is fair and reasonable, then the award shall be made.

(3) The Contracting Officer shall use the certified salary history on the SF 171 as the basis for salary negotiations, along with the Project Officer's cost estimate.

(4) The Contracting Officer will obtain two copies of IRS Form W-4, Employee's Withholding Allowance Certificate from the successful applicant. (Upon receipt, the Contracting Officer will forward one copy of the W-4 to the office of the Controller.)

(5) The Contracting Officer will obtain four sets of SF 86, Security Investiagtion Data for Sensitive Position from the successful applicant if a security clearance is required for the position.

* * * * *

2. Paragraphs 5, *Soliciting for Personal Services Contracts*, and 6, *Negotiating a Personal Services Contract*, which were previously [Reserved], are added as follows:

Appendix J—Direct A.I.D. Contracts With Cooperating Country Nationals and With Third Country Nationals for Personal Services Abroad

* * * * *

5. Soliciting for Personal Services Contracts

(a) *Project Officer's responsibilities.* The Project Officer (or the responsible requiring office), will prepare a written detailed statement of duties and a statement of minimum qualifications to cover the position being recruited for. The statement shall be included in the procurement request; the procurement request shall also include the following additional information as a minimum:

(1) The specific foreign location(s) where the work is to be performed, including any travel requirements (with an estimate of frequency);

(2) The length of the contract, with beginning and ending dates, plus any options for renewal or extension;

(3) The basic education, training, experience, and skills required for the position;

(4) An estimate of what a comparable GS/FS position should cost, including basic salary, allowances, and differentials, if appropriate;

(5) A list of Government or host country furnished items (e.g., housing); and

(6) If the PSC will be providing consulting services, include the justification required by AIDAR 737.270(b).

(b) *Contracting Officer's responsibilities.*

(1) The Contracting Officer will prepare the solicitation for personal services which shall contain:

(i) Three sets of certified biographical data and salary history. (Upon receipt, one copy of the above information shall be forwarded to the Project Officer.)

(ii) A detailed statement of duties or a completed position description for the position being recruited for.

(iii) A copy of the prescribed contract Cover Page, Contract Schedule, General Provisions and Additional General Provisions, if applicable, as well as the FAR clauses to be incorporated by reference.

(iv) A copy of Attachment 2C to Chapter 2 of A.I.D. Handbook 24, entitled Employee Responsibilities and Conduct.

(2) The Contracting Officer shall comply with the requirements of AIDAR 706.302-70(c) as detailed in paragraph 5(c) below.

(c) *Competition.*

(1) Under AIDAR 706.302-70(b)(1), personal services contracts are exempt from the requirements for full and open competition with two limitations that must be observed by Contracting Officers:

(i) offers are to be requested from as many potential offerors as is practicable under the circumstances, and

(ii) a justification supporting less than full and open competition must be prepared in accordance with FAR 6.303.

(2) A class justification was approved by the A.I.D. Procurement Executive on January 20, 1987 which will satisfy the requirements of AIDAR 706.302-70(c)(2) for a justification in accordance with FAR 6.303 subject to the following condition for use for personal services contracts with Cooperating Country Nationals and Third Country Nationals:

(i) New contracts are publicized consistent with Mission/Embassy practice on announcement of direct hire FSN positions. Renewals or extensions with the same individual for continuing service do not need to be publicized.

(ii) A copy of the class justification (which was distributed to all A.I.D. Contracting Officers via Contract Information Bulletin) must be included in the contract file, together with a written statement, signed by the Contracting Officer, that the contract is being awarded pursuant to AIDAR 706.302-70(b)(1); that the conditions for use of this class justification have been met; and that the cost of the contract is fair and reasonable.

(3) Since the award of a personal services contract is based on technical qualifications, not price, and since the biographical data and salary history, are used to solicit for such contracts, FAR Subparts 15.4 and 15.5 and FAR Parts 52 and 53 are inappropriate and shall not be used. Instead, the solicitation and selection procedures outlined in this Appendix shall govern.

(4) If the appropriate competitive procedure in paragraph (2) above is not followed, the Contracting Officer must prepare a separate justification as required under AIDAR 706.302-70(c)(2).

6. *Negotiating a personal services contract.* Negotiating a personal services contract is significantly different from negotiating a nonpersonal services contract because of the employer-employee relationship; therefore, the selection procedures are more akin to the personnel selection procedures.

(a) *Project Officer's responsibilities.* The Project Officer shall be responsible for reviewing and evaluating the applications received in response to the solicitation issued by the Contracting Officer. If deemed appropriate, interviews may be conducted with the applicants before the final selection is submitted to the Contracting Officer.

(b) *Contracting Officer's responsibilities.*

(1) The Contracting Officer shall forward a copy of each statement of biographical data and salary history received under the solicitation to the Project Officer for evaluation.

(2) On receipt of the Project Officer's recommendation, the Contracting Officer shall conduct negotiations with the recommended applicant. The terms and conditions of the contract will normally be in accordance with the local compensation plan which forms the basis for all compensation payments paid to FSNs which includes CCNs and TCNs.

(3) The Contracting Officer shall use the certified salary history on the certified statement of biographical data and salary history as the basis for salary negotiations, along with the Project Officer's cost estimate.

(4) The Contracting Officer will obtain necessary data for a security and suitability clearance to the extent required by A.I.D. Handbook 6, Security.

* * * *

Dated: March 27, 1987.

John F. Owens,

Procurement Executive.

[FR Doc. 87-7582 Filed 4-6-87; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 217 and 252

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

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Defense Acquisition Regulatory Council has approved changes to the coverage in the DoD FAR Supplement regarding Identification of Sources of Supply. The purpose of these changes is to implement section 928 of Pub. L. 99-591.

EFFECTIVE DATE: April 15, 1987 (Effective on all contracts entered into on or after April 15, 1987).

FOR FURTHER INFORMATION CONTACT: Mr. Owen Green, Acting Executive Secretary, DAR Council, 202/697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

Section 1231 of Pub. L. 98-525, as amended by section 928 of Pub. L. 99-591, requires delivery of source information under DoD supply contracts. This final rule modifies the existing rule by stipulating that the coverage applies to all contracts requiring delivery of supplies, other than commercial items sold in substantial quantities to the general public and priced at established catalog or market prices or awarded through full and open competition.

B. Regulatory Flexibility Act Information

The Department of Defense certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. This rule excludes commercial items sold in substantial quantities to the general public and priced at established catalog or market prices or awards made through full and open competition. Therefore contractors will not have to identify the actual manufacturer, the national stock number, or the source of technical data for such items. DoD estimates that the total impact of this reduced workload on all businesses is a reduction of 700,250 hours annually. In FY 1985, 59% of all contract actions were awarded to small businesses. DoD estimates that the reduced workload applicable to all small businesses is a reduction of approximately 413,148 hours annually ($-700{,}250 \times 59\%$). Since DoD conducts business with approximately 40,000 small businesses per year, this reduction is considered insignificant.

C. Paperwork Reduction Act Information

The Department of Defense estimates that the implementation of this coverage will result in a paperwork burden reduction of 700,250 hours. OMB approved the burden estimate on 10 March 1987, clearance number 0704-0214.

List of Subjects in 48 CFR Parts 217 and 252

Government procurement.

Owen L. Green, III,

Acting Executive Secretary, Defense Acquisition, Regulatory Council.

Therefore, 48 CFR Parts 217 and 252 are amended as follows:

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

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

PART 217—SPECIAL CONTRACTING METHODS

2. Section 217.7204 is amended by revising the first sentence of paragraph (a); by removing in paragraph (a)(1) between the words "or" and "all" the word "of"; by adding a new paragraph (b); by redesignating the existing paragraph (b) to paragraph (c); by removing at the end of paragraph (2) of the redesignated paragraph (c) the word "or"; by changing the period at the end of paragraph (3) of the redesignated paragraph (c) to a semicolon and adding the word "or"; by adding paragraph (4) to the redesignated paragraph (c); and by redesignating the existing paragraph (c) to paragraph (d); to read as follows:

217.7204 Identification of sources of supply.

(a) 10 U.S.C. 2384(a) requires that, whenever practicable, each contract requiring the delivery of supplies, other than commercial items sold in substantial quantities to the general public and priced at established catalog or market prices or awarded through full and open competition, shall require that the contractor identify:

* * * * *

(b) This section does not apply to a contract that requires delivery of supplies that are commercial items sold in substantial quantities to the general public if the contract—

(1) Provides for the acquisition of such supplies at established catalog or market prices; or

(2) Is awarded through the use of full and open competition.

(c) * * *

(4) The contracting officer determines that paragraph (b) is applicable to all items under the contract.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.217–7270 is amended by changing the reference in the introductory paragraph to read "217.7204(c)"; by changing the date of the clause to read "(FEB 87)"; by designating the existing paragraph of the clause as paragraph (a); and by adding paragraph (b) to the clause to read as follows:

252.217–7270 Identification of sources of supply.

* * * * *

(b) The requirements of paragraph (a) do not apply to any items that are commercial items sold in substantial quantities to the general public if—

(1) The items are priced using established catalog or market prices; or

(2) The items are acquired through the use of full and open competition.

(End of clause)

[FR Doc. 87–7611 Filed 4–6–87; 8:45 am]

BILLING CODE 3810–01–M

Proposed Rules

Federal Register
Vol. 52, No. 66
Tuesday, April 7, 1987

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

Federal Crop Insurance Corporation

7 CFR Parts 418, 419, 420, 421, 424, 427, 432, and 448

[Docket No. 3716S]

Prevented Planting Endorsement to Barley, Corn, Cotton, ELS Cotton, Grain Sorghum, Oat, Rice, and Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Barley, Corn, Cotton, ELS Cotton, Grain Sorghum, Oat, Rice, and Wheat Crop Insurance Regulations (7 CFR Parts 419, 432, 421, 448, 420, 427, 424, and 418, respectively), effective for the 1988 crop year only. The intended effect of this rule is to: (1) Provide for use of the sales closing date of the qualifying crop insurance policy as a specific point of reference to determine the endorsement reporting date; (2) allow set off to pay premium; (3) require the insured to report total production from all units of the qualifying crop policy; (4) include the insured's share of the production guarantee in the determination of indemnity; (5) clarify that the endorsement is on an annual basis and define requirements to stay insured from year to year; (6) add definitions of "ASCS" and "Farm"; and (7) redefine "Prevented planting date", "Unit", and "Yield Guarantee". The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than May 7, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for the regulations affected by this action remain unchanged and are made part of each regulation affected by this rule.

E. Ray Fosse, Manager FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal proposed changes in the prevented planting endorsement are:

1. *Section 2.* Clarify that any acreage intended for planting must be insured under the qualifying crop insurance policy before insurance will attach under this endorsement. This change is made to prevent attachment of insurance under the endorsement to acreage which is otherwise uninsurable under the qualifying crop insurance policy.

2. *Section 3.* Add a provision requiring that at the time the insured must report the acreage under the prevented planting endorsement, it also must be reported by the intended type and practice. Since the indemnity under the endorsement is directly related to the guarantee for the qualifying crop and that guarantee is established by type and practice it is necessary to state the basis for determining the guarantee for the endorsement in a similar manner.

Change the date of reporting acreage from the reporting date established by the actuarial table to not later than the sales closing date for the applicable qualifying crop.

3. *Section 6.* Add a section specifically allowing set off for payment of premium. Although this is allowed under provisions of the qualifying crop policy, it is repeated in the endorsement to clarify the Corporation's intent in this regard.

4. *Section 9.* Eliminate the requirement for an insured to report to FCIC the total production from the units established under the provisions of the qualifying crop policy. Such information was previously required to calculate the amount of indemnity.

Remove the reference to acreage intended for planting from which a forage crop is harvested. The Corporation will no longer insure any acreage planted to a perennial crop. (See: Subsection 11.b.(1).)

5. *Section 10.* Revise the time, report, and notice provisions to more clearly explain what the insured must do to be eligible and to stay insured from year to year.

Remove the contract change date requirement as being duplicative of the qualifying crop policies.

6. *Section 11.* Add a definition for "ASCS".

Add a definition for "farm" as meaning the land which is designated by the Agricultural Stabilization and

Conservation Service (ASCS) under a single farm serial number to clarify that an applicant for the prevented planting endorsement must comply with ASCS qualifying programs.

Redefine:

"Prevented planting date" to establish when insurance will end for areas where there are no spring-planted crops;

"Unit" to remove the reference to reporting and correcting units; and

"Yield Guarantee" to clarify that the coverage level applicable under the qualifying crop contract is used to determine the liability for that crop under the Prevented Planting Endorsement.

FCIS is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register.** Written comments will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Parts 418, 419, 420, 421, 424, 427, 432, and 448

Crop Insurance; Wheat, Barley, Grain Sorghum, Cotton, Rice, Oat, Corn, ELS Cotton.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Barley, Corn, Cotton, ELS Cotton, Grain Sorghum, Oat, Rice, and Wheat Crop Insurance Regulations (7 CFR Parts 418, 419, 432, 421, 448, 420, 427, 424, and 418, respectively), effective for the 1988 and succeeding crop years, in the following instances:

PARTS 418, 419, 420, 421, 424, 427, 432, AND 448—[AMENDED]

1. The Authority citation for 7 CFR Parts 418, 419, 420, 421, 424, 427, 432, and 448, continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Parts 418, 419, 420, 421, 424, 427, 432, and 448 are amended by revising §§ 418.8, 419.9, 420.8, 421.8, 424.8, 427.8, 432.8 and 448.8 in their entirety to read as follows:

§ _____ Prevented planting endorsement.

(a) A prevented planting crop insurance endorsement on the qualifying crop will be available to all insureds have a qualifying crop insurance contract under the provisions of this Part and who participate in the ASCS Acreage Reduction Program or Set-aside Program. This endorsement is not continuous. Application must be made annually for the prevented planting endorsement not later than the sales closing date established by the actuarial table for the applicable qualifying crop.

(b) The provisions of the Prevented Planting Crop Insurance Endorsement for the 1988 and succeeding crop years are as follows:

FEDERAL CROP INSURANCE CORPORATION

Prevented Planting Crop Insurance Endorsement

(This is an annual election to be made by the insured before the date specified in Section 10.)

AGREEMENT TO INSURE: We will provide the insurance described in this endorsement in return for the premium and your compliance with all applicable provisions.

Prevented Planting

1. Applicable Provisions. All provisions of the qualifying crop insurance contract and the prevented planting crop insurance application not in conflict with this endorsement are applicable.

2. Causes of Loss.

a. This insurance is against your being unavoidably prevented from planting insurable acreage to the qualifying crop or any other non-conserving crop during the insurance period. (You are required to plant to another non-conserving crop during the insurance period after you know or should have known that it is no longer feasible to plant the qualifying crop and you are not prevented from planting the other non-conserving crop by an insurable cause.) You must be prevented from planting by drought, flood, or other natural disaster which occurs within the insurance period. Limitations, exceptions, or exclusions on the causes insured against may be contained in the actuarial table.

b. We will not insure against any prevention of planting:

(1) If your failure to plant was due to a cause other than those listed in subsection 2.a.; or

(2) If most producers in the surrounding area in similar circumstances were able to plant the qualifying crop or any other non-conserving crop.

3. Acreage and Share Insured.

a. The acreage insured for each crop will be the cultivated acreage in the county intended to be planted for harvest to the qualifying crop, in which you have a share, as reported by you or as determined by us, whichever we elect, and for which a premium rate is provided by the actuarial table.

b. The insured share is your share as landlord, owner-operator, or tenant in the qualifying crop if the crop had been planted at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the prevented planting date.

c. Unless otherwise specified by the actuarial table, we will not insure any acreage unless you have a valid crop insurance contract for the current crop year on the qualifying crop and the acreage is insurable under that contract.

d. You must participate in the ASCS acreage reduction or set-aside program for the qualifying crop in the applicable crop year on at least one farm which is part of the insured unit under this endorsement.

4. Report of Acreage and Share.

You must report on our form:

a. All the cultivated acreage intended for planting to the qualifying crop in the county in which you have a share;

b. The intended type and practice; and

c. Your share at the time of reporting.

You must designate separately any cultivated acreage that is intended for planting to the qualifying crop that is not insurable. This report must be submitted not later than the sales closing date for the qualifying crop. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine the insured acreage and share or we may deny liability on the unit. Any report submitted by you may be revised only upon our approval.

5. Amounts of Insurance and Coverage Levels.

a. The amount of insurance per acre is computed by multiplying the qualifying crop yield guarantee times the price election selected for the qualifying crop, times .35.

b. The coverage level is the same as that selected under your crop insurance contract for the qualifying crop.

6. Annual Premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the amount of insurance per acre times the premium rate, times the insured acreage, times your share.

b. Interest will accrue at the same rate and terms on any unpaid premium balance as on the qualifying crop insurance contract.

7. Deductions for Debt. Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its agencies.

8. Insurance Period. Insurance attaches on the sales closing date of the qualifying crop insurance contract for the crop year and ends at the earlier of:

a. Planting of the insured acreage to the qualifying crop or any other non-conserving crop; or

b. The prevented planting date.

9. Notice of Damage or Loss and Claim For Indemnity.

a. If you fail to plant the insured acreage and expect to claim an indemnity on the unit, you must give us notice in writing not later than 5 days after the prevented planting date.

b. Any claim for indemnity must be submitted to us on our form prior to the time a claim is or should be filed for the qualifying crop.

c. We will not pay any indemnity unless you:

(1) Establish that any prevention of planting on insured acreage was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed; and

(2) Furnish all information we require concerning the loss.

d. The indemnity will be determined for the unit by:

(1) Multiplying the insured acreage times the amount of insurance as determined in Section 5 of this endorsement;

(2) Subtracting therefrom the amount obtained by multiplying the planted acreage, times the amount of insurance; and

(3) Mulitplying this result by your share.

e. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section.

10. Life of Contract: Cancellation and Termination.

a. This contract will be in effect only for the crop year specified on the application and may not be canceled by you for such crop year.

b. This contract may be renewed for each succeeding crop year if:

(1) You apply and report your intended acreage for planting not later than the sales closing date of the qualifying crop; and

(2) The qualifying crop insurance contract is not cancelled or terminated for the crop year.

11. Meaning of Terms.

For the purposes of prevented planting crop insurance:

a. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

b. "Cultivated acreage intended for planting" means land that was ready or, except for insured causes, could have been made ready for planting, but does not include land:

(1) On which a perennial forage crop is being grown or on which the qualifying crop or other not-conserving crop was planted prior to the prevented planting acreage reporting date; or

(2) Which was not or would not have been planted to comply with any other United States Department of Agriculture or State programs or for any other reason.

c. "Farm" means the land which is designated by ASCS under a single farm serial number.

d. "Insurable acreage" means the land classified as insurable by us for the qualifying crop and shown as such by the actuarial table.

e. "Non-conserving crop" means any crop planted for harvest as food, feed, or fiber.

f. "Planted acreage" means the insurable acreage:

(1) Planted to the qualifying crop or any non-conserving crop during the insurance period; or

(2) Which could have been planted to the qualifying crop or any non-conserving crop during the insurance period.

g. "Prevented planting date" means the latest final spring planting date established by the crop actuarial tables for any insurable crop in the country, except tobacco, plus any extended date or final planting date offered under any late planting agreement. (In areas where there are no spring planting dates, we will use the latest final planting fall planting date.)

h. "Qualifying crop" means the ASCS program crop (barley, corn, cotton, ELS Cotton, grain sorghum, oats, rice, or wheat) which is also insured.

i. "Unit" means all insurable acreage in the county which you intend for planting to the qualifying crop prior to the prevented planting date for the crop year at the time insurance first attaches under this policy for the crop year. The unit will be determined when the acreage is reported.

j. "Yield guarantee" means the result of multiplying your yield for the qualifying crop by your coverage level for that crop.

Done in Washington, DC, on February 25, 1987.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-7649 Filed 4-6-87; 8:45 am]

BILLING CODE 3410-08-M

FARM CREDIT ADMINISTRATION

12 CFR Part 612

Personnel Administration

AGENCY: Farm Credit Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Farm Credit Administration (FCA) publishes for comment a proposed amendment to Subpart B of Part 612 that would prohibit an individual serving simultaneously as an employee of a Farm Credit System (System) bank and a System association it supervises. Subpart B presently prohibits employees of System institutions from serving as officers or directors of an entity that transacts business with a System institution in the district or of any commercial bank, savings and loan, or other non-System financial institutions, with certain exceptions. The Farm Credit Administration Board (Board), is reconsidering the related conflict-of-interest issue, and invites comment on a proposed regulation that would prohibit an employee of a System bank from serving simultaneously as an employee of an association supervised by the bank.

DATE: Written comments must be received on or before June 5, 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: Dorothy J. Acosta, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020.

SUPPLEMENTARY INFORMATION: Subpart B of 12 CFR Part 612, Standards of Conduct for Directors, Officers and Employees, presently prohibits employees of System institutions from serving as officers or directors of an entity that transacts business with a System institution in the district or of any commercial bank, savings and loan, or other non-System financial institutions, with certain exceptions. Among the exceptions is an entity in which the System institution has an ownership interest. This exception has permitted the same individual to serve as the chief executive officer (CEO) or other employee of both a district bank and a districtwide association. The FCA has not previously objected to these arrangements in approving mergers of like associations.

The Board, as organized under the 1985 Amendments, is reconsidering the related conflict-of-interest issue, and invites comment on a proposed regulation that would prohibit an employee of a System bank from serving simultaneously as an employee of an association supervised by the bank. The FCA's concerns are twofold. The supervisory responsibilities of the Federal intermediate credit bank (FICB) toward the production credit associations (PCAs) and the Federal land bank (FLB) toward the Federal land bank associations (FLBAs) under the Farm Credit Act of 1971, as amended, (Act) make the potential for conflicts of interest, as defined in FCA regulations, greater than those present with entities in which no such relationship exists. FCA regulations consider a conflict of interest to exist "when a person has an interest in a transaction, relationship or activity which: (1) Actually or potentially affects the person's ability to perform official duties and responsibilities in a totally impartial manner and in the best interest of the employing institution or (2) Results in such person being unable to devote required time to official duties." 12 CFR 612.2150. The Board is concerned that an individual, as an employee of a bank, may find it difficult to be totally impartial in discharging its supervisory responsibilities toward and managing its financial relationship with an association of which he or she also serves as the CEO. Where there is more than one PCA in the district, an absence of objectivity in performing supervisory functions may operate to the detriment

of the other PCAs. Even where there is only one PCA, an absence of impartiality could disadvantage non-System institutions that discount with the FICB. At a minimum, the appearance of a conflict is inherent in such an arrangement. In addition, the Board is concerned that System borrowers may be deprived of the benefits of supervision of their associations by a separate System entity, which the Act clearly contemplates.

The FCA's concern is not confined to the position of the CEO. The same rationale could be applied to other joint employees when a supervisory relationship is involved. Consequently, the proposed prohibition in the regulation, if adopted, would extend to all employees.

It should be noted that the proposed regulation does not include a provision which would grandfather existing joint employee arrangements. Rather, the Board expects that, should be the regulation be adopted as proposed, existing arrangements in violation of the prohibition would be terminated as soon as reasonably possible. Compliance with the regulation as it may be finally adopted would be reviewed as a part of the examination process. Accordingly, System institutions should make appropriate contingency plans.

Pending final action by the Board on the proposed regulation, the proponents of any pending association merger transaction should carefully reconsider any terms of the proposal that would implement or authorize arrangements for common employees between the resulting association and its supervisory bank in view of the potential conflicts of interest involved. The FCA will focus on related concerns in deciding whether to approve those mergers.

List of Subjects in 12 CFR Part 612

Banks, Banking, Credit, Conduct standards, Ethical conduct.

As stated in the preamble, it is proposed that Part 612 of Chapter VI, Title 12, Code of Federal Regulations be amended to read as follows:

PART 612—PERSONNEL ADMINISTRATION

1. The authority citation for Part 612 continues to read as follows:

Authority: 12 U.S.C. 2243 and 2252.

Subpart B—Standards of Conduct for Directors, Officers and Employees

2. Section 612.2150 is amended by revising paragraph (b)(6) to read as follows:

§ 612.2150 Employees—prohibited acts.

* * * * *

(b) An employee of a System institution:

* * * * *

(6) Shall not serve as an officer or director of an entity that transacts business with a System institution in the district or of any commercial bank, savings and loan, or other non-System financial institution, except employee credit unions. For the purposes of this paragraph, "transacts business" does not include loans by a System institution to a family-owned entity and does not include nonprofit entities or entities in which the System institution has an ownership interest, except that no person shall serve simultaneously as an employee of a bank and an association it supervises. With the prior approval of the Board of the employing System institution, an employee of a Federal land bank, Federal intermediate credit bank, or association may serve as a director of a cooperative which borrows from a bank for cooperatives. Boards, prior to approving such employee requests, shall evaluate the potential of the employee's proposed directorship for violating any regulations contained in this subpart, with particular emphasis on the requirements of § 612.2190, Devotation of time to official duties.

* * * * *

William A. Sanders, Jr.,

Secretary, Farm Credit Administration Board.

[FR Doc. 87-7634 Filed 4-6-87; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-CE-10-AD]

Airworthiness Directives; Pilatus Britten-Norman, Ltd., Model BN-2A Mk III Trislander Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Pilatus Britten-Norman, Ltd., (PBN) Models BN-2A Mk III, BN-2A Mk III-1, BN-2A Mk III-2, and BN-2A Mk III-3 Series airplanes, which would correct the severe internal corrosion problem of the elevator trim tab operating rods. Several in-service reports have been received that rods, which are constructed from steel tubing, have been found with internal corrosion breaking through to the external surface, which could lead to failure of the rod and result in tab disconnect. The proposed AD would detect this internal corrosion and preclude the possible loss of aircraft control.

DATES: Comments must be received on or before May 28, 1987.

ADDRESSES: Pilatus Britten-Norman Mandatory Service Bulletin BN-2/SB.179, Issue 1, dated January 30, 1987, applicable to this AD may be obtained from Pilatus Britten-Norman, Ltd., Bembridge, Isle of Wight, England. This information may be examined in the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 87-CE-10-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. Harvey Chimerine, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule 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 specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. 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 FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 87–CE–10–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion: Several in-service incidents have been reported that elevator trim tab operating rods, which are constructed from steel tubing, have been found with severe internal corrosion breaking out to the surface. The cause of the corrosion has been traced to an assembly procedure when a "LOCKTITE" sleeve was placed over a cleaned surface in the steel tab rod tube assembly and the surface was not reprotected. Consequently, internal rusting occurred. As a result, Pilatus Britten-Norman, Ltd., has issued Pilatus Britten-Norman Mandatory Service Bulletin (MSB) BN–2/SB.179, Issue 1, dated January 30, 1987, which requires removal of the two (2) elevator tab rod assemblies from the airplane, dismantling of the rods, inspection for any corrosion, replacement if necessary, cleaning, internal corrosion protection, and reinstallation. The Civil Airworthiness Authority-United Kingdom (CAA–UK), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Great Britain, has classified this Pilatus Britten-Norman MSB No. BN–2/SB.179, Issue 1, dated January 30, 1987, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under CAA–UK registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of CAA–UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of Pilatus Britten-Norman MSB No. BN–2/SB.179, Issue 1, dated January 30, 1987, and the mandatory classification of this service bulletin by the CAA–UK. Based on the foregoing, the FAA believes that the condition addressed by Pilatus Britten-Norman MSB No. BN–2/SB.179, Issue 1, dated January 30, 1987, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require removal of the two (2) elevator tab rod assemblies from the airplane, dismantling of the rods, inspection for any corrosion, replacement if necessary, cleaning, internal corrosion protection, and reinstallation.

The FAA has determined there are approximately 13 airplanes affected by the proposed AD. The cost of inspecting and modifying the proposed AD is estimated to be $160 per airplane. The total cost is estimated to be $2,080 to the private sector.

The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Pilatus Britten-Norman, Ltd.: Applies to Models BN–2A Mk III, BN–2A Mk III–1, BN–2A Mk III–2, and BN–2A Mk III–3 (all serial numbers) airplanes certificated in any category.

Compliance: Required within 30 days after the effective date of this AD, unless already accomplished, and every 24 calendar months thereafter. To prevent structural failure of the elevator trim tab operating rods, accomplish the following:

(a) Remove the two (2) elevator trim tab operating rod assemblies in accordance with the instructions contained in the "INSPECTION" section of Pilatus Britten-Norman, Ltd., Mandatory Service Bulletin (MSB) No. BN–2/SB.179, Issue 1, dated January 30, 1987 (hereinafter referred to as MSB BN–2/SB.179).

(1) Disassemble one end of each control rod and visually examine the rod (tube) internally and externally for corrosion, rust, or cracks.

(i) If any corrosion, rust, or crack is found, before further flight, replace the control rod and accomplish paragraphs (a)(1) through (a)(3) of this AD on the replacement unit.

(ii) If no defect is found, clean and apply corrosion protection to the rod in accordance with the "RECTIFICATION" instructions of MSB BN–2/SB.179, and

(2) Visually inspect each ball end or fork fitting and sleeve (Part Number (P/N) NB–45–2627), after removing any surface rust, for pitting, discoloration, or cracks. If any evidence of corrosion, pitting, discoloration, or crack is found, before further flight:

(i) Replace the defective part with a serviceable unit.

(ii) Remove the fitting and sleeve from the other end of the associated control rod and repeat the inspection specified in paragraph (a)(2) of this AD.

(3) Reassemble the control rods in accordance with the "RECTIFICATION" instructions of MSB BN–2/SB.179.

(4) Reinstall the control rod in accordance with the "RETURNING THE AIRCRAFT TO SERVICE" instructions of MSB BN–2/SB.179.

(b) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium.

All persons affected by this directive may obtain a copy of the document referred to herein upon request to Pilatus Britten-Norman, Ltd., Bembridge, Isle of Wight, England; or may examine the document referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 27, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–7606 Filed 4–6–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 86–AGL–33]

Proposed Alteration of VOR Federal Airways, Wisconsin

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the descriptions of Federal Airways V–13, V–55, V–505 and the

Grantsburg Compulsory Reporting Point located in the vicinity of Grantsburg, WI. The FAA is proposing to decommission the Grantsburg very high frequency omni-directional radio range and distance measuring equipment (VOR/DME) located approximately 13 miles east of Grantsburg. This action amends the descriptions of all airways affected by the commissioning of Siren, WI, VOR/DME and the decommissioning of the Grantsburg VOR/DME and changes the name of the Grantsburg Compulsory Reporting Point.

DATES: Comments must be received on or before May 21, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 86-AGL-33, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AGL-33." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR Federal Airways V-13, V-55 and V-505 located in the vicinity of Grantsburg, WI. The FAA is planning the decommissioning of the Grantsburg VOR/DME and the commissioning of the Siren VOR/DME, and this action would alter the descriptions of all airways affected and change the name of the Grantsburg Compulsory Reporting Point. Sections 71.123 and 71.203 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

PART 71—[AMENDED]

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-13 [Amended]

By removing the words "Grantsburg, WI;" and substituting the words "INT Farmington 017°T(011°M) and Siren, WI, 218°T(213°M) radials; Siren;"

V-55 [Amended]

By removing the words "Grantsburg, WI;" and substituting the words "Siren, WI;"

V-505 [Amended]

By removing the words "Grantsburg, WI;" and substituting the words "Siren, WI;"

§ 71.203 [Amended]

3. Section 71.203 is amended as follows:

Grantsburg, WI [Removed]

Siren, WI [New].

Issued in Washington, DC, on March 31, 1987.

Harold H. Downey,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-7607 Filed 4-6-87; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-24274; IC-15645; File No. S7-11-87]

Facilitation of Shareholder Communications

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Securities and Exchange Commission ("Commission") today is publishing for comment proposals specifying that, where an employee

benefit plan provides a means through which plan participants obtain in a timely manner proxy cards, proxy soliciting material and annual reports to security holders, a registrant would not be obligated under Rule 14a–13(a) to furnish such materials to record holders and respondent banks for distribution to participants in that plan. The proposed amendments also would provide that a registrant need not include employee benefit plan participants in its request for a list of beneficial owners under the direct communications system if it has access to the names and addresses of such beneficial owners through some other means.

DATE: Comments should be received on or before May 7, 1987.

ADDRESS: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comment letters should refer to File No. S7–11–87. 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.

FOR FURTHER INFORMATION, CONTACT: Sarah A. Miller or Barbara J. Green (202) 272–2589, Office of Disclosure Policy, Division of Corporation Finance, Securities & Exchange Commission, 450 Fifth St., NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for comment proposed revisions to Rules 14a–1,[1] 14a–13,[2] 14b–1,[3] 14b–2,[4] 14c–1 [5] and 14c–7.[6]

I. Executive Summary

On November 25, 1986, the Commission adopted new shareholder communications rules and related amendments [7] to effect the Shareholder Communications Act of 1985.[8] The new rules set forth the obligations of banks, associations and other entities that exercise fiduciary powers (hereinafter "banks") in connection with forwarding proxy materials to beneficial owners and registrants' communications with beneficial owners of securities registered in the banks' names.

At the time it adopted the new rules, the Commission indicated that it would consider application of the shareholder communications rules to employee benefit plans in a separate rulemaking proceeding. This release addresses that issue. The rule proposals are intended to avoid duplicative mailing of proxy materials to plan participants and to permit registrants to realize cost savings in connection with requests for beneficial owner lists.

Currently, the shareholder communications rules require proxy soliciting material to be forwarded to plan participants who are beneficial owners. Such plan participants, however, also may receive proxy soliciting materials pursuant to the terms of the plan itself. The proposals would permit proxy soliciting material to be disseminated in accordance with plan documents and not Commission shareholder communications rules.

The rule proposals specify conditions under which registrants would not be obligated under Rule 14a–13(a) [9] to furnish proxy cards, proxy soliciting material and annual reports to record holders and respondent banks for distribution to certain beneficial owners whose securities are held in nominee name pursuant to an employee benefit plan. Specifically, a registrant would not be required to forward such materials where the plan contains a mechanism under which the registrant-plan sponsor or other person designated in the plan [10] obtains and supplies proxy soliciting materials to such beneficial owners in a timely manner. A registrant would be required to notify the record holders and respondent banks that hold the registrant's securities on behalf of participants in the plan that it intended to use these alternative means to distribute proxy materials and annual reports.

The rule proposals also allow a registrant that has access to the names and addresses of employee benefit plan participants by some other means to exclude those plan participants from its request for a list of beneficial owners. Again, the registrant would be required to inform record holders and respondent banks of its intention not to include these plan participants in its request.

As proposed, the exclusions from the proxy processing and direct communications systems are optional on the part of the registrant. In addition, the exclusions operate independently; satisfaction of the requirements for excluding participants in an employee benefit plan from the operation of one system would not automatically warrant or require exclusion from the other system. The Commission is, however, particularly interested in receiving comment on whether the two exclusions should work in tandem, whether one prerequisite should permit a registrant to choose both exclusions and whether either or both exclusions should be mandatory.[11]

II. Discussion

A. The Rule Proposals

1. Proxy Processing

Proposed paragraph (d)(1) of Rule 14a–13 relates to proxy processing procedures with respect to beneficial owners [12] who are employee benefit plan participants or beneficiaries with securities held in nominee name pursuant to the plan.[13] Where the plan contains a mechanism for both obtaining proxy soliciting material from registrants and supplying plan participants with proxy soliciting materials in a timely manner and action is taken that is reasonably calculated to assure that plan participants receive such materials in accordance with that mechanism,[14] the registrant would not be required to perform its proxy processing obligations with respect to these plan participants. Specifically, the registrant would not be required to send a search card inquiry to record holders and respondent banks [15] and supply record holders and respondent banks with the requisite sets of proxy materials required for forwarding to such beneficial owners.[16] With respect

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[1] 17 CFR 240.14a–1.

[2] 17 CFR 240.14a–13.

[3] 17 CFR 240.14b–1.

[4] 17 CFR 240.14b–2.

[5] 17 CFR 240.14c–1.

[6] 17 CFR 240.14c–7.

[7] Release No. 34–23847 (November 25, 1986) [51 FR 44267].

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

[9] 17 CFR 240.14a–13(a).

[10] Plans contain a wide variety of proxy dissemination arrangements. Depending on the structure and particular facts and circumstances of each plan, proxy material may be distributed by the plan sponsor, the plan administrator or the trustee.

[11] See discussion *infra* § II.B.

[12] If voting authority rests with the plan trustee, the trustee is the beneficial owner for purposes of the shareholder communications rules and, accordingly, the proposals would not apply. *See* Rule 14b–2(i), 17 CFR 240.14b–2(i).

[13] The Commission is proposing to add a definition of "employee benefit plan" to Rules 14a–1 and 14c–1. This definition would be identical to the definition presently contained in 17 CFR 230.405. *See* proposed Rules 14a–1(b) and 14c–1(b).

[14] Many of these mechanisms are incorporated into the plan as a result of the undertaking required by Form S–8. 17 CFR 239.16b. Item 21 of Form S–8 requires the registrant, at the time of filing an S–8 registration statement, to furnish, among other things, the undertaking required by Item 512(f)(2) of Regulation S–K. 17 CFR 229.512(f)(2). That item requires the registrant "to transmit . . . to all employees participating in the plan who do not otherwise receive such material as stockholders of the registrant, . . . copies of all reports, proxy statements and other communications distributed to its stockholders generally."

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

[16] Rule 14a–13(a)(3), 17 CFR 240.14a–13(a)(3). Effective July 1, 1987, current paragraph (a)(3) will be redesignated paragraph (a)(4).

to the requirement for a plan mechanism for obtaining and timely supplying proxy materials to beneficial owners, the Commission requests comment as to whether the rule should specify minimum requirements for the plan. For example, should the mechanism require that proxy soliciting materials be mailed to beneficial owners a specified period of time before an annual or special meeting?

Proposed paragraph (d)(1) also would require a registrant that determines to use the alternative proxy processing mechanism to notify the appropriate record holders and respondent banks that hold the registrant's securities on behalf of plan participants of its intention in this regard. As proposed, the notice would be effective 60 calendar days after receipt by the record holder or respondent bank or such shorter period as the record holder or respondent bank and the registrant mutually agree. This is intended to give a recordholder or respondent bank an opportunity to place plan participant information in a suspense file or remove it from its recordkeeping systems and to obtain reimbursement for actions taken under the shareholder communications rules until such notice is effective. The Commission requests commentators' views on whether, as currently proposed, the rules should specify any time period between receipt and effectiveness of the notice. In addition, comment is requested on whether the specified period should be shorter or longer, such as a 30 or 90 calendar day period.

Once the notice is received and effective, a record holder or respondent bank would not be required to respond [17] to the registrant's search card inquiry [18] with respect to those plan participants or forward proxy soliciting material to them.[19] Also, upon effectiveness of the notice, the registrant no longer would be responsible for reimbursement of proxy processing costs associated with these particular plan participants.

Banks would execute an omnibus proxy [20] in favor of respondent banks with respect to the number of securities held by these plan participants.[21] Alternatively, banks could comply with the terms of any Commission approved alternate procedure to the omnibus proxy.[22]

Failure to comply with the terms of the plan document would preclude reliance on the exclusion from the proxy processing rules and could lead to liability under those rules.[23] In addition, if the plan is subject to the Employee Retirement Income Security Act ("ERISA"),[24] liability for non-compliance with the plan document could be established under the general fiduciary responsibility provisions of ERISA.[25] In the case of a plan that is not subject to ERISA, liability also might result under state law for breach of fiduciary duties or contract. Moreover, plans registered on Form S–8 contain an undertaking requiring that registrants transmit to all employees participating in the plan copies of all communications distributed to shareholders generally.[26] Absent a specified plan procedure that reasonably insures timely delivery of proxy materials to plan participants, plan participants would continue to receive proxy soliciting material in accordance with the procedures set forth in the shareholder communications rules.

2. Direct Communications

Proposed paragraph (d)(2) would provide that a registrant's request for a list of beneficial owners need not include employee benefit plan participants or beneficiaries with securities held in nominee name pursuant to the plan, if the registrant has access, by some other means, to the names and addresses of such beneficial owners. For example, registrants could obtain such information by means of payroll deductions or a list of plan participants provided by the plan administrator. A registrant would be required to communicate its intention to exclude employee benefit plan participants from its requests for beneficial owner lists to record holders and respondent banks that hold the registrants' securities on behalf of plan participants.

Under the proposal, once a record holder or respondent bank is so informed, it would not be required to include employee benefit plan participants in its responses to that registrant's requests for lists of beneficial owners.[27] Again, the notice would become effective 60 calendar days after receipt by the record holder or respondent bank or such shorter period as the record holder or respondent bank and the registrant mutually agree. The Commission requests comment as to whether there should, in fact, be a time period between receipt and effectiveness and whether the time period should be shorter or longer, such as 30 or 90 calendar days. The notice period is intended to give a record holder or respondent bank an opportunity to place plan participant information in a suspense file or remove it from its recordkeeping systems and to obtain reimbursement for actions taken under the shareholder communications rules until such notice is effective. Finally, having provided the notice, the registrant would not be responsible, once the notice is effective, for reimbursing record holders and respondent banks for any subsequently

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[17] *See* proposed Rules 14b–1(d)(1) and 14b–2(g)(1).

[18] *See* Rules 14b–1(a), 17 CFR 240.14b–1(a), and 14b–2(a), 17 CFR 240.14b–2(a).

[19] *See* Rules 14b–1(b), 17 CFR 240.14b–1(b), and 14b–2(c), 17 CFR 240.14b–2(c).

[20] *See* Rule 14b–2(b), 17 CFR 240.14b–2(b).

[21] Although proxy soliciting material would be disseminated to plan participants in accordance with the plan document and not the Commission's shareholder communications rules, the omnibus proxy procedure still would be required to ensure that legal voting authority reaches the specific respondent bank or trustee with which plan participants have deposited their securities.

[22] *See* Rule 14b–2(d), 17 CFR 240.14b–2(d).

[23] Where registrants do not themselves perform the functions of plan administrators, registrants should be aware that they may be liable for the acts and omissions of their plan administrators, which act as their agents, and should negotiate the terms of such agencies accordingly.

[24] 29 U.S.C. section 1001, *et seq.*

[25] Of course, it should be noted that compliance with the provisions of this regulation does not necessarily establish compliance with the fiduciary responsibility provisions of ERISA. Under section 404(a)(1)(D) of ERISA, 29 U.S.C. 1104(a)(1)(D), fiduciaries of employee benefit plans are generally obligated to discharge their duties in accordance with the documents and instruments governing the plan insofar as they are consistent with the requirements of ERISA. In this respect, under sections 403 and 404(a) of ERISA, 29 U.S.C. 1103 and 1104(a), every plan fiduciary also has an obligation to discharge his duties for the exclusive benefit, and solely in the interest, of plan participants and beneficiaries. A fiduciary would be required to adhere strictly to these standards in implementing any plan provisions relating to proxy materials. The Department of Labor has indicated that, in the case of a plan which permits participants to direct plan responses to tender offers, plan trustees would be relieved of liability for losses resulting from participant decisions only if, among other things, they assure that participants are provided information necessary to make independent decisions. *See* letter to John Welch dated April 30, 1984, reprinted in BNA Pens. Rptr., vol. 11, no. 19, at 633 (May 7, 1984). The Department of Labor has informed the staff of the Commission that, in its view, the duties of plan fiduciaries under ERISA with respect to pass through voting of securities are similar to the duties of plan fiduciaries with respect to pass through of tender offers as articulated in the Welch letter. Thus, in discharging their duties under ERISA, plan trustees may be obliged to take steps to disseminate materials to participants in addition to the materials required to be distributed under the plan.

[26] *See supra* note 14.

[27] See proposed Rules 14b–1(d)(2) and 14b–2(g)(2).

provided information regarding these beneficial owner plan participants.[28]

Record holders and respondent banks that do not perform participant recordkeeping duties may not have access to beneficial owner information regarding plan participants. Where there is no exclusion from the direct communications system, a bank or record holder, in order to satisfy the registrant's request for a list of beneficial owners, may have to request beneficial owner information regarding plan participants from the party performing the recordkeeping function (which may be the registrant itself). If the bank or record holder makes a good faith effort to obtain the information from the recordkeeper and is denied access to that information, in the Commission's view, it need not take further steps to satisfy its obligations.

The Commission recognizes that many plans may have provisions prohibiting disclosure of participants' securities positions to registrant/plan sponsors in certain circumstances.[29] The shareholder communications rules are not intended to override these provisions, but they may have that effect by permitting registrants to obtain access to such information under the direct communications system. The Commission seeks comment on whether registrants prohibited by the plan from obtaining access to participants' names, addresses and/or securities positions should be permitted to obtain that information under the direct communications system, and if not, how such access can be restricted. Data on the frequency and duration of these types of plan provisions also is requested.

3. Optional Nature of the Proposals

The proposals are optional in nature. A registrant would be free to include voting plan participants in the proxy processing or direct communications systems. Under the proposed rules, once a registrant no longer satisfies the prerequisites for excluding voting plan participants from either system or determines it wishes to utilize either system, the registrant must notify each record holder or respondent bank promptly. The record holder or respondent bank would be required to recommence compliance with respect to these voting plan participants in either the proxy processing or direct communications system or both within 60 calendar days of receiving such notice. Thus, once the 60 calendar day time period has lapsed, record holders and respondent banks will be required to perform their obligations under Rules 14b–1 and 14b–2.

This second 60 calendar day advance notice period is proposed to provide record holders and respondent banks with sufficient time in which to comply with the shareholder communication rules.[30] For example, a bank could choose to delete plan participant information from its beneficial owner records when a registrant notifies it that plan participants will be excluded from the operation of the rules.[31] If the registrant subsequently determines it must or will include plan participants, a bank will need time to resolicit those beneficial owners to determine if they acquiesce in disclosure of beneficial owner information.

B. Alternative Proposals

In addition to the rule proposals, comment is requested on other alternatives the Commission is considering and may adopt with respect to exclusion of employee benefit plan participants from the ambit of the shareholder communications rules. The Commission solicits commentators' specific views on the feasibility of each of these alternatives and any suggestions for revising these proposed alternatives.

One alternative would be to make one or both of the exclusions mandatory rather than optional. Under this approach, plan participants would be excluded if the stated prerequisite was satisfied. Thus, where proxy soliciting materials are disseminated in a timely manner to plan participants pursuant to a specified mechanism in the plan, plan participants automatically would be excluded from the proxy processing system. Similarly, where a registrant had access, by some other means, to the plan participants' names and addresses, those plan participants automatically would be excluded from the direct communications system. The exclusions would no longer be applicable once the plan no longer satisfied the stated prerequisites.

Comment is requested on whether the same type of notice requirements for inclusion in the shareholder communication rules under the optional system contained in the proposed rules should be incorporated into the mandatory approach, if adopted. Specifically, should registrants be required to give record holders and respondent banks 60 calendar days notice prior to including these plan participants within, or excluding them from, the coverage of the shareholder communications rules?

The Commission also is considering whether the two exclusions should work in tandem in an optional or mandatory context. Thus, satisfaction of all prerequisites would be required before any exclusion would apply. This approach could prevent a registrant from realizing certain cost savings. For example, even though a registrant may have access to plan participants' names and addresses, the registrant would not be permitted to request beneficial owner lists that exclude plan participants if the other prerequisite—a plan proxy dissemination mechanism—was not satisfied.

Another possible alternative that the Commission is considering would be to base automatic or optional total exclusion from the shareholder communication rules on satisfaction of only one prerequisite. Thus, for example, plan participants could be excluded automatically from both the proxy processing and direct communications systems if the registrant has access to plan participant names and addresses. This approach would, in certain instances, cause duplication in delivery of proxy materials.

Another alternative under consideration would be an across-the-board mandatory exclusion of employee benefit plan participants from all

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[28] Reimbursements are calculated on a per name basis. *See, e.g.*, Release No. 34–22889 (February 11, 1986) [51 FR 5821] (File No. SR–NYSE–85–43).

Where a bank or broker has incurred expenses to solicit beneficial owners' acquiescence to disclosure, those costs, to the extent reasonable, are recoverable up to the date of effectiveness of the notice of the registrant's intention not to use the direct communications system. In addition, if a bank must resolicit beneficial owners' acquiescence in order to comply with a registrant's request to include plan participants in beneficial owner requests, those costs, to the extent reasonable, would be recoverable.

[29] For example, some plans provide that the plan sponsor will not have access to the securities positions of its employee beneficial owners during and subsequent to a tender offer. These provisions generally are enforced through ERISA's general fiduciary provisions, 29 U.S.C. 1104, and its prohibition against coercive interference with participants' exercise of their rights under the plan, 29 U.S.C. 1141.

[30] Unlike the Commission's May 1986 proposal, which would have allowed a registrant to exclude plan participants from an individual beneficial owner request, this proposal will not require continual monitoring by record holders and respondent banks. Once a registrant exercises its option to exclude employee benefit plan participants, record holders and respondent banks will be free to discard the information that would otherwise be required under the appropriate provisions of the shareholder communications rules. *But see infra* note 31.

[31] Brokers would not purge their records of beneficial owner information, because they are required to maintain this information under Rule 17a–3(a)(9) under the Securities Exchange Act, 17 CFR 240.17a–3(a)(9). Comment is solicited on the costs associated with continuing to request and retain this information.

aspects of the proxy processing system as well as the direct communications system.[32] Satisfaction of certain stated prerequisites would not be required. This approach would not present the notice issues posed by the other alternatives and rule proposals.

III. Request for Comments

Any interested persons wishing to submit written comments on the proposed revisions to the shareholder communication rules and alternatives suggested herein, as well as on other matters that might have an impact on these proposals and alternatives, are requested to do so.

The Commission also requests comment on whether the proposed revisions, if adopted, would have an adverse effect on competition that is neither necessary nor appropriate in furthering the purposes of the Securities Exchange Act of 1934 ("Exchange Act"). Comments on this inquiry will be considered by the Commission in complying with its responsibilities under section 23(a) of the Exchange Act.

IV. Cost—Benefit Analysis

To evaluate fully the benefits and costs associated with the proposed amendments to Rules 14a–1, 14a–13, 14b–1, 14b–2, 14c–1, and 14c–7, the Commission requests commentators to provide views and data as to the costs and benefits associated with the proposed amendments. In this regard, the Commission notes that the proposals will avoid duplicative mailing of proxy soliciting materials to beneficial owners whose securities are held in nominee name pursuant to an employee benefit plan if proxy materials are disseminated in a timely fashion to plan participants under a mechanism specified in the plan. By avoiding duplicative mailing of proxy soliciting materials to beneficial owners, registrants will be able to realize cost savings. In addition, these proposals will permit further cost savings to registrants in obtaining beneficial owner lists, the charges for which are calculated on a per name basis.

The costs associated with these proposals will occur only if registrants decide to perform a review of employee benefit plans to determine if the necessary prerequisites to the rule proposals have been satisfied. The proposals do not require any additional recordkeeping obligations for brokers and banks.

V. Statutory Basis and Text of Proposed Amendments

These amendments are being proposed pursuant to sections 12, 14, 17 and 23(a) of the Exchange Act.[33]

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities, Banks, Associations.

VI. Text of Proposals

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

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

1. 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. * * * §§ 240.14a–1, 14a–13, 14b–1, 14b–2, 14c–1 and 14c–7 also issued under Sections 12, 15 U.S.C. 781, 14, Pub. L. 99–222, 99 Stat. 1737, 15 U.S.C. 78n, and 17, 15 U.S.C. 78q.

2. By redesignating current paragraphs (b) through (j) as paragraphs (c) through (k) and adding new paragraph (b) to § 240.14a–1 to read as follows:

§ 240.14a–1 Definitions.

* * * * *

(b) *Employee benefit plan.* For purposes of §§ 240.14a–13, 240.14b–1 and 240.14b–2, the term "employee benefit plan" means any purchase, savings, option, bonus, appreciation, profit sharing, thrift, incentive, pension or similar plan solely for employees, directors, trustees or officers.

* * * * *

3. By revising Note 1 to paragraph (a) and adding new paragraph (d) to § 240.14a–13 to read as follows:

Note.—This version of Note 1 to paragraph (a) of § 240.14a–13 is effective _____ through June 30, 1987; new paragraph (d) is effective _____.

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

(a) * * *

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(h)).

* * * * *

(d) A registrant need not comply with—

(1) Paragraph (a) of this section with respect to beneficial owners who are employee benefit plan participants or beneficiaries with securities held in nominee name pursuant to an employee benefit plan as defined in § 240.14a–1(b) if—

(i) Such plan contains a mechanism pursuant to which a person designated in the plan document is required to obtain and supply plan participants with proxy cards, proxy soliciting material and annual reports to security holders in a timely manner;

(ii) Action is taken that is reasonably calculated to assure that plan participants receive such materials in accordance with the mechanism contained in the plan; and

(iii) The registrant has notified record holders and respondent banks that hold the registrants' securities on behalf of participants in the plan of its intention not to comply with paragraph (a) of this section; and/or

(2) Paragraphs (b) and (c) of this section with respect to beneficial owners who are employee benefit plan participants or beneficiaries with securities held in nominee name pursuant to an employee benefit plan as defined in § 240.14a–1(b), if—

(i) The registrant has access to the names and addresses of such beneficial owners by some means other than pursuant to paragraph (b) of this section; and

(ii) The registrant has notified record holders and respondent banks that hold the registrant's securities on behalf of participants in the plan of its intention not to comply with paragraphs (b) and (c) of this section; *Provided, however,* that if the prerequisite(s) set forth in paragraphs (d)(1) (i) and (ii) and/or (d)(2)(i) of this section is no longer satisfied or the registrant determines to comply with the obligations of paragraphs (a) and/or (b) and (c) of this section, the registrant shall notify promptly record holders and respondent banks that hold the registrant's securities on behalf of participants in the plan.

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

§ 240.14a–13 [Amended]

(a) * * *

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[32] This approach would not, however, exclude employee benefit plan participants from the definition of beneficial owner. *See* Rule 14b–2(i). Voting plan participants are beneficial owners and should be treated as such.

[33] 15 U.S.C. 781, 78n, 78q and 78w(a).

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 or respondent bank, and shall comply with the above paragraph with respect to any such participant (*see* § 240.14a–1(h)).

* * * * *

4. By redesignating current paragraph (d) as (e) and adding new paragraph (d) 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.

* * * * *

(d) Not comply with—

(1) paragraphs (a) and (b) of this section with respect to beneficial owners who are employee benefit plan participants or beneficiaries with securities held in nominee name pursuant to an employee benefit plan as defined in § 240.14a–1(b), beginning 60 calendar days after it receives notice from the registrant pursuant to § 240.14a–13(d) that the registrant does not intend to comply with § 240.14a–13(a) or such shorter time period agreed to by the registrant and broker or dealer; and/or

(2) paragraph (c) of this section with respect to beneficial owners who are employee benefit plan participants or beneficiaries with securities held in nominee name pursuant to an employee benefit plan as defined in § 240.14a–1(b), beginning 60 calendar days after it receives from the registrant notice that the registrant does not intend to comply with § 240.14a–13(b) and (c) or such shorter time period agreed to by the registrant and broker or dealer; *Provided, however,* that 60 calendar days after it receives notice from a registrant that the registrant intends to recommence compliance with § 240.14a–13(a) and/or 14a–13 (b) and (c), such broker or dealer shall comply with paragraphs (a) and/or (b) and (c) of this section, as applicable.

* * * * *

5. By redesignating current paragraphs (g) through (i) as (h) through (j), adding new paragraph (g) and revising paragraphs (e)(2)(i) and (f)(1) and redesignated paragraph (h) to § 240.14b–2, to read as follows:

§ 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.

* * * * *

(e) * * *

(2) * * *

(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 consented affirmatively to disclosure of such information, subject to paragraph (i) of this section; and

* * * * *

(f) * * *

(1) Its obligations under paragraphs (b), (c), (e) and (i) 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 (i) of this section; or

* * * * *

(g) Need not comply with—

(1) Paragraphs (a), (b), (c) and (d) of this section with respect to beneficial owners who are employee benefit plan participants or beneficiaries with securities held in nominee name pursuant to an employee benefit plan as defined in § 240.14a–1(b), beginning 60 calendar days after it receives notice from the registrant that the registrant does not intend to comply with § 240.14a 13(a) or such shorter time period agreed to by the registrant and the record holder or respondent bank; and/or

(2) Paragraphs (e) and (i) of this section with respect to beneficial owners who are employee benefit plan participants or beneficiaries with securities held in nominee name pursuant to an employee benefit plan as defined in § 240.14a–1(b), beginning 60 calendar days after it receives notice from the registrant that the registrant does not intend to comply with § 240.14a–13 (b) and (c) or such shorter time period agreed to by the registrant and the record holder or respondent bank; *Provided, however,* that 60 calendar days after it receives notice from a registrant that the registrant intends to recommence compliance with § 240.14a–13(a) and/or 14a–13 (b) and (c), it shall comply with paragraphs (a), (b), (c) and (d) and/or (e) and (i) of this section, as applicable.

(h) 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 (i) 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.

* * * * *

6. By redesignating current paragraphs (b) through (i) as paragraphs (c) through (j) and adding new paragraph (b) to § 240.14c–1 to read as follows:

§ 240.14c–1 Definitions.

* * * * *

(b) *Employee benefit plan.* For purposes of § 240.14c–7, the term "employee benefit plan" means any purchase, savings, option, bonus, appreciation, profit sharing, thrift, incentive, pension or similar plan solely for employees, directors, trustees or officers.

* * * * *

7. By revising Note 1 to paragraph (a) and adding new paragraph (d) to § 240.14c–7 to read as follows:

Note.—This version of Note 1 to paragraph (a) of § 240.14c–7 is effective _____ through June 30, 1987; new paragraph (d) is effective _____.

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

(a) * * *

Note.—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(h)).

* * * * *

(d) A registrant need not comply with—

(1) Paragraph (a) of this section with respect to beneficial owners who are employee benefit plan participants or beneficiaries with securities held in nominee name pursuant to an employee benefit plan as defined in § 240.14c–1(b), if: (i) such plan contains a mechanism pursuant to which a person designated in the plan document is required to obtain and supply plan participants with proxy cards, proxy soliciting material and annual reports to security holders in a timely manner; and (ii) action is taken that is reasonably calculated to assure that plan participants receive such materials in accordance with the mechanism contained in the plan; and

(iii) the registrant has notified record holders and respondent banks that hold the registrant's securities on behalf of participants in the plan of its intention not to comply with paragraph (a) of this section; and/or

(2) Paragraphs (b) and (c) of this section with respect to beneficial owners who are employee benefit plan participants or beneficiaries with securities held in nominee name pursuant to an employee benefit plan as defined in § 240.14c–1(b), if:

(i) The registrant has access to the name and addresses of such beneficial owners by some means other than pursuant to paragraph (b) of this section and

(ii) The registrant has notified record holders and respondent banks that hold the registrant's securities on behalf of participants in the plan of its intention not to comply with paragraphs (b) and (c) of this section; *Provided, however,* that if the prerequisite(s) set forth in paragraphs (d)(1)(i) and (ii) and/or (d)(2)(i) of this section is no longer satisfied or the registrant determines to comply with the obligations of paragraphs (a) and/or (b) and (c) of this section, the registrant shall promptly notify record holders and respondent banks that hold the registrant's securities on behalf of participants in the plan.

Note.—This version of Note 1 to paragraph (a) of § 240.14c–7 is effective July 1, 1987.

§ 240.14c–7 [Amended]

(a) * * *

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(h)).

* * * * *

By the Commission.

Jonathan G. Katz,

Secretary.

March 27, 1987.

Securities and Exchange Commission Regulatory Flexibility Act Certification

I, John Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that proposed revisions to Rules 14a–1, 14a–13, 14b–1, 14b–2, 14c–1 and 14c–7, if promulgated, will not have a significant economic impact on a substantial number of small entities. The reasons for this certification are as follows: The proposed amendments to Rules 14a–1, 14a–13, 14b–1, 14b–2, 14c–1 and 14c–7 would: (1) relieve a registrant of the obligation to furnish proxy cards, proxy soliciting material and annual reports to record holders and respondent banks for distribution to employee benefit plan participants with securities held in nominee name pursuant to the plan, where the plan contains a mechanism for both obtaining proxy soliciting materials from the registrant and supplying such materials to plan participants in a timely manner and action is taken that is reasonably calculated to assure that plan participants receive such materials and (2) allow a registrant that has access to the names and addresses of employee benefit plan participants by some other means to exclude these plan participants from its request for a list of beneficial owners.

These proposed exclusions of employee benefit plan participants from the proxy processing and direct communications systems would be optional on the part of the registrant. Accordingly, only those registrants, including small entity registrants, that elect to employ the exclusions would be affected. It is expected that large registrants with a large number of employees who participate in employee benefit plans will be more likely to employ the exclusions than small registrants that have a smaller number of employees.

The proposals are intended to allow registrants to avoid duplicative mailing of proxy materials to plan participants and to permit registrants to realize cost savings in connection with requests for beneficial ownership lists. Therefore, the proposals would not impose any additional costs on registrants, including small entity registrants. Rather, the proposals would result in a decrease of costs for those registrants that elect to utilize the proposed exclusions. The decrease in costs, however, is not expected to be significant for a substantial number of small entities.

Furthermore, banks or brokers, including small banks or brokers, that participate in the proxy processing and direct communication systems would incur little or no costs in complying with the Commission's shareholder communication rules. Banks and brokers are reimbursed for their reasonable costs incurred in connection with performing their obligations under these rules. As banks' or brokers' costs decrease when a registrant elects to employ an exclusion from either or both the proxy processing and direct communications rules, the costs that a registrant will be required to reimburse to banks or brokers will be lowered in a corresponding amount.

Dated: March 27, 1987.

John Shad,

Chairman.

[FR Doc. 87–7554 Filed 4–6–87; 8:45 am]

BILLING CODE 8010–01–M

17 CFR Part 240

[Release No. 34–24275; IC–15646; File No. S7–12–87]

Facilitating Shareholder Communications

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Securities and Exchange Commission ("Commission") today is publishing for comment a proposal that would change from 3 to 5 business days the time in which a bank, association or other entity exercising fiduciary powers (hereinafter "bank") is to execute an omnibus proxy and provide notice of that execution to respondent banks. In addition, the Commission is proposing certain clarifying and technical amendments to the shareholder communications rules.

DATE: Comments should be received on or before May 7, 1987.

ADDRESS: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Comment letters should refer to File No. S7–12–87. 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.

FOR FURTHER INFORMATION CONTACT: Sarah A. Miller or Barbara J. Green (202) 272–2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth St. NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for comment proposed revisions to Rules 14a–13(a)(1),[1] 14a–13(b)(3),[2] 14b–2(a)(1),[3] 14b–2(b),[4] 14b–2(e)(1),[5] 14c–7(a)(1)[6] and 14c–7(b)(3).[7]

I. Discussion

On November 25, 1986, the Commission adopted new shareholder communications rules and related amendments[8] to effect the Shareholder

[1] 17 CFR 240.14a–13(a)(1).

[2] 17 CFR 240.14a–13(b)(3).

[3] 17 CFR 240.14b–2(a)(1).

[4] 17 CFR 240.14b–2(b).

[5] 17 CFR 240.14b–2(e)(1).

[6] 17 CFR 240.14c–7(a)(1).

[7] 17 CFR 240.14c–7(b)(3).

[8] Release No. 34–23847 (November 25, 1986) [51 FR 44267].

Communications Act of 1985.[9] The new rules set forth the obligations of banks in connection with the forwarding of proxy materials to beneficial owners and registrants' communications with beneficial owners of securities registered in the banks' names.

The new rules governing the forwarding of proxy materials to beneficial owners incorporated an omnibus proxy approach. At the time it adopted the new rules, the Commission recognized the need for banks to have adequate time to implement the omnibus proxy system. Accordingly, the effectiveness of paragraphs (a) through (c) of Rule 14b–2 was deferred until July 1, 1987. The Commission also invited comment from persons having concern with the specific language of these new rules.

In response to this request, one commentator[10] recommended extending from 3 to 5 business days, the time provided in Rule 14b–2(b) in which a bank is required to: (1) execute an omnibus proxy in favor of its respondent banks and forward such proxy to the registrant; and (2) provide notice of that execution to its respondent banks.[11] This commentator has indicated that a 3 business day time period may not be practicable given the layers of banks involved in the proxy processing system. Therefore, the Commission is proposing to extend the time period provided in Rule 14b–2(b) from 3 to 5 business days. The Commission solicits public comment on, among other things, the need for such an extension as well as its practical effects.

In addition, the Commission is considering making certain other clarifying and technical changes to the shareholder communications rules. The proposed amendments would clarify that registrants' obligations in connection with respondent banks apply only to those respondent banks that hold the registrants' securities on behalf of beneficial owners and that the corresponding obligations of banks apply only to those banks that hold registrants' securities on behalf of beneficial owners. Additionally, it has been made explicit that registrants must inquire of each record holder whether it holds the registrant's securities on behalf of any respondent bank and, if so, the name and address of each such respondent bank.

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

[10] The Independent Election Corporation of America.

[11] Nine other commentators submitted comment letters on various issues. These comment letters are available for public inspection and copying at the Commission's Public Reference Room (*See* File No. S7–12–86).

II. Request for Comments

Any interested persons wishing to submit written comments on the proposed revisions to the shareholder communication rules are requested to do so. The Commission also requests comment on whether the proposed revisions, if adopted, would have an adverse effect on competition that is neither necessary nor appropriate in furthering the purposes of the Securities Exchange Act of 1934 ("Exchange Act"). Comments on this inquiry will be considered by the Commission in complying with its responsibilities under section 23(a) of the Exchange Act.

III. Cost—Benefit Analysis

To evaluate fully the benefits and costs associated with the proposed amendment to Rule 14b–2, the Commission requests commentators to provide views and data as to the costs and benefits associated with the proposed amendment. In this regard, the Commission notes that, by lengthening the time for execution of omnibus proxies by two business days, it intends to help to ensure the effectiveness of the omnibus proxy approach. This approach is intended to provide a cost-effective and efficient means to ensure that proxies are executed by the appropriately authorized parties. The proposal does not require any additional recordkeeping obligations for brokers and banks.

IV. Statutory Basis and Text of Proposed Amendments

These amendments are being proposed pursuant to sections 12, 14 and 23(a) of the Exchange Act.[12]

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities, Banks, Associations.

V. Text of Proposals

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

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

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

[12] 15 U.S.C. 781, 78n and 78w(a).

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C. 78w. * * * §§ 240.14a–13, 14b–2 and 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.

2. Section 240.14a–13 is amended by revising paragraphs (a)(1)(i)(B) and (b)(3) and adding new paragraph (a)(1)(i)(D) to read as follows:

Note.—This version of paragraph (b)(3) of § 240.14a–13 is effective _____ through June 30, 1987.

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

* * * * *

(b) * * *

(3) Make such request to the following persons that hold the registrant's securities on behalf of beneficial owners: All brokers and dealers and/or all banks, associations and other entities that exercise fiduciary powers;

* * * * *

Note.—This version of paragraphs (a)(1)(i)(B) and (D) and paragraph (b)(3) of § 240.14a–13 is effective July 1, 1987.

§ 240.14a–13 [Amended]

(a) * * *

(1) * * *

(i) * * *

(A) * * *

(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;

* * * * *

(D) whether it holds the registrant's securities on behalf of any respondent bank and, if so, the name and address of each such respondent bank; and * * *

* * * * *

(b) * * *

(3) Make such request to the following persons that hold the registrant's securities on behalf of beneficial owners: all brokers, dealers, banks, associations and other entities that exercise fiduciary powers;

* * * * *

3. Section 240.14b–2 is amended by revising paragraph (a)(1), the introductory text to paragraph (b) and paragraph (e)(1) to read as follows:

Note.—Revised paragraph (a)(1) and the revised introductory language to paragraph (b) are effective July 1, 1987; revised paragraph (e)(1) is effective _____.

§ 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 that holds the registrant's securities on behalf of beneficial owners, if any; and

* * * * *

(b) Within five business days after the record date shall:

* * * * *

(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 that holds the registrant's securities on behalf of beneficial owners, if any;

* * * * *

4. Section 240.14c-7 is amended by revising paragraphs (a)(1)(i)(A) and (b)(3) and adding new paragraph (a)(1)(i)(C) to read as follows:

Note.—This version of paragraph (b)(3) of § 240.14c-7 is effective _____ through June 30, 1987.

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

* * * * *

(b) * * *

(3) Make such request to the following persons that hold the registrant's securities on behalf of beneficial owners: all brokers and dealers and/or all banks, associations and other entities that exercise fiduciary powers;

* * * * *

Note.—This version of paragraphs (a)(1)(i)(A) and (C) and paragraph (b)(3) of § 240.14c-7 is effective July 1, 1987.

§ 240.14c-7 [Amended]

(a) * * *

(1) * * *

(i) * * *

(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;

* * * * *

(C) Whether it holds the registrant's securities on behalf of any respondent bank and, if so, the name and address of each such respondent bank; and (ii) * * *

* * * * *

(b) * * *

(3) Make such request to the following persons that hold the registrant's securities on behalf of beneficial owners: all brokers, dealers, banks, associations and other entities that exercise fiduciary powers;

* * * * *

By the Commission.

Jonathan G. Katz,

Secretary.

March 27, 1987.

Securities and Exchange Commission Regulatory Flexibility Act Certification

I, John Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed revision to Rule 14b-2(b) and the proposed amendments to Rules 14a-13(a)(1), 14a-13(b)(3), 14b-2(a)(1), 14b-2(e)(1), 14c-7(a)(1) and 14c-7(b)(3), if promulgated, will not have a significant economic impact on a substantial number of small entities. The reasons for this certification are as follows: The proposed revision of Rule 14b-2(b) would change from 3 to 5 business days the time in which a bank, association or other entity exercising fiduciary powers (hereinafter "bank") is (1) to execute an omnibus proxy in favor of respondent banks and forward such proxy to the registrant; and (2) to provide notice of that execution to its respondent banks. This change would give banks or their agents additional time in which to perform proxy processing activities; it would neither impose additional costs on small entities, nor would it significantly reduce such costs.

The other proposed amendments to Rules 14a-13(a)(1), 14a-13(b)(3), 14b-2(a)(1), 14b-2(e)(1), 14c-7(a)(1) and 14c-7(b)(3) would make clarifying and technical changes to the shareholder communications rules. The proposed amendments would make clear, *inter alia*, that the obligations of registrants in connection with respondent banks apply only to those respondent banks that hold the registrants' securities on behalf of beneficial owners. These amendments would not impose any additional costs on small entities, nor would they reduce such costs.

Dated: March 27, 1987.

John Shad,

Chairman.

[FR Doc. 87-7555 Filed 4-6-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

Registration of Manufacturers, Distributors, and Dispensers of Controlled Substances

AGENCY: Drug Enforcement Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Section 510 of the Diversion Control Amendments, which was included in the Comprehensive Crime Control Act of 1984 (Pub. L. 98-473), effective October 12, 1984, amends the Controlled Substances Act at 21 U.S.C. 822(a). Section 822 details the time period persons are to register with the Drug Enforcememt Administration (DEA). The amendment allows the Attorney General to determine, by regulation, the time period for registration of dispensers of controlled substances. The parameters of the statute permit registration for not less than one year, not more than three years. The annual registration requirement for distributors and manufacturers remains unchanged. The purpose of the amendment is to reduce the administrative burden of annual registration on retail pharmacies, hospitals/clinics, practitioners and teaching institutions, which comprise over 98 percent of the DEA's active file of registrants.

DATE: Written comments and objections must be received on or before May 7, 1987.

ADDRESS: Comments should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: James M. Sheahan, Deputy Chief, Regulatory Support Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633-1570.

SUPPLEMENTARY INFORMATION: The current regulation, found at 21 CFR 1301.31(a), describes a registration system for all DEA registrants which includes a one-year registration period. This amendment will reflect the congressional mandate of the Diversion Control Amendments, found in the Comprehensive Crime Control Act of 1984 (Pub. L. 98-473), to strengthen the authority of DEA to prevent diversion of controlled substances while reducing the administrative burden of annual registration for dispensers of controlled substance. Beginning in July 1987, the DEA proposes to institute the phase-in of a three-year registration cycle for retail pharmacies, hospitals/clinics, practitioners and teaching institutions, which comprise over 98 percent of the DEA's active file of registrants. All new applicants for registration in the above business activities will be registered initially for a three-year period and

renewed every three years thereafter. All other business activities, such as manufacturers, distributors, researchers, analytical labs, importers, exporters and narcotic treatment programs, will continue to be registered on an annual basis. One third of the DEA registrants due for renewal in July 1987 will be renewed for a three-year period and their new expiration date will be July 31, 1990. Another one-third of the DEA registrants due for renewal in July 1987 will be renewed for a two-year period and their new expiration dates will be July 31, 1989. The final one-third of the DEA registrants due for renewal in July 1987 will be renewed for a one-year period and their expiration date will be July 31, 1988. When this final group is renewed in July 1988 it will be for a three-year period. Those registrants due for renewal in July 1989 will be renewed for a three-year period. A similar phase-in will be used for each succeeding month and will be fully implemented by August 1990.

The selection process for determining which registrants will be renewed for a one-, two- or three-year period during the phase-in will be through random sorting to divide the DEA's active file of registrants into equal thirds. It will not be accomplished by zip code sorting or selection. The renewal applications are mailed to registrants approximately 45 to 60 days prior to the expiration date of the registration.

Therefore, the renewals with an expiration date of July 31, 1987, will be mailed to registrant's between June 1 and June 15, 1987. The fee remains at $20 per year. The fee for a one-year renewal is $20. The fee for a two-year renewal will be $40. The fee for a three-year renewal will be $60. The correct fee and renewal period for each registrant will be preprinted on the renewal application forms issued to the registrants due for renewal. Fees are not refundable.

The Deputy Assistant Administrator hereby certifies that this proposal will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. This regulatory change will reduce the administrative burden to the majority of those individuals and businesses registered with DEA.

Pursuant to sections 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, this proposed rule has been submitted to the Office of Management and Budget for review, and approval of that office has been requested pursuant to the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq.

Pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b) and delegated to the Administrator of the Drug Enforcement Administration and redelegated to the Deputy Assistant Administrator of the Office of Diversion Control by 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator hereby proposes that 21 CFR, Part 1301 be amended as follows:

List of Subjects in 21 CFR Part 1301

Administrative practice and procedure, Drug Enforcement Administration, Drug traffic control, Security measures.

PART 1301—[AMENDED]

1. The authority citation for Part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877.

2. Section 1301.11 is amended by revising paragraph (c) to read as follows:

§ 1301.11 Fee amounts.

* * * * *

(c) For each registration or reregistration to dispense, or to conduct research or instructional activities with, controlled substances listed in Schedules II through V, the registrant shall pay a fee of $60 for a three-year registration.

* * * * *

3. Section 1301.12 is revised to read as follows:

§ 1301.12 Time and method of payment; refund.

Fees shall be paid at the time when the application for registration or reregistration is submitted for filing. Payments should be made in the form of a personal, certified, or cashier's check or money order made payable to "Drug Enforcement Administration." Payments made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted. These fees are not refundable.

4. Section 1301.31 is amended by revising paragraph (c) and adding a new paragraph (d) to read as follows:

§ 1301.31 Time for application for registration; expiration date.

* * * * *

(c) At the time a manufacturer, distributor, researcher, analytical lab, importer, exporter or narcotic treatment program is first registered, that business activity shall be assigned to one of twelve groups, which shall correspond to the months of the year. The expiration date of the registrations of all registrants within any group will be the last day of the month designated for that group. In assigning any of the above business activities to a group, the Administration may select a group the expiration date of which is less than one year from the date such business activity was registered. If the business activity is assigned to a group which has an expiration date less than three months from the date on which the business activity is registered, the registration shall not expire until one year from that expiration date; in all other cases, the registration shall expire on the expiration date first following the date on which the business activity is registered.

(d) At the time a retail pharmacy, hospital/clinic, practitioner or teaching institution is first registered, that business activity shall be assigned to one of twelve groups, which shall correspond to the months of the year. The expiration date of the registrations of all registrants within any group will be the last day of the month designated for that group. In assigning any of the above business activities to a group, the Administration may select a group the expiration date of which is not less than 28 months nor more than 39 months from the date such business activity was registered. After the initial registration period, the registration shall expire 36 months from the initial expiration date.

Dated: March 13, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87-7646 Filed 4-6-87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. 87-10]

National Bridge Inspection Standards; Frequency of Inspection and Inventory

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is requesting comments on proposed revisions to its National Bridge Inspection Standards (NBIS). The revised regulation would permit States to increase the maximum time interval between the inspections for certain types or groups of bridges, as opposed to retaining the mandatory 2-year interval as required under the regulations currently in effect. The

proposed revisions would also require that States identify those bridges having fracture critical members or bridges which warrant underwater inspection or other special inspection consideration. These bridges would then be earmarked and the inspection data and results of inspection of these bridges would be tracked to ensure that they are inspected and evaluated in such a manner as to minimize risk to the public. As an alternative to the existing regulation, the proposed revision would permit bridge inspection team leaders to be certified as competent if they have received Level III certification as bridge safety inspectors under the provisions of the National Institute for Certification in Engineering Technologies (NICET) operated under the aegis of the National Society for Professional Engineers. The proposed regulation would require that inventory data on newly load posted, as well as modified or newly completed bridges, be entered into a State's record within 90 days. The proposed revisions would provide State highway agencies greater flexibility with which to use available inspection resources in a cost-effective manner. It is intended that the proposed revision would encourage efficient use of resources while ensuring that the safety of the traveling public is protected.

DATE: Written comments must be received on or before June 8, 1987.

ADDRESS: Submit written comments preferably in triplicate, to FHWA Docket No. 87–10 Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Ahlskog, Chief, Bridge Management Branch, Bridge Division, Office of Engineering, 202/366–4617, or Mr. Michael J. Laska, Office of Chief Counsel, 202/366–1383, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: The National Bridge Inspection Standards for bridges on all public roads are set forth in 23 CFR Part 650, Subpart C. Section 650.305 currently requires that the type and depth of inspections be determined by the individual in overall charge of the program and refers to the American Association of State Highway and Transportation Officials "Manual for Maintenance Inspection of Bridges," 1978, as a reference guide. Section 650.305 also currently requires each bridge to be inspected at regular intervals not to exceed 2 years. Section 650.307 specifies the current minimum requirements which shall be met by the inspection team leaders and the individual in overall charge of the State's bridge inspection program. Section 650.311 currently requires inventory data on newly completed or modified structures to be entered in the States' records within 90 days. These four provisions are addressed in this notice of proposed rulemaking.

Background

Each State highway department is required to maintain a bridge inspection organization capable of performing inspections, preparing reports and determining ratings in accordance with the provisions of 23 CFR Part 650, Subpart C. Prior to the enactment of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599), the inspection standards only applied to bridges on the Federal-aid system. Section 124 of the Act required that all bridges located on public roads be inventoried and thus subject to the bridge inspection standards. By regulation published on May 1, 1979 (44 FR 25434), the National Bridge Inspection Standards were amended to reflect the legislative change. In effect the number of bridges that became subject to inspection standards increased by approximately 100 percent. Consequently, the scope and costs of the inspection program also increased. Available inspection resources, including equipment, manpower and funds, have been extended in order to meet the increased inspection work load. Since many States are using Highway Bridge Replacement and Rehabilitation Program (HBRRP) funds for inspection, this impact on resources results in possible diversion of funds and personnel from the primary objective of the HBRRP, which is to replace or rehabilitate bridges. The FHWA decided to review the 2-year inspection requirement in order to explore possible changes which would result in the maximum utilization of inspection resources without compromising the safety of the travelling public, which is the paramount concern.

In 1982, the FHWA reviewed data in the National Bridge Inventory (NBI) for the purpose of considering an increase in the inspection frequency interval for some categories of bridges provided that the State submit a detailed proposal and supply data to FHWA for approval prior to implementation of any interval changes. This should not affect, or if so only to a minimal or negligible degree, highway safety and should result in cost savings, which could then be applied more effectively toward the removal from service of deficient bridges and thus improve overall highway safety. Based on available bridge inventory and inspection data compiled since 1968, along with the experience gained, an NPRM was published in the **Federal Register** on January 20, 1983 (48 FR 2550). The NPRM proposed to permit variations in the mandatory 2-year interval between inspections under certain conditions. Two categories suggested for possible consideration were culverts and newly completed structures which had received an initial 2-year inspection without any indication of a change in the structure condition.

Sixty comments were received in response to the NPRM issued on January 20, 1983. Comments were submitted by representatives from the following interest groups: 49 government agencies (34 State, 5 city, 10 county), 2 State county organizations, 1 Federal agency, 4 professional organizations, 2 consultants and 2 safety organizations.

A majority of the commentors believed the inspection interval could be increased for certain bridges without additional risks to the public. However, some of these commentors had specific concerns with an increased inspection interval. There was also support for maintaining the 2-year interval.

The specific breakdown of suggestion criteria for determining the proper inspection interval varied considerably. There was also a wide range and diversification within the general criteria recommended. The same wide division existed for specific types of bridges recommended for greater than the 2-year inspection interval. There was a lack of a clear consensus at that time for which bridges the commentors believed could be inspected less frequently.

In light of the information available in the NBI and the wide division among the various entities as to which types or groups of bridges could be included in an increased inspection interval, the FHWA determined that the revisions as proposed at that time should be further reviewed and evaluated. Therefore, the NPRM published on January 20, 1983, was withdrawn on April 23, 1984 (49 FR 17039).

Upon further review and analysis since April of 1984, the FHWA has decided to issue a modified notice of proposed rulemaking. Using National Bridge Inventory data, which does not necessarily encompass all factors which

may be relevant to such determinations, the FHWA has made the tentative determination that the inspection interval can be increased for some categories of bridges with only a minimal or negligible increase in risk to the public. Any funds saved by this action could be applied cost-effectively toward the removal from service of additional deficient bridges.

Based on inventory data which has been compiled from inspections conducted on all Federal-aid bridges and the majority of off-system bridges, the FHWA proposes to permit variations in the mandatory 2-year interval between inspections under certain approved conditions. The physical data and experience derived from continuous inspections since 1968 have identified certain groups or categories of bridges where a longer inspection interval may be warranted. One category might include modern, recently completed structures for which the initial 2-year inspection indicated no design or construction flaws and no change from the condition of the bridge as constructed. Inspection experience and records of similar older bridges would be useful to States in making these determinations. Concrete culverts are another example of a bridge category where an increased interval of inspection might be warranted. It is believed that measures such as special designation for fracture critical details and bridges warranting underwater inspection at specified intervals, along with inspection manual addendums to the Bridge Inspector's Training Manual, may overcome the previous objections to changes in the 2-year maximum interval between bridge inspections.

Although a maximum time interval between inspections is not specified in this proposal, an FHWA review of National Bridge Inventory data and management review of the bridge program indicate that a 4-year maximum time interval (5-year for underwater inspection) may be appropriate. With the 2-year interval retention for some bridges, inspection of others at a multiple of the 2-year interval would seem appropriate for efficient use of resources and planning purposes.

If a State proposes to inspect a group or category of bridges at intervals of greater than 2 years, the proposed revision would require that State to submit for approval by the Federal Highway Administration a documented analysis with supporting data justifying the increased time interval. Relevant factors to be considered would include:

1. Past Experience

Records of past inspections for individual or groups of bridges would provide valuable documentation for establishing trends in deterioration of structures.

2. Age

Tables derived from National Bridge Inventory data show that general deterioration increases with age.

3. Condition of Bridges

The know condition, such as deteriorated structural members or members with reduced load capacities would be an important part of any decision to lengthen the time between inspections.

4. Type and Frequency of Traffic Volume

Bridges with a high total volume of traffic, or a high percentage of truck traffic, particularly when the truck weight approaches the bridge capacity, deserve special consideration in determining appropriate frequencies of inspection.

5. Other Relevant Factors

Factors unique to individual States or localities should be considered in evaluating individual proposals. The resulting study of relevant factors would need to demonstrate that safety would not be compromised.

The listed factors are not all inclusive. It is anticipated that individual States will, of necessity, modify and add to this list factors or items which are of special concern. In order to better identify additional national common categories and factors, comments are specifically requested concerning appropriate candidate bridge groups and factors which should be included in the evaluation of safe intervals between inspections. Concrete culverts and modern, recently completed structures noted earlier are two categories which might be considered for review and possible lengthening of the interval between inspections.

The proposed revision would provide State highway agencies greater flexibility with which to utilize available inspection resources in a cost-effective manner. It is intended that the proposed revision would encourage the efficient utilization of resources without compromising the safety of the travelling public.

In addition to the proposed revision to the mandatory 2-year interval between inspections, the FHWA is again proposing to make changes to § 650.311(b). The first sentence in this section requires the bridges that are subject to the standards be inventoried by December 31, 1980, as required by the Surface Transportation Act of 1978. This sentence would be deleted since the inventory is completed.

Since the issuance of the 1983 NPRM, several bridge failures have occurred. These recent failures focused attention of the program on the need for concentrated inspection of fracture critical details (e.g., those details on tension members whose failure would probably cause collapse of one or more spans of a bridge) and the need for evaluation of the underwater components of many bridges. Other features of certain bridges may also be exceptionally important to the safety of the structure. Because of the importance of these special features to the structural integrity and safety of a bridge, it is proposed that they should be pre-identified by the individual in overall charge of the State or local jurisdiction program and the results of each inspection along with the date of inspection noted on the inspection forms to the extent necessary for the individual in charge to monitor the condition of these significant details.

The current NBIS regulations specify minimum qualification requirements for both the individual in charge of the State's bridge inspection program and for inspection team leaders. Both must be registered professional engineers or qualified for registration, or have completed a comprehensive training program in bridge inspection and have bridge inspection experience of at least 10 years for the individual in charge of the program and 5 years for the team leader. In order to encourage additional competence in inspection and to provide a national forum for recognition of engineering technicians as competent in bridge inspection, the FHWA proposes to permit an alternate minimum qualification standard for bridge inspection leaders. The National Society of Professional Engineers has established under its National Institute for Certification of Engineering Technologies (NICET), a Bridge Safety Inspection Level I through Level IV. Engineering technicians are certified under this program based upon minimum specified experience levels and satisfactory completion of standardized written tests on the subject matter. The proposed revisions would allow technicians with NICET bridge safety inspection certification to be recognized throughout the country as having met minimum competency requirements. Bridge inspection team members would also, by virtue of the

NICET Level III team leader requirement, be encouraged to gain Level I and progressively, Level II certification as a prelude to becoming team leaders. The proposed revision would retain the existing minimum inspection team qualification standard as equally acceptable to NICET certification.

One area of concern pertaining to the existing minimum qualification standard is that of a "comprehensive training course in bridge inspection." The FHWA through the years has offered the opinion that at least three weeks of comprehensive classroom training is required for those technicians not familiar with bridge inspection. For an engineer or equivalent familiar with bridge inspection, a two week comprehensive course has been termed as adequate. Because bridge inspection team leaders, and sometimes team members, must make day-to-day decisions regarding the safety and integrity of bridge components and the resultant safety of the bridge, the three- and two-week-long comprehensive training course concept has been promoted by the FHWA. Comments are specifically requested concerning this matter.

Because the placement of load restriction signs on the approaches to a bridge must be done promptly whenever a bridge evaluation indicates that it cannot safely carry legal loads, reasonable care must be exercised to be sure that required signs are in place soon after the inspection and evaluation indicates that restrictions are needed. By the same token, efficient management of the network of bridges in any jurisdiction requires that changes in the status of individual bridges be promptly entered into the inventory. Data that are not current because of changes in the load capacity of bridges can bring about inefficiencies, unsafe practices, and in the extreme, catastrophic collapse of an understrength bridge which is not properly load restricted. As a result, it is vitally important that inventory data on newly constructed, modified or load restricted bridges be entered in a State's data file promptly after the change. Current regulations require this within 90 days for newly completed or newly modified bridges, but do not specifically extend the requirement to bridges newly load restricted. The proposed revisions would add the placement of load restriction signs as an action which requires prompt inventory update.

It is anticipated that the proposed revisions would have a positive economic impact on State highway agencies. If for example, 30 percent of the Nation's bridges could be inspected at a 4-year frequency rather than the 2-year frequency, it is estimated that $8.4 million of annual inspection costs could be saved.

However, additional inspection effort will be required in some States to identify and carry out the more intensified inspections proposed for fracture critical bridge members and underwater elements of bridges. Many States may balance any added costs required for the more intense inspection, evaluation and monitoring of bridges with critical elements against the savings gained by less frequent inspection of low risk bridges.

Due to the fact that States would be under no obligation to propose greater inspection time intervals, it is not anticipated that this proposal will have a significant economic effect.

Accordingly a full regulatory evaluation is not required at this time. For the foregoing reasons, it is certified that this proposal under the criteria of the Regulatory Flexibility Act, will not have a significant economic impact on a substantial number of small entities.

Comments are requested on the proposed revisions from all interested parties. The comments should specifically address the effects of the proposed revisions on the national bridge inspection program in the States and the requirement that States submit a detailed proposal and supporting data to justify a longer inspection time interval.

The FHWA has determined that this document contains neither a major proposal under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511) the reporting or recordkeeping provisions that are included in this proposal will be submitted to the Office of Management and Budget (OMB) for approval.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

In consideration of the foregoing, the FHWA hereby proposes to amend Part 650, Subpart C of Title 23, Code of Federal Regulations, as set forth below.

List of Subjects in 23 CFR Part 650

Bridges, Grant programs—transportation, Highways and roads.

Issued on: March 26, 1987.

R.D. Morgan,

Executive Director.

The FHWA proposes to amend 23 CFR Part 650, Subpart C as follows:

PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

1. The authority citation for Part 650 is revised to read as follows and all other authority citations which appear throughout Part 650 are removed:

Authority: 23 U.S.C. 109(a) and (h), 116(d), 144, 315, and 319; 23 CFR 1.32; 49 CFR 1.48 (b); E.O. 11988—Floodplain Mangement, May 24, 1977 (42 FR 26951); Department of Transportation Order 5650.2 dated April 23, 1979 (44 FR 24678); section 161 of Pub. L. 97–424, 96 Stat. 2097, 2135; and Pub. L. 97–134, 95 Stat. 1699.

Subpart C—National Bridge Inspection Standards [Amended]

2. Footnote number one § 650.303(a) is amended by revising the first sentence to read as follows:

§ 650.303 Inspection procedures.

(a) * * *

The "AASHTO Manual" referred to in this part is the "Manual for Maintenance Inspection of Bridges 1983" together with subsequent interim changes or the most recent version of the AASHTO Manual published by the American Association of State Highway and Transportation Officials.

* * * * *

3. Section 650.303 is amended by revising paragraph (d) to read as follows:

* * * * *

(d) The individual in charge of the organizational unit that has been delegated the responsibilities for bridge inspection, reporting and inventory shall determine and designate on the individual inspection and inventory records and maintain a master list of the following:

(1) Those bridges which contain fracture critical members, the location and description of such members on the bridge and the inspection frequency and procedures for inspection of such members. (Fracture critical members are tension members of a bridge whose failure will probably cause a portion of or the entire bridge to collapse.)

(2) Those bridges with underwater members which cannot be visually evaluated during periods of low flow or examined by feel for condition, integrity and safe load capacity due to excessive water depth or turbidity. These members shall be described, the inspection frequency stated, not to

exceed five years, and the inspection procedure specified.

(3) Those bridges which contain unique or special features requiring additional attention during inspection to ensure the safety of such bridges and the inspection frequency and procedure for inspection of as such features.

(4) The date of last inspection of the features designated in paragraphs (d)(1) through (d)(3) of this section and a description of the findings and follow-up actions, if necessary, resulting from the most recent inspection of fracture critical details, underwater members of special features of each so designated bridge.

4. Section 650.305 is amended by adding paragraph (c) to read as follows:

§ 650.305 Frequency of inspections.

* * * * *

(c) The maximum inspection interval may be increased for certain types or groups of bridges where past inspection reports and favorable experience and analysis justifies the increased interval of inspection. If a State proposes to inspect some bridges at greater than the specified 2-year interval, the State shall submit a detailed proposal and supporting data to the Federal Highway Administrator for approval.

5. Section 650.307 is amended by revising paragraph (a)(3), adding paragraph (b)(3), and adding footnote numbers three and four to read as follows:

§ 650.307 Qualifications of personnel.

(a) * * *

(3) Have a minimum of 10 years experience in bridge inspection assignments in a responsible capacity and have completed a comprehensive training course based on the, "Bridge Inspector's Training Manual," [2] which has been developed by a joint Federal-State task force, and subsequent additions to the manual.[3]

(b) * * *

(3) Current certification as a Level III or IV Bridge Safety Inspector under the National Society of Professional Engineer's program for National Certification in Engineering Technologies (NICET)[4] is an alternate acceptable means for establishing that a bridge inspection team leader is qualified.

6. Section 650.311 is amended by revising paragraph (b) to read as follows:

§ 650.311 Inventory.

* * * * *

(b) Newly completed structures, modification of existing structures which would alter previously recorded data on the inventory forms or placement of load restriction signs on the approaches to or at the structure itself shall be entered in the State's inspection reports and the computer inventory file as promptly as practical, but no later than 90 days after the change in the status of the structure.

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BILLING CODE 4910-22-M

[2] The "Bridge Inspector's Training Manual" may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

[3] The following publications are supplements to the "Bridge Inspector's Training Manual": "Bridge Inspector's Manual for Movable Bridges," 1977, GPO Stock No. 050-002-00103-5; "Culvert Inspector's Training Manual," July 1986, GPO Stock No. 050-001-00300-7; and "Inspection of Fracture Critical Bridge Members," 1986, GPO Stock No. 050-001-00302-3.

[4] For information on NICET program certification contact: National Institute for Certification in Engineering Technologies, 1420 King Street, Alexandria, Virginia 22314, Attention: John D. Antrim, P.E., Phone (703) 684-2835.

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 307

[Docket No. CRT 87-3-87MRA]

Notice Commencing 1987 Mechanical Royalty Adjustment Proceeding and Setting Procedural Dates

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Copyright Act of 1976 authorizes the Copyright Royalty Tribunal to adjust the mechanical license royalty rate in 1987. In response to a joint submission by parties with a significant interest in the rate, the Tribunal announces the commencement of the 1987 mechanical royalty adjustment proceeding through informal rulemaking. The Tribunal is proposing to adopt the adjustments agreed upon in the settlement agreement of the petitioners.

DATES: All interested parties shall notify the Tribunal of their intent to participate and shall file their comments on the proposed changes by June 5, 1987. If any opposing comments are filed, reply comments shall be filed by July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel; Copyright Royalty Tribunal; 1111 20th Street, NW., Suite 450, Washington, DC 20036; (202) 653-5175.

SUPPLEMENTARY INFORMATION: Sections 801(b)(1) and 804 of the Copyright Act of 1976 (Act) authorize the Copyright Royalty Tribunal (Tribunal) to adjust the mechanical royalty rate set in section 115 of the Act. The first such adjustments were made by the Tribunal after a proceeding commenced in 1980.[1]

On March 18, the Tribunal received a joint petition concerning the 1987 mechanical royalty rate adjustment from the National Music Publishers' Association, Inc. and The Songwriters Guild of America (collectively, Copyright Owners) and the Recording Industry Association of America, Inc. (Copyright Users). These entities are described in the joint petition set forth below. The Copyright Owners and the Copyright Users were the prinicipal parties who participated in the Tribunal's 1980 mechanical royalty rate adjustment proceeding. They have a significant interest in the royalty rate subject to adjustment under section 801(b)(1) of the Act.

In their joint submission, the Copyright Owners and Copyright Users have petitioned the Tribunal to commence a 1987 mechanical royalty rate adjustment proceeding and to adjust the royalty rate in section 307 of the Tribunal's rules in accordance with proposed regulations set forth in their "Proposal Concerning 1987 Mechanical Royalty Rate Adjustment" (proposal).

The Tribunal is pleased that the principal parties who participated in the 1980 mechanical royalty rate adjustment proceeding have submitted this proposal. The Tribunal has long encouraged voluntary resolution of the issues confronting the parties as being consistent with the spirit and intent of the Copyright Act. The Tribunal has carefully reviewed the proposal. The Tribunal believes that the proposal represents a good faith effort by the parties to resolve the differences among them. Nevertheless, there may be entities which have not participated in the formulation of this proposal or the prior mechanical royalty rate adjustment proceeding who wish to express views regarding the rate adjustment.

Accordingly, in light of the above and pursuant to section 804 of the Act, the Tribunal hereby gives notice of commencement of the 1987 mechanical royalty rate adjustment proceeding. The Tribunal directs that all interested parties shall notify the Tribunal of their intent to participate in the proceeding

[1] 46 FR 891 (Jan. 5, 1981); 46 FR 10466 (Feb. 3, 1981); 46 FR 55276 (Nov. 9, 1981); and 46 FR 62267 (Dec. 23, 1981); *Recording Industry Association of America v. Copyright Royalty Tribunal*, 662 F. 2d 1 (D.C.Cir. 1981).

and shall file their comments on the proposed changes in the rates by June 5, 1987. Only persons providing such notification by this date will be allowed to participate in the 1987 mechanical royalty rate adjustment proceeding.

Any party filing opposing comments must (1) set forth the bases of its opposition; (2) set forth its position with respect to each of the provisions of the proposal and any other matters which it wishes the Tribunal to consider relevant to the mechanical royalty rate adjustments; (3) describe what, if any, further proceedings (including oral argument and evidentiary hearings) should be held before the Tribunal makes mechanical royalty rate adjustments under section 801(b)(1) of the Act; and (4) describe the nature and purpose of any evidence which it would introduce should the Tribunal hold evidentiary hearings. If one or more opposing comments are filed, reply comments must be filed by July 6, 1987.

For the convenience of interested parties, the full text of the joint petition as well as the proposal is set forth as part of this notice.

List of Subjects in 37 CFR Part 307

Copyright, Music, Recordings

PART 307—[AMENDED]

For the reasons set forth in the preamble, the Tribunal proposes to amend 37 CFR Part 307 as follows:

1. The authority citation for Part 307 continues to read as follows:

Authority: 17 U.S.C. 801(b)(1) and 804.

§ 307.3 [Amended]

2. Section 307.3(a) is proposed to be amended by removing the words "paragraphs (b) and (c) of this section." from the end, and by adding in their place the words "paragraphs (b), (c), (d) and (e) of this section."

3. Section 307.3(b) is proposed to be amended by removing the words "paragraph (c) of this section." and adding in their place the words "paragraphs (c), (d) and (e) of this section."

4. Section 307.3(c) is proposed to be amended by adding the words ", subject to further adjustment pursuant to paragraphs (d) and (e) of this section." at the end.

5. A new § 307.3(d) is proposed to be added to read as follows:

§ 307.3 [Amended]

* * * * *

(d)(1) On November 1, 1987, the Copyright Royalty Tribunal (CRT) shall publish in the **Federal Register** a notice of the percent change in the Consumer Price Index (all urban consumers, all items) (CPI) from the Index published for December 1985 to the Index published for September, 1987, and the underlying calculations.

(2) On the same date as the notice is published pursuant to paragraph (d)(1) of this section, the CRT shall publish in the **Federal Register** revised compulsory license royalty rates which shall adjust the amounts set forth in § 307.3(c) in direct proportion to the percent change in the CPI determined as provided in paragraph (d)(1) of this section, rounded to the nearest ½0th of a cent; provided however, that:

(i) The adjusted rates shall be no greater than 25% more than the amounts set forth in § 307.3(c); and

(ii) The adjusted rates shall be no less than the amounts set forth in § 307.3(c).

(3) The revised royalty rates for the compulsory license adjusted pursuant to this paragraph (d) shall become effective for every phonorecord made and distributed on or after January 1, 1988, subject to further adjustment pursuant to paragraph (e) of this section.

6. A new § 307.3(e) is proposed to be added to read as follows:

§ 307.3 [Amended]

* * * * *

(e)(1) On November 1, 1989, and each November 1, biennially thereafter until November 1, 1995 (that is, November 1, 1991, 1993 and 1995), the CRT shall publish in the **Federal Register** a notice of the percent change in the CPI from the Index published for the September two years earlier to the Index published for the September of the year in which such notice is published, and the underlying calculations.

(2) On the same date as the notice is published pursuant to paragraph (e)(1) of this section, the CRT shall publish in the **Federal Register** revised compulsory license royalty rates which shall adjust the amounts then in effect pursuant to § 307.3(d) or this paragraph (e), as the case may be, in direct proportion to the percent change in the CPI determined as provided in paragraph (e)(1) of this section, rounded to the nearest ½0th of a cent; provided, however, that:

(i) The adjusted rates shall be no greater than 25% more than the rates then in effect; and

(ii) The adjusted rates shall be no less than the amounts set forth in § 307.3(c).

(3) The revised royalty rates for the compulsory license adjusted pursuant to this paragraph (e) shall become effective for every phonorecord made and distributed on or after the January 1 of the year following that in which such notice is published; that is, on January 1, 1990, 1992, 1994 and 1996, respectively.

Joint Petition for Automatic Adjustments of Mechanical Royalty Rate; Submitted by National Music Publishers' Association, Inc., The Songwriters Guild of America and Recording Industry Association of America, Inc.

This petition is submitted jointly, pursuant to section 804(a)(2)(B) of the Copyright Act of 1976 (the "Act"), 17 U.S.C. 804(a)(2)(B), and § 301.61(b)(2) of the Tribunal's rules, 37 CFR 301.61(b)(2), on behalf of the National Music Publishers' Association, Inc. and The Songwriters Guild of America (formerly American Guild of Authors and Composers) (hereinafter collectively referred to as the "Copyright Owners"); and the Recording Industry Association of America, Inc. (hereinafter referred to as the "Copyright Users").

National Music Publishers' Association, Inc. is a national association of over 300 commercially active American music publishers and represents the common interests of publishers of diverse types of music through a variety of legislative, legal, and public relations activities. The Songwriters Guild of America is a national association of approximately 4,000 songwriters. Its primary functions are to promote the interests of authors and composers in their dealings with those who market and use their creative works, and in legislative matters. Both of these organizations represent the interests of copyright royalty recipients. Recording Industry Association of America, Inc. is an association of approximately 43 recording companies. Its members are the principal manufacturers of the records, tapes and compact disks sold in the United States. The organization represents the interests of those who must pay royalties for use of copyrighted musical works in recordings.

The Copyright Owners and Copyright Users have held discussions for the purpose of arriving at a joint proposal respecting the 1987 mechanical royalty rate adjustment authorized under sections 801(b)(1) and 804 of the Act. As a result of these discussions, we are pleased jointly to submit the attached "Proposal Concerning 1987 Mechanical Royalty Rate Adjustment" ("Proposal"). We hereby petition the Tribunal to undertake a proceeding to promulgate regulations effecting an adjustment of the royalty rates provided in section 115 of the Copyright Act, as thereafter adjusted by the Tribunal, in the manner set forth in the Proposal.

In sum, the Proposal calls for the present mechanical royalty rates (5¢ per musical work, or .95¢ per minute of playing time or fraction thereof, whichever amount is larger) to be adjusted, in direct proportion to the percent change in the Consumer Price Index (all urban consumers, all items) (the "CPI"), on January 1 of 1988, 1990, 1992, 1994 and 1996; provided, however, that (a) the adjusted rates shall be no greater than 25% more than the rates in effect during the immediately preceding period, and (b) the adjusted rates shall be no lower than the 5¢/.95¢ rates presently in effect. Pursuant to section 804(a)(2)(B) of the Act, the Tribunal may be petitioned again in 1997 for adjustment of the royalty rates. The Proposal establishes the

mechanism for periodic rate adjustments until that time.

Under the Proposal, the first rate adjustment would become effective on January 1, 1988, based on changes in the CPI for December 1985 through the CPI for September 1987. Thereafter, rate adjustments would be based on changes in the CPI in two-year intervals measured from the September CPI through the September CPI two years later, with the adjusted rates becoming effective on the following January 1. Rates would be rounded to the nearest ½₀th of a cent.

In formulating this joint proposal, the parties have been guided by the approach which the Tribunal (46 FR 891 (Jan. 5, 1981); 46 FR 10466 (Feb. 3, 1981); 46 FR 55276 (Nov. 9, 1981); 46 FR 62267 (Dec. 23, 1981)) and the Court of Appeals for the District of Columbia Circuit (662 F.2d 1 (D.C. Cir. 1981)) adopted in the 1980 mechanical royalty rate adjustment proceeding. We believe that the Proposal is within the authority of the Tribunal to enact, and is calculated to achieve the objectives of section 801(b)(1) (A)–(D) of the Act.

The Copyright Owners and Copyright Users were the principal parties who participated in the 1980 mechanical royalty rate adjustment proceeding; they adequately represent the owners and users of copyrighted works whose royalty rates were specified by § 115 of the Act, and thereafter adjusted by the Tribunal; they have a "significant interest" in the mechanical royalty rates to be adjusted within the meaning of section 804(a)(2)(B) of the Act. The Copyright Owners and Copyright Users are presently unaware of any person or entity which would oppose the Proposal.

We recommend that the Tribunal make the Proposal available for public comment before determining whether to adopt its terms in a final decision.

The Proposal is submitted on the understanding that its various provisions are not severable. The Proposal is without prejudice to any position, contention, or argument which the Copyright Owners or Copyright Users may take in any proceeding or litigation, and is not intended to be, and should not constitute, a precedent in any rate adjustment proceedings in 1997 or thereafter.

Respectfully submitted,

National Music Publishers' Association, Inc.

The Songwriters Guild of America, Inc.

Dated: April 1, 1987.

Edward W. Ray,

Acting Chairman.

[FR Doc. 87-7635 Filed 4-6-87; 8:45 am]

BILLING CODE 1410-09-M

Notices

Federal Register
Vol. 52, No. 66
Tuesday, April 7, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

North Fork Edisto River Watershed, SC; Environmental Impact Statement

AGENCY: Soil Conservation Service, U.S.D.A.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 65); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the North Fork Edisto River Watershed, Calhoun, Lexington, and Orangeburg Counties, South Carolina.

FOR FURTHER INFORMATION CONTACT: Billy Abercrombie, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, Telephone (803) 765–5681.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement included accelerated technical and financial assistance to apply land treatment measures on 19,236 acres of cropland.

A copy of the Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Billy Abercrombie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials)

Dated: March 23, 1987.

Billy Abercrombie,

State conservationist.

[FR Doc. 87–7636 Filed 4–6–87; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council's Administrative Subcommittee will convene a public meeting, April 14, 1987, from 9:30 a.m. to approximately 3 p.m., at Hotel Pierre, De Diego Avenue, Santurce, PR, to discuss issues related to the Subcommittee's participation in joint development of the Billfish Fishery Management Plan with four other Regional Fishery Management Councils on the Atlantic Coast and the Gulf of Mexico.

For further information contact the Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, PR 00918; telephone: (809) 743–4926.

Dated: April 1, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87–7681 Filed 4–6–87; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment to the Export Visa Requirement for Certain Cotton Textile Products Produced or Manufactured in Hong Kong

April 1, 1987.

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 April 1, 1987. For further information contact Ann Fields, International Trade Specialist (202) 377–4212.

Background

A CITA directive was published in the **Federal Register** (48 FR 2400), on January 19, 1983, as amended, which established export visa requirements for cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Hong Kong and exported to the United States.

Under the terms of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Textile Agreement of June 22, 1982, as amended, the United States Government has agreed to amend the export visa arrangement with Hong Kong to include the part category designation 314/320–B for cotton broadcloth and poplin not elsewhere specified. Effective on April 1, 1987 shipments from Hong Kong of cotton broadcloth and poplin visaed as 314/320–B and exported on and after February 9, 1987 shall be permitted entry for consumption or withdrawal from warehouse for consumption in the United States. Shipments of cotton broadcloth and poplin visaed as Category 314/320–X, exported from Hong Kong between the period January 1, 1987 through February 8, 1987, shall not be denied entry.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to further amend the directive which established the export visa arrangement to implement this adminstrative arrangement under the terms of the bilateral agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated (1987).*

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 1, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on January 14, 1983, as amended, by the Chairman of the Committee for the Implementation of Textile Agreements that directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Hong Kong which were not properly visaed.

Effective on April 1, 1987, the directive of January 14, 1983, as amended, is hereby further amended to include the part category designation 314/320-B [1], previously designated as 314/320 pt., for cotton broadcloth and poplin exported from Hong Kong. You are directed to permit entry for consumption or withdrawal from warehouse for consumption in the United States of cotton broadcloth and poplin in Category 314/320 from Hong Kong visaed as 314/320-B and exported on and after February 9, 1987. Shipments of cotton broadcloth and poplin in Category 314/320, visaed as 314/320-X, which were exported from Hong Kong during the period January 1 through February 8, 1987 are not to be denied entry.

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.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-7683 Filed 4-6-87; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Category 320, only TSUSA items 320.—, 321.—, 322.—, 326.—, 327.—, 328.—, with statistical suffixes 21, 22, 26, 72 and 76; TSUSA items 323.—, 324.—, 325.—, 329.—, 330.— and 331.—, with statistical suffixes 21, 22, 26, 72, 74 and 76.

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Turkey

April 2, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 31, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April 8, 1987. For further information contact Ann Fields, 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 in embargoes and quota re-openings, please call (202) 377-3715.

Background

On August 18, 1986 a notice was published in the **Federal Register** (51 FR 29513) which establishes import restraint limits for certain cotton and man-made fiber textile products, including Category 319, produced or manufactured in Turkey and exported during the twelve-month period which began on July 1, 1986 and extends through June 30, 1987. On December 16, 1986 another notice was published in the **Federal Register** (51 FR 45031) which establishes import restraint limits for certain other cotton and man-made fiber textile products, including Category 313, produced or manufactured in Turkey and exported during the agreement year which began on January 1, 1987 and extends through December 31, 1987. Under the terms of the Bilateral Cotton and Man-Made Fiber Textile Agreement of October 18, 1985, as amended and extended, and at the request of the Government of Turkey, swing is being applied to the restraint limit previously established for cotton textile products in Category 313 for the period January 1, 1987 through December 31, 1987. The limit for Category 319, for the period July 1, 1986 through June 30, 1987, is being reduced to account for the amount of swing applied to Category 313.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the restraint limits previously established for Categories 313 and 319.

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 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 (1987).

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.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 2, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives issued to you on August 12, 1986 and December 10, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in Turkey and exported during the twelve-month periods which began, in the case of Category 313, on January 1, 1987 and extends through December 31, 1987; and in the case of Category 319, on July 1, 1986 and extends through June 30, 1987.

Effective on April 8, 1987, the directives of August 12, 1986 and December 10, 1986 are amened to include the following adjusted limits to the previously established restraint limits for cotton textile products in Categories 313 and 319, as provided under the terms of the bilateral agreement of October 18, 1985, as amended and extended: [1]

Category	Adjusted 12-mo. limit [a]
313	18,033,780 square yards.
319	9,820,220 square yards.

[a] The limits have not been adjusted to account to any imports exported after June 30, 1986 (Category 319) and December 31, 1986 (Category 313).

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.

[1] The provisions of the bilateral agreement provide, in part, that: (1) Specific limits may be increased by 7 percent swing during an agreement period and (2) specific limits may be increased by carryover and carryforward up to 11 percent of which carryforward shall not constitute more than 6 percent the applicable category limit.

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.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-7682 Filed 4-6-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Defense Acquisition Regulatory Council; Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of Meetings.

SUMMARY: The Defense Acquisition Regulatory Council will travel to Chicago, Illinois and San Antonio, Texas during the week of April 27, 1987. The Council will conduct joint Government/Industry meetings at both locations and will discuss acquisition topics of mutual interest. The Council will be available for questions on specific DAR cases and issues.

DATES: April 28, 1987 and April 30, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, 202/697-9125.

SUPPLEMENTARY INFORMATION: The Defense Contract Administration Services Region (DCASR) Chicago, Illinois 60666, will host the Council's meeting at the Woodfield Hilton and Towers on Tuesday, April 28, 1987, from 8 a.m. to 4:30 p.m. The point of contact for further information is Ms. Kathy Gricus, 312/694-6416.

The San Antonio Air Logistics Center will host the Council's meeting on Thursday, April 30, 1987, from 8 a.m. until 4:30 p.m., the Council will conduct a joint Government/Industry meeting at the La Mensione Del Norte, San Antonio, TX. The point of contact for further information is Mr. Nick Reynolds, 512/925-3091.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[FR Doc. 87-7610 Filed 4-6-87; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given of a forthcoming meeting of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the DACOWITS is to assist and advise the Secretary of Defense on matters relating to women in the Services. The Committee meets semi-annually.

DATE: May 3-7, 1987 (Detailed agenda follows).

ADDRESS: Radisson Mark Plaza Hotel, 5000 Seminary Road, Alexandria, Virginia, unless otherwise noted in detailed agenda.

Agenda: Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meetings and discussions:

Sunday May 3, 1987

8:00 a.m.—1:00 p.m. Registration
9:00 a.m.—10:00 a.m. Executive Committee Meeting
10:00 a.m.—11:00 a.m. New Member Orientation
11:45 a.m.—12:45 a.m. Get Acquainted Luncheon (Current DACOWITS Members Only)
11:45 a.m.—12:45 p.m. MilRep and Liaison Officers Luncheon
12:50 p.m.—1:30 p.m. OSD Overview
1:45 p.m.—4:20 p.m. New Member Orientation
4:30 p.m.—5:15 p.m. Briefing: Manpower Resource Pool
5:25 p.m.—6:30 p.m. Subcommittee Sessions
Briefings: Army and Air Force Exchange Services (Subcommittee #3), Quality of Life (Subcommittee #3)
7:00 p.m.—9:00p.m. No-Host Social Buffet

Monday, May 4, 1987

10:00 a.m.—10:30 a.m. Official Opening—Pentagon Auditorium, Room 5A1070
Presiding: Dr. Jacquelyn Davis, DACOWITS Chairman
Welcome: Honorable Chapman B. Cox, Assistant Secretary of Defense (Force Management and Personnel)
Keynote Speaker: Honorable Caspar W. Weinberger, Secretary of Defense
10:40 a.m.—11:00 a.m. Official Coffee, Military Women's Corridor, Pentagon
12:00 noon—1:30 p.m. OSD Luncheon, (By Invitation Only)
Hosted By: Honorable Chapman B. Cox, Assistant Secretary of Defense for Force Management and Personnel
Guest Speaker: VADM Dudley L. Carlson, USN, Chief of Naval Personal, Deputy Chief of Naval Operations (Manpower, Personnel and Training)
1:15 p.m.—1:45 p.m. Briefing: Woman Marine Officer Review
1:45 p.m.—2:15 p.m. Briefing: Navy 600 Ship Manning
2:30 p.m.—3:15 p.m. Briefing: National Guard
3:30 p.m.—4:30 p.m. Briefing: Army Direct Combat, Probability Coding (DCPC)
4:30 p.m.—6:00 p.m. Subcommittee Sessions (Evaluation and Disposition of Service Responses)
7:00 p.m.—8:00 p.m. OSD Reception (*By Invitation Only*)
Hosted by: Honorable Caspar W. Weinberger
8:00 p.m.—10:30 p.m. OSD Dinner (*By Invitation Only*)
Hosted by: Dr. David J. Armor, Principal Deputy Assistant Secretary of Defense (Force Management and Personnel)
Guest Speaker: ADM Huntington Hardisty, USN, Vice Chief of Naval Operations

Tuesday, May 5, 1987

Field trip hosted by the U.S. Navy to United States Naval Academy (USNA), Annapolis, Maryland. (Limited to DACOWITS Members, Former Members, Official Military Representatives, DACOWITS Liaison Officers, and special guests.)

Wednesday, May 6, 1987

8:00 a.m.—8:30 a.m. Presentations by Members of the Public
8:30 a.m.—9:50 p.m.* Briefings; Service Sexual Harassment Prevention
10:00 a.m.—12:00 noon Subcommittee Sessions
12:00 noon—2:00 p.m. Installation Visit Luncheon
2:00 p.m.—5:00 p.m. Executive Committee Mark-up

Thursday, May 7, 1987

7:00 a.m.—8:00 a.m. Individual Review of Resolutions
8:00 a.m.—11:00 a.m. General Business Session

Adjourn

11:00 a.m.—12:00 noon Executive Committee Meeting

FOR FURTHER INFORMATION CONTACT: Major Ilona E. Prewitt, Director, DACOWITS and Military Women Matters, OASD (Force Management and Personnel), The Pentagon, Room 3D769, Washington, DC 20301-4000; telephone (202) 697-2122.

SUPPLEMENTARY INFORMATION: The following rules and regulations will govern the participation by members of the public at the meeting:

(1) Members of the public will not be permitted to attend the official Department of Defense luncheon or dinner.

* If the there are no presentations by Members of the Public, briefings will begin at 8:00 a.m.

(2) All business sessions, to include the Executive Committee Meetings, will be open to the public.

(3) Interested persons may submit a written statement for consideration by the Committee and/or make an oral presentation of such during the meeting.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify the point of contact listed above no later than April 17, 1987.

(5) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(6) Oral presentations by members of the public will be permitted only from 8:00 a.m. to 8:30 a.m. on Wednesday, May 6, 1987, before the full Committee.

(7) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS office with a copy of the presentation or 60 copies of the statement by April 24, 1987.

(8) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within five (5) days after the close of the meeting.

(9) Other new items from members of the public may be presented in writing to any DACOWITS member for transmittal to the DACOWITS Chairman or Director, DACOWITS and Military Women Matters, to consider.

(10) Members of the public will not be permitted to enter into oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

(11) Members of the public will be permitted to orally question the scheduled speakers if recognized by the Chairman and if time allows after the official participants have asked questions and/or made comments.

(12) Questions from the public will not be accepted during the Subcommittee Sessions, the Executive Committee Meetings, or the Business Session on Thursday, May 7, 1987.

April 1, 1987.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 87-7619 Filed 4-6-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Image Recognition Systems; Change in Date and Location of Advisory Committee Meeting

SUMMARY: The meeting of the Defense Science Board Task Force on Image Recognition Systems scheduled for March 12, 1987 as published in the **Federal Register** (Vol. 52, No. 45, Page 7188, Monday, March 9, 1987, FR Doc. 87-4867) will be held on April 7-8, 1987 in the Pentagon, Arlington, Virginia. In all other respects the original notice remains unchanged.

April 1, 1987.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 87-7618 Filed 4-6-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Subgroup to the Strategic Air Defense; Change in Dates of Advisory Committee Meeting

SUMMARY: The meeting of the Defense Science Board Task Force on Subgroup to the Strategic Air Defense scheduled for April 2-3, and April 16-17 as published in the **Federal Register** (Vol. 52, No. 52, Page 8500, Wednesday, March 18, 1987, FR Doc. 87-5784) will be held on April 3-4, and April 17-18, 1987. In all other respects the original notice remains unchanged.

April 1, 1987.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 87-7617 Filed 4-6-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10a(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

NAME OF THE COMMITTEE: Army Science Board (ASB)

DATES OF MEETING: 22-23 April and 30 April 1987

TIMES OF MEETING: 0900-1500 each day

PLACE: 22 April: Harry Diamond Lab (HDL), Adelphi, MD; 23 April: US Chemical Research Development Engineering Center (CRDEC), Aberdeen Proving Ground, MD; 30 April: Atmospheric Labs, White Sands, New Mexico

AGENDA: A subpanel of the Army Science Board Summer Study Panel for Army Force Cost Drivers will meet at three different locations to discuss a myriad of subjects to include Electro Magnetic Pulse (EMP), hardening countermeasures, nuclear/chemical protection and countermeasures, global data base on environmental conditions, and development of U.S. Army equipment. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87-7638 Filed 4-6-87; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

NAME OF COMMITTEE: Army Science Board (ASB)

DATES OF MEETING: 27-28 April 1987

TIMES OF MEETING: 1000-1500, 27 April 1987; 0900-1500, 28 April 1987

PLACE: 27 April 1987, Pentagon, Washington, DC.; 28 April 1987, LABCOM, Adelphi, MD

AGENDA: The Army Science Board Summer Study Panel for Army Force Cost Drivers will meet to discuss Army acquisition and analysis process and capabilities. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1 subsection 10(d). Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87-7639 Filed 4-6-87; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10a(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

NAME OF THE COMMITTEE: Army Science Board (ASB)

DATES OF MEETING: 28–29 April 1987

TIMES OF MEETING: 1200–1700, 28 April 1987; 0900–1500, 29 April 1987

PLACE: 28 April: Pentagon, Washington, DC; 29 April: Night Vision Electro-Optics (NVEO) Lab, Fort Belvoir, VA

AGENDA: A subpanel of the Army Science Board Summer Study Panel for Army Force Cost Drivers will meet to discuss various subjects to include the use of lasers, microwave and particle beam weapons/systems. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–7640 Filed 4–6–87; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

NAME OF THE COMMITTEE: Army Science Board (ASB)

DATES OF MEETING: 28 and 30 April 1987

TIMES OF MEETING: 0800–1500, 28 April 1987; 0800–1500, 30 April 1987

PLACE: Fort Ord, CA, 28 April 1987; Fort Carson, CO, 30 April 1987

AGENDA: The Army Science Board 1987 Summer Study on Lightening the Force will meet at Fort Ord, CA and Fort Carson, CO for discussions with the 7th Light Infantry Division and the 4th Mechanized Infantry Division, respectively. The meeting will be closed to the public in accordance with section 552(b) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–7641 Filed 4–6–87; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intent To Prepare Draft Environmental Impact Statement (DEIS); Flood Control Project, Cattaraugus Creek, NY

To prepare a Draft Environmental Impact Statement (DEIS) for a proposed flood control project on Cattaraugus Creek, in Cattaraugus and Erie Counties, New York. The study was authorized by two resolutions—one adopted 2 June 1956 by the Committee on Pubic Works of the U.S. Senate, and the other adopted 23 July 1956 by the Committee on Public Works of the U.S. House of Representatives. The DEIS will accompany the Draft Feasibility Report.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

Proposed Action

The proposed action would involve implementation of the following plan: Alternative 3B(2) consists of a 270-foot long ice retention structure and a 200-foot wide adjacent floodway for passage of flood flows just upstream of the town of Versailles. The ice retention structure would have three gated, low-flow openings incorporated into its design to permit passage of salmonids and other fish species when the ice retention structure is not in operation and to accommodate summertime flows. A debris boom would be installed upstream of the ice retention structure to trap debris before it becomes lodged against the structure. In addition, a fish ladder adjacent to the ice retention structure would be included to allow unhindered movement of salmonids and other fish species upstream and downstream via the fish ladder when the ice retention structure is in operation.

At least two structural and eight nonstructural plans, plus the No-Action alternative, were considered during the feasibility study. The No-Action alternative will be carried forth throughout the planning process together with the selected alternative.

Public Involvement

A public meeting was held on 4 August 1986 at the Sunset Bay Fire Hall, Cattaraugus County, to review the results of the reconnaissance study and to discuss future study activities. Federal agencies providing input to date through the course of this flood control study include the U.S. Soil Conservation Service, U.S. Fish and Wildlife Service, and the U.S. Environmental Protection Agency. State and local agencies maintaining liaison with the Corps on this study include the New York State Department of Environmental Conservation, the New York State Office of Parks, Recreation and Historic Prevention, elected officials of counties and towns throughout the basin, the Seneca Nation of Indians, and the Sunset Bay Association.

Issues

Significant issues to be raised in the DEIS include determination of the extent of which the selected plan might positively or negatively impact upon the natural and human environment—to include, but not be limited to, such parameters as air quality, water quality, fish and wildlife, noise, aesthetics, community and regional growth and development, health and safety, and cultural resources.

Review and Compliance

The study shall be conducted so as to comply with the various Federal and State environmental status and Executive Orders and associated review procedures.

Scoping Meetings

Since Federal, State, and local interests have been involved during formulation of the proposed project and because a recent public meeting was held outlining the various proposed project alternatives, adequate coordination has already been conducted; therefore, no further scoping meetings are anticipated.

Availability

The combined document consisting of the Draft Feasibility Report and Draft Environmental Impact Statement will be made available to the public on or about 31 July 1987.

ADDRESS: Questions concerning preparation of the Draft Environmental Impact Statement can be answered by Mr. Timothy Daly, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207, telephone (716) 876–5454 or FTS 473–2173.

Dated: March 30, 1987.

Daniel R. Clark,

Colonel, Corps of Engineers District Commmander.

[FR Doc. 87-7642 Filed 4-6-87; 8:45 am]

BILLING CODE 3710-GP-M

Department of the Navy

Chief of Naval Operations, Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Navy Training Task Force will meet April 28–29, 1987, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting will include an examination of Navy training to assess how best to organize and manage training to accommodate future requirements, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee; 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: April 1, 1987.

Harold L. Stoller,

Commander, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 87-7589 Filed 4-6-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Inviting Applications for New Awards Under the Educational Media Research, Production, Distribution, and Training Program for Fiscal Year 1987. (CFDA No. 84-026)

Purpose: To contribute to the general welfare of deaf persons by providing cultural and educational enrichment through the captioning of films and television.

Proposed Priorities: In a separate notice published in this issue of the **Federal Register**, the Secretary has proposed to establish the following priorities for fiscal year 1987. The Secretary intends to give an absolute preference to applications that meet any of these priorities.

CFDA No.	Priority	Closing date	Applications available	Available funds	Intergovernmental review deadline
84.026J	Closed-Captioned National Television Programming—1 Cooperative Agreement.	5/26/87	4/10/87	$950,000	7/27/87
84.026L	Closed-Capitoned Local News Projects—3 Grants.	5/26/87	4/10/87	$150,000	7/27/87
84.026N	Closed-Captioned Real-Time News—1 Cooperative Agreement.	5/26/87	4/10/87	$2,000,000	8/27/87

Applicable Regulations: (a) The Educational Media Research, Production, Distribution, and Training Regulations, 34 CFR Part 332, (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79, and (c) when adopted in final form, the Annual Funding Priorities for this program. A notice of proposed annual funding priorities is published in this issue of the **Federal Register.** Applicants should prepare their applications based on the proposed priorities. If there are any changes made when the final annual funding priorities are published, applicants will be given the opportunity to amend or resubmit their applications.

For Applications or Information Contact: Dr. Malcolm J. Norwood, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, S.W. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. Telephone: (202) 732-1177.

Program Authority: 20 U.S.C. 1451(a)(2), and 1452(b)(5).

Dated: April 2, 1987.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 87-7628 Filed 4-6-87; 8:45 am]

BILLING CODE 4000-01-M

Inviting Applications for New Awards Under the Technology, Educational Media, and Materials Program for Fiscal Year 1987 (CFDA No. 84.026)

Purpose: To promote the educational advancement of handicapped persons through the use of educational media, materials, and technology.

Proposed Priorities: In a separate notice published in this issue of the **Federal Register,** The Secretary has proposed to establish the following priorities for fiscal year 1987. The Secretary intends to give an absolute preference to applications that meet any of these priorities.

CFDA #	Priority	Closing date	Applications available	Available funds	Intergovernmental review deadline
84.026P	Compensatory Technology Applications—9 Grants.	6/1/87	4/10/87	$1,400,000	7/31/87
84.026S	Improving Technology Software—9 Grants.	6/1/87	4/10/87	$1,600,000	7/31/87
84.026W	Instructional Technology Research—4 Grants.	5/26/87	4/10/87	$400,000	7/27/87

Applicable Requirements: (a) Section 317 of the Education of the Handicapped Act Amendments of 1986 (Section 661, Part G of the Education of the Handicapped Act), (b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79, and (c) when adopted in final form, the Annual Funding Priorities and selection criteria that have been proposed for this program. A notice of proposed annual funding priorities and proposed use of the selection criteria at 34 CFR 332.32 to evaluate applications is published in this issue of the **Federal Register.** Applicants should prepare their applications based on the proposed priorities and proposed use of the selection criteria set out at 34 CFR 332.32. If any changes are made to the funding priorities or the decision to use the selection criteria at 34 CFR 332.32, applicants will be given the opportunity to amend or resubmit their applications.

For Applications or Information Contact: Linda Glidewell, Division of

Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. Telephone: (202) 732–1099.

Program Authority: 20 U.S.C. 1461.

Dated: April 2, 1987.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 87–7629 Filed 4–6–87; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 7267–004 et al.]

Hydroelectric License Applications (Dale L. R. Lucas, et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Minor License.

b. Project No: 7267–004.

c. Date Filed: September 30, 1986.

d. Applicant: Dale L. R. Lucas.

e. Name of Project: Tungstar Water Power Project.

f. Location: On Morgan Creek and Upper Pine Creek, within Inyo National Forest, in Inyo County, California.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. Joseph M. Keating, 847 Pacific Street, Placerville, CA 95667.

i. Comment Date: May 4, 1987.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 10-foot-long diversion dam at elevation 7,840 feet m.s.l.; (2) a 36-inch-diameter, 3,500-foot-long penstock; (3) a powerhouse containing one generating unit with an installed capacity of 990 kW operating under a head of 470 feet; and (4) a 55-kV, 350-foot-long transmission line inter-connecting with an existing transmission line owned and operated by Southern California Edison Company (SCE). The applicant estimates the average annual energy generation at 4.3 GWh to be sold to SCE. The project cost has been estimated to be $4.3 million. The Applicant proposes some recreational facilities as a part of the project.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

2 a. Type of Application: Major License.

b. Project No: 7664–002.

c. Date Filed: September 2, 1986.

d. Applicant: East Bench Irrigation District.

e. Name of Project: Clark Canyon Dam.

f. Location: Beaverhead River in Beaverhead County, Montana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. James A. Sewell, James A. Sewell & Associates, Consulting Engineers, Newport, WA 99156, (509) 447–3626.

i. Comment Date: May 7, 1987.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation's Clark Canyon Dam. The proposed project would consist of: (1) An 8.5-foot-diameter, 306-foot-long steel penstock constructed inside the existing low level outlet works tunnel to a bifurcation; (2) an 8.5-foot-diameter, 20-foot-long penstock extending to the outlet works stilling basin, and including two slide gates; (3) a 7.5-foot-diameter, 133-foot-long Penstock conveying water to the powerhouse; (4) a powerhouse containing a generating unit with a rated capacity of 4,395 kW; (5) the five sets of three-phase, 4.2-kV generator leads; (6) the three-phase, 4.2/24.4-kV, 5,000-kVA step-up transformer; and (7) the 0.1-mile long, 24.4-kV overhead transmission line connecting into the existing Vigilante Electric Cooperative System. The applicant estimates an 18.86 GWh average annual energy production.

k. Purpose of Project: Power would be sold to local utilities.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

3 a. Type of Application: Minor License Under 5 MW.

b. Project No: P–8369–001.

c. Date Filed: November 13, 1986.

d. Applicant: Village of Saranac Lake.

e. Name of Project: Lake Flower Water Power.

f. Location: On the Saranac River in Franklin County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. David MacDowell, Village of Saranac Lake, Office of Community Development, 38 Main Street, Saranac Lake, NY 12983, (518) 891–0490.

i. Comment Date: May 4, 1987.

j. Description of Project: The proposed project would consist of: (1) An existing 24-foot-high, 97-foot-long concrete dam with a crest elevation of 1,533 feet MSL including a 49-foot-long spillway section with a crest elevation of 1,528 feet MSL; (2) an existing reservoir with a surface area of 1,360 acres and a gross storage capacity of 6,200 acre-feet at the spillway crest; (3) two existing powerhouses, one containing a 75-kW generating unit and the other a 165-kW generating unit for a total installed capacity of 240 kW; (4) a proposed less than 100-foot-long transmission line tying into the existing Niagara Mohawk Power System; and (5) appurtenant facilities. The estimated average annual energy produced by the project would be 892,000 kWh under a net hydraulic head of 13 feet. The dam is owned by the Village of Saranac. A prior preliminary permit was issued on June 18, 1984 for this project.

k. Purpose of Project: Project power would be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, & D1.

4a. Type of Application: Major License.

b. Project No.: 9401–000.

c. Date Filed: August 12, 1985, and revised August 29, 1986.

d. Applicant: Halecrest Company.

e. Name of Project: Mount Hope Pumped Storage Project.

f. Location: On Mount Hope Lake, near Town of Rockaway, in Morris County, New Jersey.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. Richard M. Hale, Halecrest Company, 321 Talmadge Road, Edison, NJ 08817, (201) 287–2272.

i. Comment Date: May 8, 1987.

j. Description of Project: The proposed project will utilize the waters of the existing Mount Hope Lake as the upper reservoir, enlarged from its present size by the construction of a new dam. A new underground powerhouse will use the stored water of the upper reservoir to produce power during daily periods of peak demand.

The project would consist of: (1) A new 45-foot-high, 8,000-foot-long earth and rockfill dam with a 120-foot-wide ungated concrete spillway at crest elevation 833 feet; (2) the existing Mount Hope Lake as the upper reservoir, enlarged from its present size to have a storage capacity of 7,000 acre-feet at maximum operating surface elevation 825 feet; (3) two new concrete intake shafts each 2,400-foot-long and 20-foot-diameter bifurcating into four 10-foot-diameter penstocks; (4) a new 60-foot-wide, 400-foot-long, 120-foot-high underground powerhouse at elevation 2072 below m.s.l. containing 8 generating units with a total installed capacity of

2,000 MW at a head of 2,500 feet and producing total average annual energy of 10,000 MWh; (5) a new underground lower reservoir with a storage capacity of 4,800 acre-feet at maximum operating surface elevation 1628 below m.s.l.; (6) two parallel 500-kV, 5.5-mile-long transmission lines connecting to the regional grid at the future Jefferson substation and (7) other appurtenant facilities.

k. Purpose of Project: Power output would be sold to nearby utilities to meet the regional peak demand.

l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

5a. Type of Application: License (5 MW or Less).

b. Project No.: 9874–000.

c. Date Filed: December 16, 1985.

d. Applicant: Michiana Hydro Electric Power Corporation.

e. Name of Project: Mishawaka.

f. Location: On the St. Joseph River in St. Joseph County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. Douglas Hunt, Michiana Hydro Electric Power Corporation, 1134 East Jefferson Boulevard, South Bend, IN 46617, Phone No.: 317–232–9433.

i. Comment Date: May 4, 1987.

j. Description of Project: The Applicant proposes to utilize an existing dam owned by the State of Indiana. The proposed project would consist of: (1) An existing concrete dam that is 10 feet high and 327 feet long; (2) a proposed 70-foot-wide by 150-foot-long headrace; (3) a proposed concrete and brick powerhouse containing one generating unit rated at 1,900 kW; (4) a proposed 70-foot-wide by 50-foot-long tailrace; (5) a proposed transmission system which includes 4.16-kV generator leads and 600 feet of 4.16-kV transmission line; and (6) appurtenant facilities. The estimated average annual energy output is 12,500,000 kWh.

k. Purpose of Project: Power produced at the project would be sold to the Mishawaka Municipal Utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

6a. Type of Application: Minor License.

b. Project No.: 9997–000.

c. Date Filed: May 22, 1986.

d. Applicant: Carol A. Sever.

e. Name of Project: Swengle.

f. Location: Penn's Creek, Union County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Ms. Carol A. Sever, 516 Sand Hill Road, Montoursville, PA 17754, (717) 368–8337.

i. Comment Date: May 4, 1987.

j. Description of Project: The proposed project would consist of: (1) An existing 12-foot-high earth dam; (2) a reconstructed 5-foot-high concrete and gabion spillway; (3) a reservoir with negligible storage; (4) a 200-foot-long, 15-foot-wide and 8-foot-deep power canal; (5) a powerhouse containing a single generating unit rated at 200 kW; (6) a 300-foot-long, 40-foot-wide and 20-foot-deep tailrace; (7) a transmission line 100 feet long connecting to a Pennsylvania Power and Light Company distribution line; and (8) appurtenant facilities. The estimated annual energy production is 1.2 GWh. The net hydraulic head is 12 feet. The existing facilities are owned by Mr. Curtis Hill, 6019 Oxford Street, West Philadelphia, PA 19151.

k. Purpose of Project: Project power would be sold to Pennsylvania Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

7a. Type of Application: Preliminary Permit.

b. Project No.: 10099–000.

c. Date Filed: September 26, 1986.

d. Applicant: Cascade River Hydro.

e. Name of Project: Straight Creek.

f. Location: On Straight Creek, tributary of the Suiattle River, within the Snoqualmie-Mt. Baker National Forest in Snohomish County, Washington near the town of Darrington. T. 31 N., R. 11 E., sec. 4, NW¼; T. 32 N., R. 11 E., sec. 15, SW¼; sec. 21, E½ of the W½; W½ of the E½; sec. 28 and sec. 33.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, President, Cascade River Hydro, 12122—196th NE., Redmond, WA 98052, (206) 885–3986;

Mr. Philip M. Botch, 8730 Overlake Drive W., Bellevue, WA 98004, (206) 455–1035.

i. Comment Date: May 4, 1987.

j. Description of Project: The proposed project would consist of: (1) A 3-foot-high, 20-foot-long diversion dam at elevation 2,440 feet; (2) a 42-inch-diameter, 9,000-foot-long penstock; (3) a powerhouse containing a single generating unit with an installed capacity of 4,640 kW, producing approximately 20.76 GWh of energy annually; (4) a tailrace; and (5) an 8-mile-long, 115-kV buried transmission line tying into an existing Puget Power and Light Company line. No new roads will be needed to carry out studies under the preliminary permit. The Applicant estimates that the cost of conducting studies under the preliminary permit would $40,000.

k. Purpose of Project: Project power would be sold to Puget Power and Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

8 a. Type of Application: Preliminary Permit.

b. Project No.: 10148–000.

c. Date Filed: October 30, 1986.

d. Applicant: Skykomish River Hydro.

e. Name of Project: Bear Creek.

f. Location: On Bear Creek, tributary of the North Fork Skykomish River, within the Snoqualmie—Mt. Baker National Forest in Snohomish County, Washington near the town of Everett.

T. 28 N., R. 9 E.,
sec. 5, E¾
sec. 8, NE¾
sec. 9, NW¼, W½NE¼
T. 30 N., R. 9 E.,
sec. 20 E½SW¼
sec. 29, E½W½
sec. 32, E½W½

g. Filed pursuant to: Federal Power Act 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, President, Skykomish River Hydro, 12122 196th NE., Redmond, WA. 98052, (206) 885–3986.

i. Comment Date: May 4, 1987.

j. Description of Project: The proposed project would consist of: (1) Two 3-foot-high, 20-foot-long diversion dams at elevation 2,600 feet; (2) pipeline; (3) a 36-inch-diameter, 8,000-foot-long penstock; (4) a powerhouse containing a single generating unit with an installed capacity of 2,700 kW, producing approximately 11.80 GWh of energy annually; (5) a tailrace; (6) a 12-mile-long, 115–kV transmission line tying into an existing Puget Power and Light Company line. No new access road will be needed to conduct studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $40,000.

k. Purpose of Project: Project power will be sold to Puget Power and Light Company.

l. This notice also consists of the following standard paragrapsh: A5, A7, A9, A10, B, C, D2.

9 a. Type of Application: Preliminary Permit.

b. Project No: 10177–000.

c. Date Filed: November 21, 1986.

d. Applicant: Town of West Stockbridge, MA.

e. Name of Project: Shaker Mill Dam Hydroelectric Project.

f. Location: On the Williams River in Berkshire County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Clay Max Hall, Chairman, Board of Selectmen, Town of West Stockbridge, Town Hall, W. Stockbridge, MA 01262, (413) 232–7080.

i. Comment Date: May 1, 1987.

j. Description of Project: The proposed project would consist of: (1) An existing 10–foot-high, approximately 36-foot-long, dam; (2) an existing 32.6-acre reservoir which will be increased to a 33.6-acre reservoir by the proposed installation of 1-foot-high flashboards; (3) an existing powerhouse to contain a 30-kW generating unit; (4) a proposed 30-foot-long, 2.4-kV transmission line; and (5) appurtenant facilities. The applicant estimates the average annual energy generation to be 180 MWh. The dam is owned by the Town of West Stockbridge, Massachusetts.

k. Purpose of Project: The applicant intends to sell the power produced at the site to the Massachusetts Electric Company. Applicant estimates the cost of the studies under the permit would be $4,000.

l. This notice also consists of the following standard paragrapsh: A5, A7, A9, A10, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 10187–000.

c. Date Filed: November 24, 1986.

d. Applicant : Skykomish River Hydro.

e. Name of Project: Salmon Creek Project.

f. Location: In Snoqualmie—Mt. Baker National Forest, on Salmon Creek, Snohomish County, Washington. Township 29N and Range 10E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Lawrence J. McMurtrey, 12122—196th NE., Redmon, WA 98052, (206) 885–3986.

i. Comment Date: May 1, 1987.

j. Description of Project: The proposed project would consist of: (1) Two diversion structures with inlet elevations of 2,000 feet msl; (2) a bifurcated penstock 15,000 feet long and 36 inches in diameter leading to; (3) a powerplant at elevation 1,200 feet msl containing a single turbine/genrator unit with a capacity of 2,880 kW operating at 800 feet of hydraulic head; and (4) a 4-mile-long, 115-kV transmission line. The applicant estimates that the average annual generation would be 12.6 GWh. The approximate cost of the studies under the permit would be $40,000.

k. Purpose of Project: Applicant proposes to sell the power generated at the proposed facility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

11 a. Type of Application: Conduit Exemption.

b. Project No.: 10263–000.

c. Date Filed: January 23, 1987.

d. Applicant: Three Valleys Municipal Water District.

e. Name of Project: Miramar Plant Station.

f. Location: At the Miramar Water Treatment Plant on Miramar and Padua Avenues, Claremont, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: James W. Hansen, General Manager, Three Valleys Municipal Water District, 174 West McKinley Avenue, Pomona, CA 91768, (714) 623–6681.

i. Comment Date: May 8, 1987.

j. Description of Project: The proposed project would consist of a 520-kW turbine-generator unit in the existing pipes of the water treatment plant. Applicant estimates an average annual generation of 1,972,000 kWh. The power would be used to operate equipment at the water treatment plant and the surplus would be sold to the Southern California Edison Company through transmission facilities available at the site.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

12 a. Type of Application: Conduit Exemption.

b. Project No.: 10264–000.

c. Date Filed: January 23, 1987.

d. Applicant: Three Valleys Municipal Water District.

e. Name of Project: Fulton Road Station.

f. Location: At the Fulton Water Treatment Plant on Fulton Road and Sixth Street, Pomona, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Richard W. Hansen, General Manager, Three Valleys Municipal Water District, 174 West McKinley Avenue, Pomona, CA 91768, (714) 623–6681.

i. Comment Date: May 4, 1987.

j. Description of Project: The proposed project would consist of a 300-kW turbine-generator unit in the existing pipes of the water treatment plant. Applicant estimates an average annual generation of 976,000 kWh. The power would be sold to the Sourthern California Edison Company through transmission facilities available at the site.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

13 a. Type of Application: Conduit Exemption.

b. Project No.: 10265–000.

c. Date Filed: January 23, 1987.

d. Applicant: Three Valleys Municipal Water District.

e. Name of Project: Williams Avenue Station.

f. Location: At the Reservoir and Pumping Station of La Verne's Water Department on Williams Avenue and Amherst Street, La Verne, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: James W. Hansen, General Manager, Three Valleys Municipal Water District, 174 West McKinley Avenue, Pomona, CA 91768, (714) 623–6681.

i. Comment Date: May 4, 1987.

j. Description of Project: The proposed project would consist of a powerhouse with a 350-kW turbine generator unit utilizing the existing pipes of the treatment plant. Project energy would be sold to the Southern California Edison Company through facilities available at the site. Applicant estimates an average annual generation of 2,210,000 kWh.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

14 a. Type of Application: Conduit Exemption.

b. Project No.: 10324–000.

c. Date Filed: February 13, 1987.

d. Applicant: Mesa Consolidated Water District.

e. Name of Project: Santa Ana Pressure Reducing Station.

f. Location: Water transmission pipeline at Santa Ana Pressure Reducing Station in Orange County, near Costa Mesa, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: Mr. Karl Kemp, General Manager, Mesa Consolidated Water District, 1965 Placentia Avenue, Costa Mesa, CA 92626.

i. Comment Date: May 7, 1987.

j. Description of Project: The proposed project would be located on lands owned by the Applicant and would utilize the flows of an existing 42-inch transmission pipeline. The Project would consist of a powerhouse containing three turbine generating units with a total rated capacity of 432 kw. The applicant estimates that the average annual energy output would be 1,300,000 kWh.

k. Purpose of Project: Project power would be sold to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

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, must be filed in response to and in compliance with 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 initial preliminary permit application, which has already been given, established the due date 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 applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (10) 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", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "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

States, agencies established pursuant to Federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, Federal and State agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural and other relevant resources of the State in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, 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. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. 825/ (b), that Commission findings

as to facts must be supported by substantial evidence.

All other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses 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 respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be set to the Applicant's representatives.

D2. Agency Comments

Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative.

D3a. Agency Comments

The U.S. Fish and Wildlife Service, the National Marine Fisheries 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, the National Marine Fisheries 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, the 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: April 2, 1987.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-7655 Filed 4-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-236-000 et al.]

Natural Gas Certificate Filings; Southern Natural Gas Co. et al.

Take notice that the followings filings have been made with the Commission:

1. Southern Natural Gas Company

[Docket No. CP87-236-000]

March 27, 1987.

Take notice that on March 9, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-236-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing Southern to transport natural gas on behalf of Blue Circle, Inc. (Blue Circle) and Atlanta Gas Light Company (Atlanta), acting as agent for Blue Circle, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to transport up to 2.5 billion Btu equivalent of natural gas per day on an interruptible basis on behalf of Blue Circle, and up to 2.5 billion Btu equivalent of natural gas per day on an interruptible basis for Atlanta, acting as agent for Blue Circle. Southern states that Blue Circle would purchase gas from SNG Trading Inc., and that Blue Circle and Atlanta would cause this gas to be delivered to Southern for transportation at various existing points of interconnection on Southern's contiguous pipeline system. Southern would redeliver gas to Blue Circle at the Blue Circle Meter Station in Shelby County, Alabama, for ultimate delivery to Blue Circle's plant in Roberta, Alabama, and to Atlanta at the Atlanta area delivery point for ultimate delivery to Blue Circle's plant in Atlanta, Georgia.

Southern requests that it be issued certificates for the transportation proposed in its application for terms expiring October 31, 1988.

Southern states that in accordance with its agreement with Atlanta, Atlanta would pay Southern each month for performing the proposed transportation service the following transportation rate:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to Atlanta under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD Rate Schedule on such day to Atlanta do not exceed the daily contract demand of Atlanta, the transportation rate would be 48.2 cents per million Btu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to Atlanta under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD Rate Schedule on such day to Atlanta exceed the daily contract demand of Atlanta, the transportation rate for the excess volumes would be 77.6 cents per million Btu.

Southern states that its agreement with Blue Circle provides that Blue Circle would pay Southern a transportation rate of 64.9 cents per million Btu of gas redelivered by Southern.

In addition Southern proposes to collect from Blue Circle and Atlanta the GRI surcharge of 1.52 cents per Mcf, or such other GRI funding unit or surcharge as the Commission or other governmental authority may from time to time by order of general or specific

applicability or otherwise prescribe or approve.

Southern indicates that the proposed services would be performed without detriment or disadvantage to Southern's obligation to its customers who are dependent on its general system supply.

Comment date: April 17, 1987, in accordance with Standard Paragraph F at the end of this notice.

2. Algonquin Gas Transmission Company

[Docket No. CP87-251-000]

March 31, 1987.

Take notice that on March 13, 1987, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP87-251-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity for authorization to provide sales service to an existing customer, The Connecticut Light and Power Company (CL&P), at an existing meter and regulating station near Danbury, Connecticut, where Applicant currently delivers gas to CL&P for the account of Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Applicant and Tennessee currently have in effect a gas service contract for the exchange of natural gas. Applicant states that the contract provides that Applicant deliver to CL&P, for the account of Tennessee, such daily quantities of natural gas required by CL&P, up to 510 MMBtu of natural gas per hour at CL&P's Danbury meter station, which is leased to Algonquin for operation and maintenance. Applicant states that CL&P is therefore a customer of Tennessee for the quantities of natural gas delivered at Danbury under the gas service contract. Applicant states that Tennessee is obligated to redeliver equivalent quantities of natural gas to Applicant at one or more of five specified redelivery points.

Applicant states that CL&P has requested Applicant to provide service to CL&P under Applicant's sales Rate Schedule F-1, F-2, F-3 and F-4 on a best-efforts basis at the Danbury gate station. Applicant states that no transfer of firm maximum daily quantity is requested and that the superseding service agreements between Applicant and CL&P would reflect a zero Btu delivery obligation at the Danbury gate station to reflect the interruptible nature of the service.

Comment date: April 21, 1987, in accordance with Standard Paragraph F at the end of this notice.

3. Mountain Fuel Resources, Inc.

[Docket No. CP87-243-000]

March 31, 1987.

Take notice that on March 11, 1987, Mountain Fuel Resources, Inc. (MFR), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP87-243-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon two 4-inch meter runs located at its Clear Creek and Luckey Ditch meter stations in southwestern Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MFR states that the two meter runs were constructed to measure volumes of natural gas flowing from both the Clear Creek and Luckey Ditch producing areas in Uinta County, Wyoming, into MFR's Jurisdictional Laterals Nos. 54 and 69, respectively. MFR states, however, that neither of the 4-inch meter runs is capable of accurately measuring current and projected volumes of natural gas entering MFR's interstate transmission system and, therefore, the Clear Creek and Luckey Ditch meter runs require abandonment and replacement with larger 6-inch meter runs. MFR further states that it would construct and operate the replacement meter runs in accordance with its blanket authorization issued in Docket No. CP82-491-000.

Comment date: April 21, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. Northern Border Pipeline Company

[Docket No. CP87-234-000]

March 31, 1987.

Take notice that on March 9, 1987, Northern Border Pipeline Company (Northern Border), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP87-234-000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to operate an existing side valve and to transport natural gas volumes in interstate commerce on behalf of Williston Basin Interstate Pipeline Company (Williston Basin), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Northern Border proposes to operate an existing 16-inch side valve located near Glen Ullin, North Dakota, and to transport on an interruptible basis up to 48,000 Mcf of natural gas per day on behalf of Williston Basin from Buford, North Dakota, to Glen Ullin, North Dakota. If operating conditions allow, Northern Border intends to transport for Williston Basin volumes in excess of 48,000 Mcf of natural gas per day that Williston Basin makes available. In order to accomodate the receipt of gas at Glen Ullin, Williston Basin shall install the necessary interconnect and measurement facilities pursuant to its blanket certificate in Docket No. CP82-487-000, *et al.*

Williston Basin states that the proposed transportation by Northern Border will relieve a capacity problem on its system during periods of low system sales. The majority of gas produced in Williston Basin's supply area is gas associated with oil production. If no transportation is available for this gas, either oil production will have to be curtailed or the gas would have to be flared.

Northern Border proposes to assess Williston Basin a monthly charge designed to recover, on a unit basis, Northern Border's full cost-of-service.

Comment date: April 21, 1987, in accordance with Standard Paragraph F at the end of this notice.

5. Phillips Gas Pipeline Company

[Docket No. CP87-249-000]

March 31, 1987.

Take notice that on March 12, 1987, Phillips Gas Pipeline Company (Phillips Gas) 800-A Plaza Office Building, Bartlesville, Oklahoma 74004, filed in Docket No. CP87-249-000 an application pursuant to section 7(c) of the Natural Gas Act for authorization to construct and operate certain replacement sections of its Southern Oklahoma Gathering System (SOGS) pipeline with thicker walled pipe that would permit the pipeline to be operated at a higher maximum allowable operating pressure (MAOP), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Phillips Gas requests Commission authorization for the replacement of approximately 7,550 feet of its 30-inch SOGS pipeline in four seperate locations in Bryan, Johnston, Pontotoc and Seminole Counties, Oklahoma. It is stated that Phillips Gas SOGS pipeline is limited to a MAOP of 487 psig as prescribed by the Minimum Federal Safety Standards of the Department of Transportation (49 CFR Part 192) and by replacing certain segments of the pipeline located in Class 3 locations[1] in

[1] Class 3 location classis described as those areas subdivided for residential or commercial use with

Continued

these counties the overall pipeline could be operated at a MAOP of 584 psig thereby increasing the through put capacity of the pipeline by 24,000 Mcf of gas per day. Phillips Gas states that the additional capacity will be used for the firm and interruptible transportation of gas for other customers pursuant to Commission Order No. 436 and Part 284 of the Regulations. Phillips Gas indicates the proposed replacement program and upgrading of the four segments of the SOGS pipeline is estimated to cost $1,119,000.

Comment date: April 21, 1987, in accordance with Standard Paragraph F at the end of this notice.

6. Southern Natural Gas Company, South Georgia Natural Gas Company

[Docket No. CP86-401-003]

March 31, 1987.

Take notice that on March 12, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, and South Georgia Natural Gas Company (South Georgia), P.O. Box 1279, Thomasville, Georgia 31792, collectively referred to as Applicants, filed in Docket No. CP86-401-003 a petition to amend the order issued June 13, 1986, as amended, pursuant to section 7(c) of the Natural Gas Act so as to authorize Applicants to increase the daily transportation quantity for the end-user, Engelhard Corporation (Engelhard), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that by the order issued June 13, 1986, as amended, the Commission authorized Southern to transport on an interruptible basis, for a term expiring June 13, 1987, up to 6 billion Btu equivalent of gas per day on behalf of South Georgia acting as agent for Engelhard under the terms and conditions set forth in a transportation agreement between Southern and South Georgia dated March 13, 1986 (Southern agreement). It is stated that pursuant to a transportation agreement between Engelhard and South Georgia dated March 11, 1986 (South Georgia agreement), South Georgia agreed to transport Engelhard's gas and to act as agent in arranging for the transportation of the gas through Southern's pipeline system. Applicants indicate that the orders authorize Southern to receive gas for transportation at the various existing points of delivery on Southern's contiguous pipeline system specified in Exhibit A to the Southern agreement and redeliver it to South Georgia at the interconnection of Applicant's facilities located in Lee County, Alabama. It is further indicated that the South Georgia agreement provides that South Georgia would redeliver the gas to Engelhard at the Engelhard Meter Station located at mile post 2.215 on South Georgia's Line No. 17 in Decatur County, Georgia.

It is stated that Engelhard has recently informed Applicants that its natural gas requirements at its plant in Attapulgus, Georgia, exceed the existing transportation quantity set forth in the Southern and South Georgia agreements and authorized by the Commission and that because of this increased need, Engelhard has arranged to obtain additional supplies of natural gas. Applicants state that in order to provide transportation of these additional sources of gas, Applicants have entered into an amendment to the Southern agreement dated December 2, 1986, and Engelhard and South Georgia have entered into an amendment to the South Georgia agreement dated December 2, 1986, whereunder, subject to the receipt of all necessary governmental authorizations, the transportation quantity of 6 billion Btu equivalent of gas per day would be increased to 10 billion Btu equivalent of natural gas per day. Applicants therefore request that the Commission amend the certificate authorization granted June 13, 1986, in Docket No. CP86-401-000, as amended, to authorize Applicants to transport up to 10 billion Btu equivalent per day in accordance with the terms and conditions of the Southern and South Georgia amendments. It is stated that all other aspects of the original authorized service would remain the same.

Comment date: April 21, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

7. United Gas Pipe Line Company

[Docket No. CP87-244-000]

March 31, 1987.

Take notice that on March 11, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-244-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon service and related facilities located in Wharton County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United proposes to abandon deliveries and 1.43 miles of 4-inch pipeline and appurtenant facilities which were originally installed to serve Bay Prairie Aggregate Corporation (Bay Prairie) in Wharton County, Texas. United states that Bay Prairie, after having become delinquent in its payments to United, went bankrupt and its plant was dismantled. United states, however, that its metering facilities remain in place, locked on location. United further states that deliveries of direct sale gas were last made by United to Bay Prairie on September 10, 1975.

United explains that on April 8, 1986, the current land owners of the property across which a portion of United's 4-inch pipeline had been laid, entered into a settlement at which time United agreed to abandon in place the portion of pipeline located on the landowners' properties which will be deemed sold, transferred and conveyed to the landowner who has agreed to accept all benefits and burdens attendant thereto. United states that it does, however, intend to salvage the metering facilities. United estimates the cost of removal of such facilities would be $4,690 with a salvage value of $1,400.

Comment date: April 21, 1987, in accordance with Standard Paragraph F at the end of this notice.

8. Phillips Gas Pipeline Company

[Docket No. CP87-248-000]

March 31, 1987.

Take notice that on March 12, 1987, Phillips Gas Pipeline Company (Phillips Gas) 800-A Plaza Office Building, Bartlesville, Oklahoma 74004, filed in Docket No. CP87-248-000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing Phillips Gas to transport natural gas on behalf of others pursuant to Order No. 436, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Phillips Gas indicates that it intends to transport natural gas on behalf of all shippers and elects to become a transporter under the terms and conditions of the Commission's Order No. 436, issued October 9, 1985, in Docket No. RM85-1-000. Phillips Gas states that it accepts and would comply with the conditions in paragraph (c) of Section 284.221 of the Commission's Regulations which paragraph refers to Subpart A of Part 284 of the Commission's Regulations. Phillips Gas states that it filed on March 2, 1987, in Docket No. RP87-47-000 its FERC Gas Tariff, Original Volume No. 1 which includes maximum and minimum rates for firm and interruptible service for purposes of section 311 of the Natural

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the prevalent height of the buildings of three stories or less.

Gas Policy Act and Subpart B of Part 284 of the Commission's Regulations.

Comment date: April 21, 1987, in accordance with Standard Paragraph F at the end of this notice.

9. Southern Natural Gas Company

[Docket No. CP87-241-000]

March 31, 1987.

Take notice that on March 10, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-241-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity with pre-granted abandonment authorization, authorizing the transportation of natural gas on behalf of the City of Warner Robins, Georgia (Warner Robins), acting as agent for the transportation of natural supplies for Anchor Glass Container Corporation (Anchor Glass), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that it has been advised that Anchor Glass has entered into gas sales contracts to purchase natural gas from Arco Oil and Gas Company, Amoco Production Company and SNG Trading Inc., (Sellers) in order to serve the natural gas requirements of its plant in Warner Robins, Georgia. In order to effectuate delivery of the gas purchased, Anchor Glass has entered into an agreement with Warner Robins, wherein Warner Robins has agreed to transport through its facilities the gas purchased by Anchor Glass to its plant, and in conjunction therewith, to obtain as agent for Anchor Glass the transportation of said gas through Southern's pipeline system, it is stated.

Southern proposes to transport on an interruptible basis up to 5 billion Btu equivalent of gas per day purchased by Anchor Glass. Southern states that the term of the proposed limited-term certificate would expire on October 31, 1988.

It is stated that Warner Robins would cause gas to be delivered to Southern for transportation at various existing points of delivery on Southern's contiguous pipeline system as specified in Exhibit F to the Application. Southern would redeliver to Warner Robins in Twiggs County, Georgia, an equivalent quantity of gas less 3.25 percent of such amount which would be deemed to be used as compressor fuel and company-use gas (including system unaccounted-for gas losses); less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas; and less Warner Robins' pro-rata share of any gas delivered for Warner Robins' account which would be lost or vented for any reason, it is stated.

Southern states that Warner Robins has agreed to pay Southern each month, the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to Warner Robins under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD Rate Schedule on such day to Warner Robins do not exceed the daily contract demand, the transportation rate would be 48.2 cents per MMBtu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to Warner Robins under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD Rate Schedule on such day to Warner Robins exceed the daily contract demand of Warner Robins, the transportation rate for the excess volumes would be 77.6 cents per MMBtu.

Southern would collect from Warner Robins the GRI surcharge of 1.52 cents per Mcf, or such other GRI funding unit or surcharge as hereafter prescribed by the Commission or any other governmental authority, it is stated.

Southern states that the transportation arrangement would enable Anchor Glass to diversify its natural gas supply sources and to obtain gas at competitive prices. It is further stated that Southern would obtain take-or-pay relief gas that Anchor Glass may obtain from its suppliers.

Comment date: April 21, 1987, in accordance with Standard Paragraph F at the end of this notice.

10. Southern Natural Gas Company

[Docket No. CP87-242-000]

March 31, 1987.

Take notice that on March 10, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-242-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity with pre-granted abandonment authorization, authorizing it to transport gas on behalf of the Jasper Utilities Board (Jasper), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to transport on an interruptible basis up to 5.5 billion Btu equivalent of gas per day purchased by Jasper from SNG Trading Inc., and Texican Natural Gas Company. Southern states that the term of the proposed limited-term certificate would expire on October 31, 1988.

It is stated that Jasper would cause gas to be delivered to Southern for transportation at various existing points of delivery on Southern's contiguous pipeline system as specified in Exhibit A to the agreement between Jasper and Southern dated February 18, 1987. It is stated that Southern would redeliver to Jasper in Walker County, Alabama, an equivalent quantity of gas less 3.25 percent of such amount which would be deemed to be used as compressor fuel and company-use gas (including system unaccounted-for gas losses); less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas; and less Jasper's pro-rata share of any gas delivered for Jasper's account which would be lost or vented for any reason.

Southern states that Jasper has agreed to pay Southern each month a transportation rate of 64.9 cents per MMBtu of gas redelivered by Southern. Southern would collect from Jasper the GRI surcharge of 1.52 cents per Mcf or any such other GRI funding unit or surcharge as hereafter prescribed by the Commission or any other governmental authority, it is stated.

Southern states that the transportation arrangement would enable Jasper to diversify its natural gas supply sources and to obtain gas at competitive prices. It is further stated that Southern would obtain take-or-pay relief gas that Jasper may obtain from its suppliers.

Comment date: April 21, 1986, in accordance with Standard Paragraph F at the end of this notice.

11. Southern Natural Gas Company

[Docket No. CP87-245-000]

March 31, 1987.

Take notice that on March 11, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-245-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity with pre-granted abandonment authorization, authorizing it to transport gas on behalf of the DeKalb-Cherokee Counties Natural Gas District (DeKalb-Cherokee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to transport on an interruptible basis up to 5.6 billion Btu equivalent of gas per day purchased by

DeKalb-Cherokee from SNG Trading Inc. and Tucker Operating Company. Southern states that the term of the proposed limited-term certificate would expire on October 31, 1988.

It is stated that DeKalb-Cherokee would cause gas to be delivered to Southern for transportation at various existing points of delivery on Southern's contiguous pipeline system as specified in Exhibit A to the Agreement. Southern would redeliver to DeKalb-Cherokee's meter station located in Etowah County, Alabama, an equivalent quantity of gas less 3.25 percent of such amount which would be deemed to be used as compressor fuel and company-use gas (including system unaccounted-for gas losses); less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas; and less DeKalb-Cherokee's pro-rata share of any gas delivered for DeKalb-Cherokee's account which would be lost or vented for any reason, it is stated.

Southern states that DeKalb-Cherokee has agreed to pay Southern each month, the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to DeKalb-Cherokee under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD Rate Schedule on such day to DeKalb-Cherokee do not exceed the daily contract demand of DeKalb-Cherokee, the transportation rate would be 39.9 cents MMBtu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to DeKalb-Cherokee under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD Rate Schedule on such day to DeKalb-Cherokee exceed the daily contract demand of DeKalb-Cherokee, the transportation rate for the excess volumes would be 64.9 cents per MMBtu.

Southern would collect from DeKalb-Cherokee the GRI surcharge of 1.52 cents per Mcf, or such other GRI funding unit or surcharge as hereafter prescribed by the Commission or any other governmental authority, it is stated.

Southern states that the transportation arrangement would enable DeKalb-Cherokee to diversify its natural gas supply sources and to obtain gas at competitive prices. It is further stated that Southern would obtain take-or-pay relief gas the DeKalb-Cherokee may obtain from its suppliers.

Comment date: April 21, 1986, in accordance with Standard Paragraph F at the end of this notice.

12. Southern Natural Gas Company

[Docket No. CP87-246-000]

March 31, 1987.

Take notice that on March 11, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-246-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity with pre-granted abandonment authorizing Southern to transport natural gas on behalf of Atlanta Gas Light Company (Atlanta), acting as agent in arranging for the transportation of natural gas supplies for The Briggs Plumbingware, Inc., a Division of J.P. Industries (Briggs), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that it has been advised that Briggs has entered into a gas sales contract to purchase natural gas from Entrade Corporation (Entrade) in order to serve the natural gas requirements of its plant in Atlanta, Georgia. In order to effectuate delivery of the gas purchased, Briggs has entered into an agreement with Atlanta wherein Atlanta has agreed to transport through its facilities the gas purchased by Briggs to its plant, and in conjunction therewith, to obtain as agent for Briggs the transportation of said gas through Southern's pipeline system.

Southern proposes to transport on an interruptible basis up to .325 billion Btu equivalent of gas per day purchased by Briggs. Southern states that the term of the limited-term certificate would expire on October 31, 1988.

It is stated that Atlanta would cause gas to be delivered to Southern for transportation at various existing points of delivery on Southern's contiguous pipeline system as specified in Exhibit F to the Application. Southern would redeliver to Atlanta at the Atlanta Area Delivery Point an equivalent quantity of gas less 3.25 percent of such amount which would be deemed to be used as compressor fuel and company-use gas (including system unaccounted-for gas losses); less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas; and less Atlanta's pro-rata share of any gas delivered for Atlanta's account which would be lost or vented for any reason, it is stated.

Southern states that Atlanta has agreed to pay Southern each month the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to Atlanta under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD Rate Schedule on such day to Atlanta do not exceed the daily contract demand of Atlanta, the transportation rate would be 48.2 cents per MMBtu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to Atlanta under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD Rate Schedule on such day to Atlanta exceed the daily contract demand of Atlanta, the transportation rate for the excess volumes would be 77.6 cents per MMBtu.

Southern would collect from Atlanta the GRI surcharge of 1.52 cents per Mcf, or such other GRI funding unit or surcharge as hereafter prescribed by the Commission or any other governmental authority, it is stated.

Southern states that the transportation arrangement would enable Briggs to diversify its natural gas supply sources and to obtain gas at competitive prices. It is further stated that, Southern would obtain take-or-pay relief gas that Briggs may obtain from its suppliers.

Comment date: April 21, 1987, in accordance with Standard Paragraph F at the end of this notice.

13. United Gas Pipe Line Company

[Docket No. CP87-244-000]

March 31, 1987.

Take notice that on March 11, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-244-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon service and related facilities located in Wharton County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United proposes to abandon deliveries and 1.43 miles of 4-inch pipeline and appurtenant facilities which were originally installed to serve Bay Prairie Aggregate Corporation (Bay Prairie) in Wharton County, Texas. United states that Bay Prairie, after having become delinquent in its payments to United, went bankrupt and its plant was dismantled. United states, however, that its metering facilities remain in place, locked on location. United further states that deliveries of

direct sale gas were last made by United to Bay Prairie on September 10, 1975.

United explains that on April 8, 1986, the current landowners of the property across which a portion of United's 4-inch pipeline had been laid, entered into a settlement at which time United agreed to abandon in place the portion of pipeline located on the landowners' properties which will be deemed sold, transferred and conveyed to the landowner who has agreed to accept all benefits and burdens attendant thereto. United states that it does, however, intend to salvage the metering facilities. United estimates the cost of removal of such facilities would be $4,690 with a salvage value of $1,400.

Comment date: April 21, 1987, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-7590 Filed 4-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF87-329-000]

Ketchikan Pulp Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

April 1, 1987.

On March 18, 1987, Ketchikan Pulp Company, P.O. Box 6600, Ketchikan, Alaska 99901, submitted for filing with the Federal Energy Regulatory Commission an application for certification of a facility as a qualifying cogeneration facility pursuant to §292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping cycle cogeneration facility will be located near Ketchikan, Alaska. The facility consists of two power boilers, four heat recovery boilers, one single extraction condensing turbine generator, one double extraction turbine generator, and one double auto-extraction condensing single flow exhaust-turbine generator. Thermal energy recovered from the facility in the form of steam will be used for pulp process temperature control, processing and drying pulp, and for other industrial process applications. The electric power production capacity of the facility will be approximately 38 MW. The primary energy source for the facility will be red liquor, hog fuel and No. 6 fuel oil. No. 6 fuel oil will be used as a supplemental fuel.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be serve on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-7657 Filed 4-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF87-300-000]

Red Lion Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

April 1, 1987.

On March 20, 1987, Red Lion Corporation (Applicant), of 4001 Main St., Vancouver, Washington 98663, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in the Red Lion Hotel at 3050 Bristol Street, Costa Mesa, California. The facility will consist of two internal combustion engine-generator units. The primary energy source for the facility will be natural gas. Thermal energy recovered from the jacket cooling water and exhaust will be used for space heating, pool heating, and domestic hot water. The electric power production capacity of the facility will be 460 kilowatts. Installation of the facility was expected to begin in February 1986.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practices and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-7658 Filed 4-6-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-381-000 et al.]

National Cooperative Refinery Association; Applications for Abandonment With Limited-Term Pregranted Abandonment for Three Years for Sales Under Small Producer Certificate

March 31, 1987.

The Applicant listed herein has filed applications pursuant to section 7 of the Natural Gas Act for authorization to abandon service. Applicant further requests limited-term pregranted abandonment for three years to make sales for resale in interstate commerce of the released gas under its small producer certificate. Details are shown in the applications and in the attached tabulation.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order Nos. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Accordingly, persons desiring to be heard or to make any protest with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecesary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and Location	Price per Mcf	Pressure base
CI87-381-000, B, Mar. 17, 1987.	National Cooperative Refinery Association, 1775 Sherman Street, Suite 3000, Denver, Colorado 80203.	El Paso Natural Gas Company, Section 16-T33N-R9W Ignacio Blanco Field, La Plata County, Colorado.	(1 2)	
CI87-382-000, B, Mar. 17, 1987.	.....do.....	.....do.....	(1 3)	

[1] Applicant, a small producer certificate holder in Docket No. CS69-32, is filing to abandon sales to El Paso. By letter agreement dated February 1, 1987, El Paso and Applicant have permanently released on another from further obligations under the contract.

In support of its application Applicant states that El Paso has reduced its takes of gas such that production from the wells has been shut-in since the first week in February 1987. The well produces NGPA section 104 gas. The last effective rate was $1.242 per MMBtu. Applicant proposes to offer this gas to alternate buyers in the spot market.

Applicant also requests pregranted abandonment for a period of three years for sales under its small producer certificate.

[2] Involves an October 28, 1955, contract which covers the sale of gas to El Paso from the So. Ute #2-16 Well in the SW/4 of Section 16. The production capability is 70 Mcf/d.

[3] Involves an January 18, 1956, contract which covers the sale of gas to El Paso from the So. Ute #3-16 Well in the SE/4 of Section 16 and the So. Ute #4-16 in the NW/4 of Section 16. The production capability is 450 Mcf/d.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 87-7656 Filed 4-6-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. G-9262-004, G-18615-000, CP64-249-000, CP65-284-000]

Florida Gas Transmission Co.; Further Notice of Petition To Amend

April 1, 1987.

Take notice that on February 17, 1987, Florida Gas Transmission Company (Petitioner), P.O. Box 1188, Houston, Texas, 77251-1188 Filed in Docket Nos. G-9262-004, G-18615-000, CP64-249-000, CP65-284-000 a petition to amend the Commission's order issued in Docket Nos. G-9262, as amended, G-18615, CP64-294, and CP65-284 so as to authorize the delivery of all or part of the current daily demand for gas of certain direct sales customers that use the gas for the generation of electricity to the plants of other direct sales customers that use the gas for the generation of electricity, and to declare that certain aspects of the proposed transaction are not subject to the Commission's jurisdiction under the Natural Gas Act, all as more fully set forth in the petition to amend which is on file with the Commision and open to public inspection.

Petitioner explains that it is currently making direct sales of natural gas to Fort Pierce Utilities Authority, the City of Gainesville, the City of Homestead, Kissimmee Utility Authority, the City of Lakeland, Orlando Utilities Commission, Sebring Utilities Commission, the City of Starke, the City of Tallahassee and the City of Vero Beach (Gas Users) under the direct sales contracts all dated January 1, 1986. Petitioner states that the transportation service necessary to permit the direct sales to the Gas Users and to Florida Power Corporation was authorized in the captioned dockets. By this petition to amend, Petitioner requests authority to deliver gas for the account of any of the Gas Users, including Florida Power Corporation, to any of the alternative delivery points identified in Appendix A to this notice.

Petitioner states further that the Gas Users would retain title to all gas delivered for the account of the Gas Users and that all gas so delivery would be used to generate electricity for the Gas Users. Petitioner alleges that the proposed change in service would permit the Gas Users to use their natural gas in the generating equipment of other utilities to achieve more economic generation of electricity, more environmentally compartible generation of electricity and/or better conservation of energy than they would achieve by

using natural gas in their generating equipment.

Based upon representations by each of the Gas Users that the title to all gas delivered to the alternative delivery points would remain with those Gas Users and that all such gas so delivered would be used to generate electric power for the Gas User's customers, Petitioner further requests a declaration by the Commission that the deliveries for the account of the Gas Users for use in the facilities of another customer would not cause the sale by Petitioner to the Gas Users to be considered as a sale for resale under the Natural Gas Act and that Petitioner's sales rates to the direct sale customers would not be regulated by the Commission.

On March 6, 1987, Petitioner filed a statement identifying certain errors in the Notice of Petition to Amend issued on March 5, 1987, and the Petition to Amend filed on February 17, 1987. Petitioner explains that Exhibit Z-2 to the Petition to Amend and Exhibit A to the Notice of Petition to Amend, erroneously identified the Deerhaven Plant as a delivery point to the City of homestead and omitted the City of Homestead Municipal Power Plant. Petitioner states that the Deerhaven Plant is actually a second delivery point to the City of Gainesville and the delivery point for the City of Homestead is at their Municipal Power Plant. In addition, Petition has made certain grammatical changes to the footnote in Appendix A of the Notice of Petition to Amend.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 22, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426 a motion to interevene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to interevene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

APPENDIX A—LIST OF ALTERNATIVE DELIVERY POINTS

Customer	Alternate Delivery Points[1]
City of Gainesville	Kelly Plant, Deerhaven Plant.
City of Homestead	City of Homestead Municipal Power Plant.
City of Kissimmee	Kissimmee Municipal Generating Plant.
City of Lakeland	Larsen Plant, McIntosh Plant.
City of Starke	Starke Municipal Generating Plant.
City of Tallahassee	Tallahassee West Plant, St. Marks Plant.
City of Vero Beach	Vero Beach Municipal Power Plant.
Ft. Pierce Utilities Auth.	Ft. Pierce Power Plant.
Orlando Utilities Comm.	Highland Plant, Indian River Plant.
Sebring Utilities Comm.	Sebring Power Plant.
Florida Power Corporation.	Bartow, Turner, Avon Park, Higgins.

[1] All of the delivery points listed are proposed to be added as delivery points for each customer listed.

[FR Doc. 87-17659 Filed 4-6-87; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AAA-FRL-3181-7]

EPA Master List of Debarred, Suspended or Voluntarily Excluded Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA master list of debarred, suspended, or voluntarily excluded persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter the names of, and other information concerning, those parties debarred, suspended, or voluntarily excluded from participation in EPA assisted programs by EPA action under Part 32. Assistance (grant and cooperative agreement) receipients and contractors under EPA assistance awards may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for general informational purposes only and is not to be relied on in determining a person's current eligibility status. A comprehensive list, updated weekly, is available in each Regional Office. Inquiries concerning the status of any individual, organization, or firm should be directed to EPA's Regional or Headquarters office for grants administration that normally serves you.

DATE: This short list is current as of March 23, 1987.

FOR FURTHER INFORMATION CONTACT: Frank Dawkins, of the EPA Compliance Staff, Grants Administration Division, at (202) 475-8025.

Dated: March 25, 1987.

Harvey G. Pippen, Jr.,

Director, Grants Administration Division (PM-216).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
A.C. Lawrence Leather Company, Inc. (Danvers, MA)	83-0007-00	D	04-12-84	04-11-87	§ 32.200(a)(c)(i).
A.F. Beil Electric Company, Inc. (Youngstown, OH)	85-0014-00	D	06-27-85	06-26-88	§ 32.200(a).
Altman, Larry L. (Charleston, SC)	85-0063-03	S	07-29-85	OPEN	§ 32.200(b).
American Recovery Co., Inc. (Glen Burnie, MD)	86-0011-00	D	08-20-86	08-19-89	§ 32.200(f)(i).
Applied Science Distributors (Pensacola, FL)	87-0013-00	S	02-05-87	OPEN	§ 32.200(a)(i).
Averill, Ernest Jr. (Fort Myers, FL)	83-0066-06	D	12-02-83	10-29-88	§ 32.200(b).
Azzil Trucking Co., Inc. (Roslyn, NY)	85-0008-02	D	09-11-86	09-10-89	§ 32.200(a)(b).
Barber, Lawrence (Hazelwood, NC)	83-0007-05	D	04-12-84	04-11-87	§ 32.200(a)(c)(i).
Barnum, James Charles (Utica, MI)	86-0010-01	D	12-10-85	12-09-88	§ 32.200(a).
Batzer Construction Co., Inc. (St. Cloud, MN)	85-0052-00	S	03-07-86	OPEN	§ 32.300(b).
Batzer, Bruce (St. Cloud, MN)	85-0052-01	S	03-07-86	OPEN	§ 32.300(b).
Batzer Robert (St. Cloud, MN)	85-0052-02	S	03-07-86	OPEN	§ 32.300(b).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Beckham, Charles (Detroit, MI)	84-0030-02	D	02-24-86	07-30-89	§ 32.200(a)(b).
BECO, Inc. (HighPoint, NC)	85-0017-01	VE	12-10-85	12-09-88	§ 32.200(a)(3).
Bell, Bobby (Sulphur, LA)	85-0071-01	D	03-06-86	03-05-89	§ 32.200(a)(b).
Bell, Edwin (Sulphur, LA)	85-0071-02	D	03-06-86	03-05-89	§ 32.200(a)(b).
Blackwelder, Ray Martin (Concord, NC)	84-0011-01	D	06-27-85	06-26-88	§ 32.200(a).
Bowers, Darralyn (Detroit, MI)	84-0030-01	D	02-24-86	05-11-89	§ 32.200(a)(b).
Boyette, Willie Eugene (Wilson, NC)	83-0044-01	D	04-15-85	04-14-87	§ 32.200(a).
Bridges, William D., Jr., (Wilmington, NC)	85-0069-01	D	04-09-86	04-08-89	§ 32.200(a).
Cannady, Nathaniel Ellis (Asheville, NC)	86-0047-01	D	03-18-86	07-15-89	§ 32.200(a)(i).
Carson, Charles (Grosse Point Woods, MI)	85-0066-00	D	03-18-86	04-25-89	§ 32.200(b).
Carson, E. Eugene Statesville, NC)	85-0004-01	D	01-06-86	01-05-89	§ 32.200(a).
City Chemicals Company, Inc. (Orlando, FL)	86-0038-02	D	10-02-86	11-23-89	§ 32.200(a)(1).
City Environmental Services, Inc. (Orlando, FL)	86-0038-03	D	10-02-86	11-23-89	§ 32.200(a)(1).
City Fuel Oil Company (Orlando, FL)	86-0038-05	D	10-02-86	11-23-89	§ 32.200(a)(1).
City Industries, Inc. (Orlando, FL)	86-0038-01	D	10-02-86	11-23-89	§ 32.200(a)(1).
Commonwealth Companies Incorporated (Lincoln, NE)	86-0100-01	S	11-12-86	OPEN	§ 32.200(a)(1).
Commonwealth Electric Company Inc. (Lincoln, NE)	86-0100-00	S	09-09-86	OPEN	§ 32.300(b).
Crane Creek Asphalt, Inc. (Owatonna, MN)	86-0024-00	VE	09-04-86	09-03-87	§ 32.200(i).
Croft, William A. (Madison, WI)	83-0047-00	D	08-20-84	08-19-87	§ 32.200(a).
Crossgrove, Richard (Pensacola, FL)	87-0013-01	S	02-05-87	OPEN	§ 32.200(a)(i).
Cryer, John P. (Baton Rouge, LA)	85-0062-03	S	07-29-85	OPEN	§ 32.300(b).
Cummins Construction Company, Inc. (Enid, OK)	86-0069-00	S	09-08-86	OPEN	§ 32.300(b).
Cusenza, Sam (Ypsilanti, MI)	85-0024-02	D	02-24-86	04-02-89	§ 32.200(a)(b).
Cuti, Vincent J., Jr. (Huntington, NY)	83-0040-03	D	04-30-85	04-29-88	§ 32.200(a).
Dellinger, Theodore C. (Monroe, NC)	84-0012-01	VE	03-12-85	03-11-88	§ 32.200(a).
Denson, David A. (Wilmington, NC)	86-0043-01	D	01-12-87	01-11-88	§ 32.200(a).
Dobson, Arthur A. (Lincoln, NE)	83-0030-01	D	08-30-85	04-18-87	§ 32.200(i).
Domanski, Gary Henry (Utica, MI)	86-0010-02	D	12-10-85	12-09-88	§ 32.200(a).
Driscoll, John William (Dundale, MD)	86-0011-02	D	10-15-86	10-14-89	§ 32.200(f)(i).
Dykes, Lamar D. (Nederland, TX)	85-0071-03	D	03-06-86	03-05-89	§ 32.200(a)(b).
Enmanco (Utica, MI)	86-0010-00	D	12-10-85	12-09-88	§ 32.200(a).
Environmental Management Corporation (Utica, MI)	86-0010-00	D	12-10-85	12-09-88	§ 32.200(a).
Environmental Technology of America, Inc. (Wilbraham, MA)	86-0071-00	D	02-05-87	02-04-90	§ 32.200(a).
Fields, Leroy (Pensacola, FL)	87-0013-02	S	02-05-87	OPEN	§ 32.200(a).
Fischback & Moore, Inc. (Dallas, TX)	84-0023-00	D	01-15-86	10-19-87	§ 32.200(a).
Floyd D. Stuckey & Associate (Winfield, KS)	84-0028-00	D	08-26-85	08-25-88	§ 32.200(a).
Foley, Bancroft T. (Washington, DC)	86-0004-03	D	03-07-86	03-06-89	§ 32.200(a).
Franklin Wiring Co. (Youngstown, OH)	85-0044-00	D	09-04-85	09-03-88	§ 32.200(a)(3).
FSA Engineering Consultants (Winfield, KS)	84-0028-00	D	08-26-85	08-25-88	§ 32.200(a).
Geuther, Herbert G. (Philadelphia,PA)	86-0004-04	D	03-07-86	03-06-89	§ 32.200(a).
Goodspeed, Robert (North Hampton, NH)	83-0007-02	D	04-12-84	04-11-87	§ 32.200(c)(i).
Graves, George William (Wilmington, NC)	85-0069-02	D	03-05-86	03-04-89	§ 32.200(a).
Greer, Arthur (Maitland, FL)	86-0038-00	D	10-02-86	11-23-89	§ 32.200.
Gross, William R. (Big Springs, TX)	86-0002-01	D	10-06-86	10-05-89	§ 32.200(a).
Hansen, Leonard A. (St. Peter, MN)	85-0019-02	D	09-26-85	09-25-88	§ 32.200(a)(3).
Herring, Donald W. (Wilson, NC)	83-0044-01	D	10-11-84	10-10-87	§ 32.200(a).
Hi-Way Surfacing, Inc. (Marshall, MN)	85-0053-00	D	12-17-85	12-16-88	§ 32.200(a)(3).
Hochreiter, Herbert (Roslyn, NY)	85-0008-01	D	09-11-86	09-10-89	§ 32.200(a)(b).
Hodges Electric Company (Wilmington, NC)	85-0070-00	D	04-04-86	04-03-89	§ 32.200(a).
Hopper, Thomas G. (Bedford, MA)	86-0095-03	S	06-24-86	OPEN	§ 32.300(b).
Howard P. Foley, Company (Washington, DC)	86-0004-00	D	03-07-86	03-06-89	§ 32.200(a).
Hugo Schulz, Inc. (Lakefield, MN)	85-0047-00	D	05-01-86	04-30-89	§ 32.200(a).
Insulation Speciality and Supply, Inc. (Cleveland, OH)	84-0025-00	D	10-04-84	10-03-87	§ 32.200(c)(i).
J.A. LaPorte, Inc. (Arlington, VA)	86-0037-00	D	08-29-86	08-28-89	§ 32.200(a)(3).
Jerlow, John A. (Lakefield, MN)	85-0047-02	D	05-01-86	04-30-89	§ 32.200(a).
Jerpbak, Daniel R. (Owatonna, MN)	86-0024-01	D	09-25-86	09-24-89	§ 32.200(i).
Johnson, C. Theodore (Indianapolis, IN)	84-0023-04	D	03-04-86	03-03-89	§ 32.200(a)(f).
Johnson, Richard (Hinsdale, NH)	83-0007-03	D	04-12-84	04-11-87	§ 32.200(c)(i).
Jopel Contracting & Trucking Corporation (Bronx, NY)	85-0022-00	S	07-30-85	OPEN	§ 32.300(b).
Komatz Construction Co., Inc. (St. Peter, MN)	85-0019-00	D	09-26-85	09-25-88	§ 32.200(a)(3).
Komatz, Thomas P. (St. Peter, MN)	85-0019-01	D	09-26-85	09-25-88	§ 32.200(a)(3).
Krueger, Joseph (Cleveland, OH)	84-0025-01	D	10-04-84	10-03-87	§ 32.200(c)(i).
Kruse, Lloyd C. (Lakefield, MN)	85-0047-01	D	05-01-86	04-30-89	§ 32.200(a).
L&J Waste Service, Inc. (Hialeah, FL)	85-0079-02	D	12-19-86	12-18-89	§ 32.200(a)(i).
Laney, Stuart D., Jr. (Wilmington, NC)	87-0039-00	D	01-12-87	07-11-87	§ 32.200(a).
Law, David P. (Greenwell Springs, LA)	85-0064-00	S	07-29-85	OPEN	§ 32.300(b).
Law, Theresa McBeth (Greenwell Springs, LA	85-0064-01	S	07-29-85	OPEN	§ 32.300(b).
Lee, Herbert P., III. (Sumter, SC)	84-0013-01	VE	02-14-85	12-31-87	§ 32.200(a).
Lench, Frank P. (Lafayette, CA)	86-0004-01	D	03-07-86	03-06-89	§ 32.200(a).
Leyendecker Highway Contractors, Inc. (Laredo, TX)	86-0014-00	D	07-17-86	03-25-88	§ 32.200(a).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Lizza Industries, Inc. (Roslyn, NY)	85-0008-00	D	09-11-86	09-10-89	§ 32.200(a)(b).
Lofgren, Sven (Lincoln, NE)	87-0014-01	S	11-12-86	OPEN	§ 32.200(i).
Marshall, Weymouth (Gloucester, MA)	83-0007-01	D	04-12-84	04-11-87	§ 32.200(c)(i).
Masselli, William P. (Bronx, NY)	85-0022-02	S	07-30-85	OPEN	§ 32.300(b).
McDowell Contractors, Inc. (Nashville, TN)	84-0014-00	VE	12-23-85	12-22-88	§ 32.200(a).
McGonagle, Joseph D. (Everett, MA)	86-0041-01	VE	11-17-86	11-16-87	§ 32.200(a).
Midhampton Asphalt (Roslyn, NY)	85-0008-03	D	09-11-86	09-10-89	§ 32.200(a)(b).
Modern Electric Co. (Statesville, NC)	85-0004-00	D	01-06-86	01-05-89	§ 32.200(a).
Moore, Gray E. (Jr.) (Greenwood, SC)	86-0108-00	D	08-19-86	08-18-89	§ 32.200.
Moorehead, Dennis, L. (Graniteville, SC)	84-0006-01	D	01-11-85	01-10-88	§ 32.200(a).
Moorse, Lawrence (Marshall, MN)	85-0053-01	D	12-17-85	12-16-88	§ 32.200(a)(3).
Mystic Bituminous Products Company, Inc. (Everett, MA)	86-0041-00	VE	11-17-86	11-16-87	§ 32.200(a).
Neal, George D. (Hamden, CT)	86-0040-01	VE	01-09-87	01-08-88	§ 32.200(a).
Newt Solomon, Inc. (Nashville, TN)	85-0058-00	D	10-10-85	10-09-88	§ 32.200(e)(i).
Ownes, Jerry B. (Southfield, MI)	85-0065-00	D	02-24-86	03-26-89	§ 32.200(b).
Pinney, J.A. Bruce (Bala Cynwyd, PA)	84-0023-06	D	01-15-86	03-03-89	§ 32.200(a)(f).
Pipeline Renovation Service, Inc. (Tacoma, WA)	86-0078-00	D	07-02-86	08-07-89	§ 32.200(c)(i).
Regenscheid, Charles E. (St. Peter, MN)	85-0019-03	VE	12-19-85	12-18-87	§ 32.200(a)(3).
Resource Conservation & Recovery of America, Inc. (Orlando, FL).	86-0038-04	D	10-02-86	11-23-89	§ 32.200(a)(i).
Rio Grande Construction Company (Bunkie, LA)	85-0063-00	S	07-29-85	OPEN	§ 32.300(b).
Rogers, Joseph J. (Pittsburgh, PA)	86-0004-02	D	03-07-86	03-06-89	§ 32.200(a).
Rol-Away Systems, Inc. (Hollywood, FL)	85-0079-00	D	12-19-86	12-18-89	§ 32.200(a)(i).
Rothrock Construction, Inc. (Murrells Inlet, NC)	83-0064-00	D	05-17-84	05-16-87	§ 32.200(a).
Rothrock, Steve D. (Murrells Inlet, NC)	83-0064-01	D	05-18-84	05-17-87	§ 32.200(a).
Rupp Construction Company, Inc. (Slayton, MN)	85-0048-00	D	07-17-86	07-16-89	§ 32.200(a).
Rupp, Douglas (Slayton, MN)	85-0048-01	D	07-17-86	07-16-89	§ 32.200(a).
Sarandos, Constantino (Gus) (Tacoma, WA)	86-0078-02	D	07-02-86	08-07-89	§ 32.200(c)(i).
Sarandos, Dolores K. (Tacoma, WA)	86-0078-01	D	07-02-86	08-07-89	§ 32.200(c)(i).
Sarandos, George (Tacoma, WA)	86-0078-03	D	07-02-86	08-07-89	§ 32.200(c)(i).
Saunders, George F. (High Point, NC)	85-0017-02	VE	12-10-85	12-09-88	§ 32.200(a)(3).
Sauseda, Roy (Bunkie, LA)	85-0063-02	D	07-29-85	10-13-89	§ 32.200(a)(i).
Schorr, Paul C. (III) (Lincoln, NE)	87-0014-00	S	11-12-86	OPEN	§ 32.200(i).
Seale, Leonard M. (Bedford, MA)	86-0095-02	S	06-24-86	OPEN	§ 32.300(b).
Seymour Sealing Service, Inc. (Hamden, CT)	86-0040-00	VE	01-09-87	01-08-88	§ 32.200(a).
Smith, Norman F. (Wilbraham, FL)	86-0071-01	D	02-05-87	02-04-90	§ 32.200(a).
Smith, Paul F. (Lakefield, MN)	85-0047-03	D	05-01-86	04-30-89	§ 32.200(a).
Solomon, Newt (Nashville, TN)	85-0058-01	D	10-07-85	10-06-88	§ 32.200(e)(i).
Stone, Francis, (Swanzey, HM)	83-0007-04	D	04-12-84	04-11-87	§ 32.200(a)(c)(i).
Stuckey, Floyd D. (Winfield, KS)	84-0028-01	D	08-26-85	08-26-88	§ 32.200(a).
Tallini, Robert (Atlanta, GA)	86-0046-00	D	02-26-87	08-25-87	§ 32.200(i).
Tow Brothers Const., Company (Fairmont, MN)	85-0054-00	D	01-22-86	01-21-89	§ 32.200(a).
Tow, James (Fairmont, MN)	85-0054-01	D	01-22-86	01-21-89	§ 32.200(a).
Toy, Daniel Lee (Utica, MI)	86-0010-03	D	12-10-85	12-09-88	§ 32.200(a).
Tubre Enterprises (Bunkie, LA)	85-0062-01	S	07-29-85	OPEN	§ 32.300(b).
Turbe Enterprises, Inc. (Bunkie, LA)	85-0062-00	S	07-29-85	OPEN	§ 32.300(b).
Tubre, Charles (Baton Rouge, LA)	85-0062-02	S	07-29-85	OPEN	§ 32.300(b).
Tubre, Thomas, (Bunkie, LA)	85-0063-01	S	07-29-85	OPEN	§ 33.200(a).
Tucker Brothers Contracting Co. (Pell City, AL)	83-0061-00	D	11-26-84	11-25-87	§ 32.200(a).
Tucker, Harold Ray (Pell City, AL)	83-0061-02	D	11-26-84	11-25-87	§ 32.200(a).
Tucker, Kenneth W. (Pell City, AL)	83-0061-01	D	11-26-84	11-25-87	§ 32.200(a).
Twedell, David Bruce (Gainesville, FL)	83-0020-01	D	08-30-85	08-29-87	§ 32.200(a).
Universal Engineering & Supply, Inc. (Sulphur, LA)	85-0071-00	D	03-06-86	03-05-89	§ 32.200(a)(b).
Universal Engineering (Sulphur, LA)	85-0071-05	D	03-06-86	03-05-89	§ 32.200(a)(b).
Universal Wheels, Inc. (Sulphur, LA)	85-0071-06	D	03-06-86	03-05-89	§ 32.200(a)(b).
Valentini, Joseph (Ypsilanti, MI)	85-0024-01	D	02-24-86	04-02-89	§ 32.200(a)(b).
W.V. Pangborne & Co., Inc. (Bala Cynwyd, PA)	84-0023-05	D	01-15-86	10-19-87	§ 32.200(a)(f).
Watson Electrical Construction Co. (Wilson, NC)	86-0109-00	D	12-19-86	12-18-89	§ 32.200(i).
Watson-Flagg Electric, Co., Inc. (Indianapolis, IN)	84-0023-03	D	04-28-86	10-19-87	§ 32.200(a).
Williams, G. Marvin (Asheville, NC)	86-0047-02	D	03-18-86	07-15-89	§ 32.200(i).
Wolverine Disposal, Inc. (Ypsilanti, MI)	85-0024-00	D	02-24-86	04-02-89	§ 32.200(a)(b).
Young, Frank Paul (Sr.) (Glen Burnie, MD)	86-0011-01	D	08-20-86	08-19-89	§ 32.200(f)(i).

[1] D = Debarred, S = Suspended; VE = Voluntarily Excluded.

[FR Doc. 87-7625 Filed 4-6-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3181-9]

Grant Applications for Hazardous Waste Treatment

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability.

SUMMARY: A Request for Applications (RFA), RFA #NPIR-001-87 is available. The purpose of the request is to solicit grant proposals which will result in the development of innovative, cost-effective methods for the treatment of hazardous wastes in situ. The Agency expects to fund 5 to 10 proposals for two years at a total cost of $1 million per year.

[Section 209, Superfund Amendments and Reauthorization Act 1986]

DATES: Applications must be received no later than June 1, 1987 to be considered for funding.

ADDRESS: Copies of the RFA may be obtained from: U.S. Environmental Protection Agency, ORD Publications, 26 West St. Clair Street, Cincinnati, Ohio 45268, (513) 569-7562.

FOR FURTHER INFORMATION: Questions relating to the RFA may be directed to Mr. Donald Carey at: U.S. Environmental Protection Agency, Research Grants Staff (RD-675), 401 M Street, Southwest, Washington, DC 20460, (202) 382-7445.

Dated: April 1, 1987.

Donald F. Carey,

Science Review Administrator for Environmental Engineering.

[FR Doc. 87-7623 Filed 4-6-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3181-8]

Grant Applications for Tropospheric Trace Species

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability.

SUMMARY: A Request for Applications (RFA), RFA-PC-03-87 is available. The request is for grant applications to conduct research on the sources, sinks and chemistry of tropospheric trace species, with half-lives of days to months, which can directly or indirectly affect the global radiation balance which in turn effects global climate. The Agency expects to spend $800,000 per year for three years to support six to ten projects.

[Section 103 of the Clean Air Act as amended].

DATES: Applications must be received no later than June 25, 1987.

ADDRESS: Copies of the RFA may be obtained from: U.S. Environmental Protection Agency, ORD Publications, 26 West St. Clair Street, Cincinnati, Ohio 45268, (513) 513-7562.

FOR FURTHER INFORMATION: Questions relating to the RFA may be directed to Dr. Louis Swaby at: U.S. Environmental Protection Agency, Research Grants Staff (RD-675), 401 M Street, Southwest, Washington, DC 20460, (202) 382-7445.

Dated: April 1, 1987.

Louis B. Swaby,

Science Review Administrator for Environmental Chemistry & Physics.

[FR Doc. 87-7624 Filed 4-6-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-6801 3A; FRL-3182-5]

Denial of Hearing Concerning Application To Modify the Final Suspension Order for Pesticide Products Containing Dinoseb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of hearing under Subpart D of 40 CFR Part 164.

SUMMARY: On January 20 and January 29, 1987, the Agency received evidentiary submissions from the American Frozen Food Institute (AFFI) in support of its request that the final order suspending all use of pesticide products containing dinoseb be modified to permit use of dinoseb on green peas, snap beans, and lima beans. Similar petitions were subsequently received from the Northwest Food Processors Association (NWFPA), the Oregonians for Food and Shelter (OFS), and the National Food Processors Association (NFPA). These petitions together with supporting applications submitted by the states of Oregon, Washington and Idaho under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) are being treated as petitions under Subpart D of 40 CFR Part 164 to reconsider the final suspension order concerning dinoseb products. This Notice announces that EPA has decided to deny the petitions and has declined to hold a hearing because the petitions did not meet the standard for triggering a proceeding under Subpart D of 40 CFR Part 164.

FOR FURTHER INFORMATION CONTACT:

By mail: Michael McDavit, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 1014A, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) (557-1787).

SUPPLEMENTARY INFORMATION:

I. Procedural History

On October 7, 1986, I issued a decision and emergency suspension order immediately prohibiting all further sale, distribution, and use of pesticide products containing dinoseb (2-sec-butyl-4,6-dinitrophenol) in the United States. (51 FR 36634; October 14, 1986). My decision to issue that order was based on my determination that applicators and other populations with substantial dinoseb exposure would otherwise be at significant risk for teratogenic and other adverse health effects. The information and analysis upon which that determination was based is set forth in detail in the text of my decision. As required by FIFRA section 6(c)(1), I issued on the same day a notice announcing the Agency's intent to cancel and deny all registrations for pesticide products containing dinoseb.

Four registrants subsequently submitted timely requests for an expedited suspension hearing on the question of whether or not sale, distribution, or use of dinoseb would pose on imminent hazard during the time required to conduct a cancellation hearing. These four registrants and two others also submitted timely requests for a cancellation hearing. All dinoseb products for which the registrants requested neither a suspension nor a cancellation hearing were subsequently cancelled by operation of law.

The expedited suspension hearing concerning dinoseb products commenced on October 20, 1986. On October 29, 1986, the FIFRA Science Advisory Panel met pursuant to FIFRA section 25(d) to consider the Agency's analysis of the impact of dinoseb use on health and the environment. On October 30, 1986, the four registrants who had requested an expedited hearing on the question of imminent hazard withdrew their hearing requests, resulting in the immediate entry pursuant to the terms of my October 7 decision of a final order suspending the regiatrations of their dinoseb products during the pendency of the cancellation hearing. On November 26, 1986, the Administrative Law Judge closed the docket in the expedited suspension hearing, thereby affirming that no valid requests for a hearing concerning the suspension of dinoseb products were still pending.

On January 20, 1987, the Agency received a petition from the AFFI requesting that the Agency rescind the suspension of dinoseb as applied to use on green peas, snap beans, and lima beans during the 1987 growing season. The AFFI petition covers the states of Washington, Oregon and New York and, by implication, other states as well. Additional material was received from AFFI on January 29. The NWFPA submitted a petition on February 11 to modify the suspension order with respect to, *inter alia*, green peas and snap beans grown in the states of Idaho, Oregon and Washington. On February 25, OFS petitioned EPA to modify the suspension order with respect to, *inter alia*, green peas and snap beans in Oregon and, by implication, other states in the Pacific Northwest. The NFPA submitted a petition on February 27 to modify the suspension order with respect to green peas, snap beans and lima beans in the states of Virginia, Maryland, Delaware, and New Jersey. On March 5 NFPA supplemented its petition to request use of dinoseb on green peas and snap beans in Pennsylvania. The states of Washington and Idaho submitted applications on February 5 and 6, respectively, for emergency exemptions under FIFRA section 18 to permit use of dinoseb products on peas. On February 13, 1987, the state of Oregon submitted an application for an emergency exemption to permit use of dinoseb products on snap beans and peas.

The AFFI, NWFPA, OFS and NFPA petitions and the supporting emergency exemption applications are being treated as petitions under Subpart D of 40 CFR Part 164. Because any direct communication with me concerning the registrability of dinoseb, except on the record of the pending cancellation hearing, would be an *ex parte* communication prohibited by 5 U.S.C. 557(D), all communications from the petitioners were directed to appropriate officials in the Office of Pesticides and Toxic Substances.

On January 20, 1987, the Agency also received evidentiary submissions from the American Dry Pea and Lentil Association requesting that the suspension order be lifted to permit use of dinoseb on dry peas, lentils, and chick peas in the states of Washington and Idaho. On February 18, 1987, EPA issued a Notice in the **Federal Register** (52 FR 4963) announcing its decision to hold a hearing concerning the application to modify the suspension order for dinoseb on products for use on dry peas, lentils and chick peas in Washington and Idaho. The Notice stated that, although the emergency exemption application submitted by the state of Washington also requested that dinoseb be approved for use on green peas as well as dry peas, the application did not include substantial new evidence concerning the green pea use beyond that available to the Agency at the time of the final suspension decision. (Note 1, 52 FR 4965).

Based on the information submitted by petitioners with respect to green peas, snap beans and lima beans, Dr. John A. Moore, EPA's Assistant Administrator for Pesticides and Toxic Substances, recommended that I deny these requests for a Subpart D proceeding. In order to comply with the separation of functions requirements set forth in 5 U.S.C. 554(d), his recommendation and the information and record underlying that recommendation were filed in the cancellation hearing record and served on each party to that proceeding at the same time they were transmitted to me for decision.

After considering the petitions and the Assistant Administrator's recommendation, I have decided to issue this notice denying the petitions to reconsider the final suspension of dinoseb as it applies to use on green peas, snap beans, and lima beans. The basis for my decision with respect to green peas and snap beans in the states of Idaho, Oregon and Washington is discussed in Part III of this notice. The petitions are being denied with respect to lima beans and for snap beans and green peas in states other than Idaho, Oregon and Washington because the Agency has not received supporting applications under section 18 of FIFRA. This denial is not meant to imply that, but for the lack of section 18 application, the subject petitions would necessarily have been granted. Other crops included in the petitions submitted to the Agency are still under review and are not covered by this notice.

II. Subpart D Proceedings

When the Agency receives an application under section 3 or section 18 of FIFRA to permit use of pesticide in a manner inconsistent with a prior final suspension or cancellation decision, that application constitutes a petition to the Administrator to reconsider the final suspension or cancellation order. Because of the opportunity for notice and a formal adjudicatory hearing which preceeds entry of a final suspension or cancellation order concerning a pesticide product, EPA has determined that such an order should not be modified or rescinded without affording interested parties a similar notice and opportunity for hearing concerning such modification or rescission. The procedures governing all applications to modify or reverse a previous final suspension or cancellation order are set forth in Subpart D of 40 CFR Part 164, 40 CFR 164.130 through 164.133.

When all opportunities for hearing and review with respect to an Agency decision to suspend or cancel a pesticide product have either been exercised or waived, and a final suspension or cancellation order has been entered, the Agency is entitled to rely on the finality of the order and the validity of the evidentiary rationale supporting it. Applicants seeking reconsideration of a final order should not be afforded a new adjudicatory hearing concerning the same matters which were considered or could have been considered during a prior hearing. Thus, 40 CFR 164.131(a) provides that the Administrator will grant a hearing to reconsider a prior final suspension or cancellation order when he finds that:

(1) The applicant has presented substantial new evidence which may materially affect the prior cancellation or suspension order and which was not available to the Administrator at the time he made his final cancellation of suspension determination, and (2) such evidence could not, through the exercise of due diligence, have been discovered by the parties to the cancellation or suspension proceeding prior to the issuance of the final order.

In deciding whether to initiate a hearing, the Administrator does not need to determine that the evidence submitted by the petitioner would in fact justify modification of the prior order. Rather, a decision to initiate a hearing means only that the Administrator has determined that the evidence submitted, if substantiated on the record in the hearing, may "materially affect" the evidentiary rational upon which the prior order was based. On the other hand, if the evidence submitted, even if substantiated on the record, would be unlikely to provide a basis for modification of the prior order, then a hearing would serve no purpose. In that event, the Administrator issues a notice in the **Federal Register** briefly describing the basis for his determination to deny the application.

III. Analysis of the Petitions

A. Risk Issues

The petitioners have not submitted any new information that would affect the validity of the Agency's analysis of the toxicity of dinoseb or the methodology used by the Agency to

estimate exposure to dinoseb. The petitioners submitted information concerning additional use restrictions that their members would be willing to accept that in large measure are the same or similar to risk reduction measures considered by the Agency when it initiated the emergency suspension action.

Even if all of the use restrictions suggested by the petitioners were imposed, as well as some other possible use restrictions not suggested by petitioners (e.g., prohibition of aerial spraying), the risks to unborn children from dinoseb would still be of grave concern. Nor do the suggested use practices eliminate the possibility that pregnant females may be exposed to dinoseb as bystanders from spray drift or from residues on clothing or other items contaminated with dinoseb. Further, dinoseb use poses risks of male reproductive effects and acute toxicity. (51 FR 36634, 36659; October 14, 1986).

B. Benefits Issues

The petitions include information on the benefits of dinoseb use on green peas and snap beans. This information consists mainly of unverified, conclusory statements and testimonials. In addition, petitioners submitted some limited data developed by universities and other agricultural researchers in the states of Oregon, New York, Delaware, Maryland, New Jersey, Virginia and Pennsylvania.

The benefits claimed by petitioners are much greater than indicated by the information available to the Agency at the time of the emergency suspension action. However, the Agency's analysis of the information available at the time of suspension implied that there could initially be even greater economic impacts due to the unavailability of dinoseb for green peas, since available alternatives appeared to provide pool control of certain weeds. Further, while there was expected to be a minor impact due to the unavailability of dinoseb for snap beans, the Agency's recognition of uncertainty concerning the relative efficacy of alternatives carried with it the implication that the impacts could be more substantial. The Agency's assessment with respect to the uncertain efficacy of alternatives for the snap bean use appears to be corroborated by the AFFI submission, which shows a wide variation in the efficacy of alternatives.

For the reasons stated above, the difference in estimated benefits between the Agency's notice of October 14, 1986, and the petitioners' submissions on green peas and snap beans is not of sufficient magnitude or probative value as to amount to substantial new evidence which may materially affect the dinoseb suspension order. As noted earlier, no emergency exemptions were requested with respect to lima beans. The states requesting emergency exemptions for green peas and snap beans were in the Pacific Northwest. However, the only evidentiary data submitted for this region was a summary of row crop weed control strategies prepared by the Oregon State University Extension Service. While the Agency has reviewed the studies and data submitted with respect to the use of dinoseb in New York, Delaware, Maryland, New Jersey, Virginia and Pennsylvania, the Agency questions the relevance of these data to the use of dinoseb on green peas and snap beans in the Northwest based on anticipated differences in climatic conditions and soil types.

C. Subpart D Determination

Under 40 CFR 164.131(c) the Administrator is to provide a hearing to reconsider a final suspension decision only if he determines that an application under section 3 or section 18 of FIFRA "has presented substantial new evidence which may materially affect" the prior suspension order. I conclude that the AFFI, NWFPA, OFS and NFPA petitions and applications for emergency exemption presented by Washington, Idaho and Oregon on both risk and benefits issues do not constitute the presentation of "substantial new evidence" required under EPA regulations. Therefore, I have decided to deny the applications and not to hold a hearing under Subpart D to reconsider the final suspension order for pesticide products containing dinoseb as it applies to use on green peas, snap beans, and lima beans.

Dated: April 1, 1987.

Lee M. Thomas,

Administrator.

[FR Doc. 87-7735 Filed 4-6-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Commonwealth Bancshares 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 April 27, 1987.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Commonwealth Bancshares Corporation*, Williamsport, Pennsylvania; to merge with County Bancorp, Inc., Montrose, Pennsylvania, and thereby indirectly acquire County National Bank of Montrose, Montrose, Pennsylvania. Comments on this application must be received by April 22, 1987.

2. *Commonwealth Bancshares Corporation*, Willimsport, Pennsylvania; to acquire 100 percent of the voting shares of First Bank of Troy, Troy, Pennsylvania. Comments on this application must be received by April 22, 1987.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President 230 South LaSalle Street, Chicago, Illinois 60690:

1. *EMF Corporation*, Blue Grass, Iowa; to become a bank holding company by acquiring 51 percent of the voting shares of Blue Grass Savings Bank, Blue Grass, Iowa.

2. *NBD Bancorp, Inc.*, Detroit, Michigan; to acquire 100 percent of the voting shares of NBD Battle Creek National Association, Battle Creek, Michigan, a *de novo* bank.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Wyatt Bancshares, Inc.*, Calico Rock, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Izard County, Calico Rock, Arkansas.

D. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice

President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Cando Holding Company, Inc.*, Cando North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of The First Bank Cando, N.A., Cando, North Dakota.

E. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *The First National Bankcshares, Inc.*, Tucumcari, New Mexico; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Santa Rosa, Santa Rosa, New Mexico, and The First National Bank in Tucumcari, Tucumcari, New Mexico.

Board of Governors of the Federal Reserve System, April 1, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-7591 Filed 4-6-87; 8:45 am]

BILLING CODE 6210-01-M

Omnibancorp; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 27, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Omnibancorp*, Denver, Colorado; to acquire 35.4 percent of the voting shares of C.C.B., Inc., New Central Colorado Company, and Central Bancorporation, Inc., all in Denver, Colorado, and thereby indirectly acquire First National Bank in Aspen, Aspen, Colorado; Central Bank of East Aurora, N.A., Aurora, Colorado; Central Bank of Aurora, Aurora, Colorado; Central Bank of Broomfield, Broomfield, Colorado; Central Bank of Academy Boulevard, Colorado Springs, Colorado; Central Bank of Colorado Springs, Colorado Springs, Colorado; Central Bank of Garden of the Gods, N.A., Colorado Springs, Colorado, Central Bank of Chapel Hills, N.A., Colorado Springs, Colorado, First National Bank in Craig, Craig, Colorado; Central Bank of Denver, Denver, Colorado; Central Bank of North Denver, Denver, Colorado, Central Bank of Inverness, N.A., Englewood, Colorado; First National Bank of Glenwood Springs, Glenwood Springs, Colorado; First National Bank in Grand Junction; Grand Junction, Colorado; Central Bank of Greeley, West Greeley, Colorado; Central Bank of Chatfield, Littleton, Colorado; Central Bank of Centennial, N.A., Littleton, Colorado; Central Bank of Pueblo, N.A., Pueblo, Colorado; Rocky Ford National Bank, Rock Ford, Colorado; and Central Bank of Westminster, N.A., Westminster, Colorado.

In connection with this application, Applicant also proposes to acquire Central Bancorp Life Insurance Company, Denver, Colorado, and thereby engage in underwriting life, accident, and health insurance directly related to extensions of credit by the subsidiaries of C.C.B., Inc., pursuant to § 225.25(b)(8) of the Board's Regulation Y. These activities will be conducted in Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Garfield, Jefferson, Mesa, Moffat, Otero, Pitken and Weld Counties in Colorado.

Board of Governors of the Federal Reserve System, April 1, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-7592 Filed 4-6-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Dr. MacDonald's Vitamized Feed Co., Inc.; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Dr. MacDonald's Vitamized Feed Co., Inc. The NADA provides for use of a Type A article containing 0.5 gram per pound tylosin for making Type C swine feeds. The firm requested the withdrawal of approval.

EFFECTIVE DATE: April 17, 1987.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3184.

SUPPLEMENTARY INFORMATION: Dr. MacDonald's Vitamized Feed Co., Inc., Highway 20 West, Box 1077, Fort Dodge, IA 50501, is the sponsor of NADA 96-782. The NADA provides for use of a Type A article containing 0.5 gram per pound of tylosin (as tylosin phosphate) for making Type C swine feeds for use as in 21 CFR 558.625(f)(1)(vi)(*a*). The NADA was originally approved July 30, 1975 (40 FR 31934).

In a letter dated November 17, 1986, the sponsor requested the withdrawal of approval because the product was not being manufactured.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 96-782 and all

supplements thereto is hereby withdrawn, effective April 17, 1987.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is removing those portions of the regulations that reflect this approval and is removing the firm from the list of sponsors of approved NADA's.

Dated: March 20, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-7513 Filed 4-6-87; 8:45 am]

BILLING CODE 4160-01-M

Farm Bureau Services, Inc.; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Farm Bureau Services, Inc./Agra Land, Inc. The NADA provides for use of a Type A article containing 4 or 10 gram per pound of tylosin for making Type C swine feeds. The firm requested the withdrawal of approval.

EFFECTIVE DATE: April 17, 1987.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3184.

SUPPLEMENTARY INFORMATION: Farm Bureau Services, Inc., P.O. Box 30960, Lansing, MI 48909 (or its successor, Agra Land, Inc.), is the sponsor of NADA 118-780 which provides for use of a Type A article containing 4 or 10 gram per pound of tylosin (as tylosin phosphate) for making Type C swine Feeds for use as in 21 CFR 558.625(f)(1)(vi)(*a*). The NADA was originally approved on February 1, 1980 (45 FR 7249).

In a letter dated November 19, 1986, the custodian of Farm Bureau Services, Inc./Agra Land, Inc., has informed FDA that the firm has disposed of its assets and ceased doing business, and that all applications should be canceled.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 118-780 and all supplements thereto is hereby withdrawn, effective April 17, 1987.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is removing those portions of the regulations that reflect this approval and is removing the firm from the list of sponsors of approved NADA's.

Dated: March 20, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-7514 Filed 4-6-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0208]

Bacterial Vaccines and Toxoids; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for a hearing on a proposal to revoke the product licenses for the bacterial vaccines and toxoids classified in Category IIIB by FDA in response to the recommendations of the Panel on Review of Bacterial Vaccines and Toxoids. The bacterial vaccines and toxoids for which FDA is proposing product license revocation are not marketed currently in their licensed form.

DATES: The licensees may submit written requests for a hearing to the Dockets Management Branch by May 7, 1987, and any data justifying a hearing must be submitted by June 8, 1987. Other interested persons may submit comments on the proposed revocations by June 8, 1987.

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

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, Center for Drugs and Biologics (HFN-364), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8046.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 13, 1985 (50 FR 51002), FDA published the report of the Panel on Review of Bacterial Vaccines and Toxoids (the Panel) and FDA's proposed response to the Panel's recommendations. The Panel found that for 40 products the available evidence was inadequate to document the products' safety and effectiveness. In its response to the Panel's report, FDA proposed that 36 of the products be classified in Category IIIB. FDA also proposed that 4 of the products be reclassified as safe and effective because of additional evidence received after the Panel's review.

In its response to the Panel's report, FDA announced its intention to revoke the product licenses for the bacterial vaccines and toxoids classified in Category IIIB. Since the time of the Panel's review, FDA has revoked the licenses for 29 of the products at the request of the manufacturer and, therefore, further revocation procedures will be unnecessary for these 29 products. FDA's response to the Panel's report lists 24 of the products for which manufacturers requested revocation (50 FR 51106). After the publication of the Panel's report, FDA received a request from Merck Sharp & Dohme, Division of Merck & Co., Inc., for the revocation of the product licenses for Cholera Vaccine, Diphtheria and Tetanus Toxoids and Pertussis Vaccine Adsorbed, Tetanus and Diphtheria Toxoids Adsorbed (For Adult Use), Tetanus Toxoid, and Typhoid Vaccine, License, No. 2. On January 31, 1986, FDA revoked the product licenses for these five products. In its response to the Panel's report, FDA also proposed that the following products be classified in Category IIIB:

Diphtheria Toxoid, manufactured by Istituto Sieroterapico Vaccinogeno Toscano Sclavo, License No. 238;

Tetanus Toxoid, manufactured by Massachusetts Public Health Biologics Laboratories, License No. 64;

Diphtheria Antitoxin, and Diphtheria Toxoid Adsorbed, manufactured by Michigan Department of Public Health, License No. 99; and

Diphtheria Toxoid, Diphtheria Toxoid Adsorbed, and Pertussis Vaccine, manufactured by Wyeth Laboratories, Inc., License No. 3.

The Panel recommended that the product license be revoked for each of the products above. The Panel made clear that its recommendations for revocation of licenses were based on administrative and procedural problems and were not judgments derived from a scientific evaluation of the products. The products listed above either have never been marketed in their licensed form or they have not been marketed for many years. As a result, the manufacturers did not submit supportive information or submitted incomplete or outdated information for the Panel's review. Therefore, the Panel found that the data were insufficient to classify the products as safe and effective and to determine the potential benefits and risk of the products. As announced in the December 13, 1985, proposed rule, FDA agrees with the Panel's findings and recommendations concerning the

bacterial vaccines and toxoids listed above. FDA proposed to classify these products in Category IIIB and, in accordance with 21 CFR 601.5 and 12.21(b), FDA is offering an opportunity for hearing. A licensee may submit a written request for a hearing to the Dockets Management Branch by May 7, 1987 and any data justifying a hearing must be submitted by June 8, 1987. Other interested persons may submit comments on the proposed revocation to the Dockets Management Branch by June 8, 1987. The failure of a licensee to file timely written appearance and request for a hearing constitutes an election of the licensee not to avail itself of the opportunity of a hearing concerning the proposed license revocation.

FDA procedures and requirements governing a notice of opportunity for hearing, notice of appearance and request for hearing, grant or denial of hearing, and submission of data and information to justify a hearing are contained in 21 CFR Parts 12 and 601 and 21 CFR 314.200. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information and factual analyses in the request for a hearing that there is no genuine and substantial issue of fact that precludes the revocation of the license, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the licensee requesting the hearing, making findings and conclusions that justify denying a hearing.

Two copies of any submissions are to be provided to FDA except that individuals may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. Such submissions, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 502, 701, 52 Stat. 1040–1042 as amended, 1049–1051 as amended, 1055–1056 as amended (21 U.S.C. 321, 352, and 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director and Deputy Director of the Center for Drugs and Biologics (21 CFR 5.67) (see the **Federal Register** of July 29, 1985; 50 FR 30696).

Dated: March 27, 1987.

Gerald F. Meyer,

Acting Deputy Director, Center for Drugs and Biologics.

[FR Doc. 87-7577 Filed 4-6-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87M-0073]

Cal Bionics, Inc.; Premarket Approval of BIOCURVE SOFT (Methafilcon A) Hydrophilic Contact Lens, BIOCURVE SOFT TORIC (Methafilcon A) Hydrophilic Contact Lens, and BIOCURVE SOFT EW (Methafilcon A) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Cal Bionics, Inc., Novato, CA, for premarket approval, under the Medical Device Amendments of 1976, of the BIOCURVE SOFT (methafilcon A) Hydrophilic Contact Lens, BIOCURVE SOFT TORIC (methafilcon A) Hydrophilic Contact Lens, and BIOCURVE SOFT EW (methafilcon A) Hydrophilic Contact Lens. The lenses are to be manufactured under an agreement with Kontur Kontact Lens Co., Inc., Richmond, CA, which has authorized Cal Bionics, Inc., to incorporate by reference information contained in its approved premarket approval applications for the Hydracon (methafilcon A) Contact Lens, Kontur Soft (methafilcon A) Hydrophilic Contact Lens, and Kontur Soft EW (methafilcon A) Hydrophilic Contact Lens. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by May 7, 1987.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On August 28, 1986, Cal Bionics, Inc., Novato, CA 94947, submitted to CDRH an application for premarket approval of the spherical BIOCURVE SOFT (methafilcon A) Hydrophilic Contact Lens, the BIOCURVE SOFT TORIC (methafilcon A) Hydrophilic Contact Lens, and the spherical BIOCURVE SOFT EW (methafilcon A) Hydrophilic Contact Lens. The spherical BIOCURVE SOFT (methafilcon A) Hydrophilic Contact Lens is indicated for daily wear for the correction of visual acuity in aphakic and not-aphakic persons with nondiseased eyes that are myopic or hyperopic. The lens may be worn by persons who exhibit refractive astigmatism of 1.50 diopters (D) or less that does not interfere with visual acuity. The lens ranges in spherical powers from −20.00 D to +20.00 D. The BIOCURVE SOFT TORIC (methafilcon A) Hydrophilic Contact Lens is indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic, hyperopic, or have refractive astigmatism not exceeding 5.00 D that does not interfere with visual acuity. The lens ranges in powers from −20.00 D to +10.00 D. The BIOCURVE SOFT EW (methafilcon A) Hydrophilic Contact Lens is indicated for extended wear from 1 to 21 days between removals for cleaning and disinfection as recommended by the eye care practitioner. The lens is indicated for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic. The lens may be worn by persons who exhibit refractive astigmatism of 1.50 D or less that does not interfere with visual acuity. The lens ranges in powers from −10.00 D to +10.00 D. These lenses are to be disinfected using a chemical lens care system. The application includes authorization from Kontur Kontact Lens, Co., Inc., Richmond, CA, to incorporate by reference the information contained in its approved premarket approval applications for the Hydracon (methafilcon A) Contact Lens, Kontur Soft (methafilcon A) Hydrophilic Contact Lens, and Kontur Soft EW (methafilcon A) Hydrophilic Contact Lens (Docket Nos. 85M-0409, 86M-0109, and 86M-0304).

On July 30, 1982, January 24, 1986, and May 23, 1986, the Ophthalmic Devices Panel, an FDA advisory committee reviewed and recommended approval of the application. On February 19, 1987, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contract David M. Whipple (HFZ–460), address above.

The labeling of the contact lenses states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive lebeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than polymethylmethacrylate, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41–58), as amended. Accordingly, whenever CDRH publishes a notice in the **Federal Register** of approval of a new solution for use with an approved lens, each contact lens manufacturer or PMA holder shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by leter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 7, 1987, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs, (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: March 25, 1987.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 87–7578 Filed 4–6–87; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of May 1987:

Name: National Advisory Council on the National Health Service Corps.

Date and Time: May 4–5, 1987, 8:30 a.m.–5:00 p.m.

Place: Hyatt Regency Hotel, 623 Union Street, Nashville, Tennessee 37219.

Site visits will be made to a network of services for the homeless in the Nashville area on May 5, no transportation will be provided for visistors and observers.

The entire meeting is open to the public.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provisions of the legislation.

Agenda: The agenda will include a discussion of the homeless activities in Region IV, overall NHSC policies, and other topics at the pleasure of the Council.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mrs. Anna Mae Voigt, National Health Service Corps, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 6–40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301–443–4814.

Agenda items are subject to change as priorities dictate.

Dated: March 31, 1987.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 87–7579 Filed 4–6–87; 8:45 am]

BILLING CODE 4160–15–M

Annual Report of Federal Advisory Committee; Notice of Filing

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Resources and Services Administration Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Council on Nurse Training

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, Room G–400, 330 Independence Avenue, SW., Washington, DC 20201, Telephone (202) 245–6791. Copies may be obtained from Dr. Mary S. Hill, Executive Secretary, National Advisory Council on Nurse Training, Bureau of Health Professions, Health Resources and Services Administration, Room 5C–04, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6193.

Dated: March 2, 1987.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 87–7581 Filed 4–6–87; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Availability of Grants for Minority Community Health Coalition Demonstration Projects

AGENCY: Office of Minority Health/ Office of the Assistant Secretary for Health, HHS.

ACTION: Notice of availability of funds and request for applications under the Office of Minority Health's Program of Grants for Minority Community Health Coalition Demonstration Projects.

SUMMARY: The Office Of Minority Health announces the availability of grants to provide support for a period which will not exceed two years for project which demonstrate methods of developing community health coalitions which can effectively promote risk factor reduction within minority populations.

Background

The Report of the Secretary's Task Force on Black and Minority Health identified six health problems that account for 80 percent of the excess deaths among minorities. Excess deaths are the difference between actual minority deaths and the number of deaths which would have been expected if the minority population had the same age- and sex-specific death rates as the white population. Every minority group does not suffer from excess deaths in each category. However, the six health problems became prority issue areas for Task Force study. Listed in alphabetical order, they are:

- Cancer
- Cardiovascular disease and stroke
- Chemical dependency, measured by death due to Cirrhosis
- Diabetes
- Homicide, Suicide, and Accidents (unintentional injuries)
- Infant mortality.

The risk factors for these causes of death involve behavior or preventable conditions which are potentially modifiable but are in some cases resistant to change. In order to modify health behavior, impact must often be made on the individual which may be greater than that achieved by health information or media campaigns alone. In addition, conventional health promotion activities are frequently not effective in reaching minority populations. It appears that change can be achieved by community-based awareness, support, and exhortation, particularly if such a community health campaign is carried out using familiar, as well as influential institutions such as churches and schools, and organized by recognized community leaders.

Morever, in many cases it may be insufficient to simply pressure individuals to change behavior without offering positive alternatives. For example, if teens are being encouraged to avoid drugs or to avoid pregnancy it may also be important to organize constructive alternatives such as career-oriented activities.

The following is a list of major risk factors for each cause of death, some of which are involved in several health problems:

Cancer: Tobacco, Diet, Alcohol, Environment.

Cardiovascular Disease and Stroke: Hypertension, Diet, Tobacco, Sedentary Life Style, Obesity.

Chemical Dependency: Direct Behavioral Outcome of Substance Abuse.

Diabetes: Obesity.

Infant Mortality: Smoking, Alcohol, Late or No Prenatal Care, Teen Pregnancy, Nutrition.

Homicide: Alcohol, Drugs, Poor Conflict Resolution Skills.

Suicide: Alcohol, Drugs, Depression.

Unintentional Injuries: Alcohol, Drugs, Environmental Hazards.

Many of the risk factors are normally the interest of a number of components of communities. In addition, a number of community organizations have different kinds of access to influence the behavior of an individual.

This announcement is the second annual notice for this grant program. In Fiscal Year 1986 the Office of Minority Health received over 160 applications of which 65 were approved and six (6) grants awarded for a total of $1.035 million. Many applications were disapproved because of a lack of documentation. Several applications may have been in the approval range with some technical assistance. Others would have required much more work before being submitted. Given the time and resources involved in developing and writing a proposal, potential applicants should give serious consideration as to whether they should apply at this time or wait until they develop a stronger expertise in developing and writing their proposals. Applicants wishing to improve their chances for approval should pay *particular attention to the instructions provided with the grant application* to ensure that their applications:

1. Provide evidence that a valid community-based coalition either exists or is in the process of being formed;
2. Describe in detail the roles of coalition members and other participants;
3. Clearly describe the goals and objectives of the proposed project;
4. Specify and document problem health areas and related risk factors in the target population;
5. Present implementation plans which describe precisely, step-by-step, what efforts are being taken and how the various efforts will lead to addressing the problems identified;
6. When describing evaluation plans, outline the relationship between what the applicant is planning to do and how it is going to be measured, including the results of the interventions;
7. Define the target populations and identify which interventions are working with which minority groups;
8. Ensure that intervention strategies describe a broad concept that goes beyond an analysis of medical records of minorities;
9. Ensure that there are realistic timetables for accomplishing the objectives;
10. Provide detailed management plans to assure that there is a clear delineation of responsibility and accountability of each coalition member;
11. Describe the duties and qualifications of staff and consultant positions to be filled after the grant award; and
12. Ensure that key staff have appropriate experience and qualifications, especially experience in working with community-based programs and/or health promotion programs, as well as having treatment and research experience.

Authority: This program is authorized under section 301 of the Public Health Service Act, as amended.

Program Objectives

The objectives of the program are to fund projects which: (1) Provide epidemiological evidence of the health problem(s) and risk factor(s) of the minority population(s) which are the targets of the applicant's proposal.

(2) Provide detailed and specific methods for risk factor reduction through the use of a community coalition targeted to a specific minority population and to identified risk factors.

(3) Demonstrate a sound organizational scheme for the coalition which assures adequate involvement and representation of both coalition members and community leaders.

(4) Evaluate the process of establishing and operating the coalition and how its activities will impact on the risk factors and health problem areas identified in the target population through the use of the community coalition.

(5) Demonstrate experience of the applicant and some coalition members with community-based projects, either focused on health or other community concerns.

Definitions

For the purpose of this grant program, the following definitions are provided:

(1) *Health Problem Areas*—One of the six priority issue areas identified in the Secretary's Task Force report. They are: (a) Cancer; (b) cardiovascular disease and stroke; (c) chemical dependency measured by death due to cirrhosis; (d) diabetes; (e) homicide, suicide and unintentional injuries; and (f) infant mortality.

(2) *Risk Factors*—The environmental and behavioral influences capable of causing ill health with or without previous predisposition. The term "risk factor" is also used to denote an aspect of personal lifestyles and behavior known, on the basis of epidemiological evidence, to be associated with one or more diseases or health conditions considered important to prevent. These include use of tobacco, poor dietary habits, obesity, severe emotional stress, depression, poor conflict resolution skills, abuse of alcohol and drugs, late or no prenatal care, teen pregnancy, environmental hazards, and others.

(3) *Community*—A defined geographical area in which persons live, work, and recreate and is characterized by: (1) Formal and informal communication channels; (2) formal and informal leadership structures for the purpose of maintaining order and improving their conditions; and (3) its capacity to serve as a focal point for addressing societal needs including health needs.

(4) *Community Coalition*—The coming together of individuals from and representatives of organizations and institutions in a community for the purpose of collaborating around specific community concerns, and seeking resolution of those concerns.

(5) *Minority Populations*—As defined by the Report of the Secretary's Task Force on Black and Minority Health, they include Asian/Pacific Islanders, Blacks, Hispanics, and Native Americans/Alaska Natives (which include Native Hawaiians).

Availability of Funds

The Office of Minority Health intends to make available approximately $1.2 million to be expended by grantees over a 2-year project period. It is anticipated that individual grants of up to $200,000 (total costs including indirect costs) for the two-year project period will be awarded from these funds.

Applicant Eligibility

Eligible applicants are public and private nonprofit organizations and for-profit organizations except for all current grantees under this program, since these grantees are considered not eligible. The applicant is the lead agency for the coalition and is responsible for management of the Project and will serve as the fiscal agent for the Federal funds awarded.

Federal demonstration grant support is not expected to result in more than one award in any Standard Metropolitan Statistical Area (SMSA) unless an additional project in an SMSA were to be targeted to another of the 4 major minority groups—Hispanics, Native Americans/Alaska Natives, Asian/Pacific Islanders and Blacks. Efforts will be made to achieve geographic and ethnic distribution of awards as well as cover the various health problems identified above. There is no lower limit for the size of the population targeted by the applicant, but there must be a reasonable relationship between the level of effort involved in the coalition and the size of the target population and the health problem(s) to be addressed. Similarly, the geographic distribution of the target population must be such that effecting risk factor reduction is feasible.

The target risk factor(s) must be epidemiologically justified on the basis of health problem patterns in the population. It is suggested that the number of risk factors on which a coalition plans to focus be limited.

Applications

1. Copies

The forms used for applying for grants under this program are either Form PHS 5161–1 for State and local governments or Form PHS 398 for all others. Copies of the application kit may be obtained from the Grants Management Branch, Room 18A10, Parklawn Building, 5600 Fishers Lane, Rockville MD 20857.

2. Deadlines

Applications shall be considered meeting the deadline if they are received on or before 5:30 pm on June 17, 1987.

3. Late Applications

Applications which do not meet the criteria in paragraph 2 immediately above will be considered late applications and will be returned to the applicant.

4. Reviews

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs. Applications for funding will be subject to State review but comments must be received by 60 days after the due date by the program grants management office. Applicants should contact State Single Points of Contact (SPOC) early in the application preparation process.

5. Project Budget

Funds may be used to cover the cost of personnel to coordinate the coalation's activities, for consultants, support services and materials. Funds may not be used for building construction costs or building alterations and renovations.

6. Cost Participation

It is expected that a portion of the program's costs will be borne by coalition members or by other non-federal sources such as business, labor, local government, or community funds. Cost participation for those grants awarded in FY 1986 ranged between $40,000 and $125,000 and was either in-kind or direct funds contributions.

7. Review Criteria

Applications will be reviewed and evaluated in terms of the evidence regarding the ability of the applicant to meet program objectives. Of specific importance will be:

(1) The justification for the choice of disease(s) and risk factor(s) to be targeted, and its (their) direct relationship to the epidemologic charcterization(s) of the target minority population(s).

(2) The degree to which the choice of coalition members is a logical choice based on target population, target risk factor(s) and intervention(s) to be demonstrated. The specificity of the methods to address the target risk factor(s) in the target population(s) will be given significant weight in the review process of the application.

(3) The commitment of each coalition member to the coalition and to the proposed implementation plan including the extent of support obtained from coalition members to cover a portion of project needs.

(4) Relevant experience and qualifications of the managers of the applicant organization to provide program and fiscal management of the grant.

(5) Qualifications and time allocation of proposed regular staff, both paid and voluntary, and a description of how the staff will manage the project.

(6) Adequacy of medical/scientific/public health technical expertise available to the coalition for its use.

(7) Likelihood that the project will demonstrate whether or not community health coalitions can effectively promote risk factor reduction among minority populatons.

(8) Coherence, feasibility and realistic approach of the intervention strategy and of the implementation methods described.

(9) Adequacy of the evaluation plan to measure the process of the development of the coalition as well as indicators and trends of outcome changes based on the goals and objectives of the application.

8. Information and Technical Assistance Contacts

Information on application procedures and copies of application forms may be obtained from Ralph Sloat, Grants Management Office, Room 18A10, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (phone (301) 443–4033).

Technical assistance on the programmatic content of the application may be obtained from J. Henry Montes, Room 118–F, HHH Bldg., Washington, DC 20201 (phone (202) 245–0020).

The Catalog of Federal Domestic Assistance Number for the program is 13.137.

Dated: April 2, 1987.

Herbert W. Nickens,

Director, Office of Minority Health.

[FR Doc. 87–7613 Filed 4–6–87; 8:45 am]

BILLING CODE 4160–17–M

Delegation of Authority; Director, Office of Management

Notice is hereby given that in furtherance of the delegation by the Secretary of Health and Human Services to the Assistant Secretary for Health on March 2, 1987, the Assistant Secretary for Health has delegated to the Director, Office of Management, with authority to redelegate, all the authority delegated to the Assistant Secretary for Health under Title XXII of the Public Health Service Act (42 U.S.C. 300bb–1 *et seq.*), as amended, concerning State and local governmental group health plans providing continuation coverage to certain individuals.

The delegation to the Director, Office of Management, became effective on March 27, 1987.

Dated: March 27, 1987.

Robert E. Windom, M.D.

Assistant Secretary for Health.

[FR Doc. 87–7614 Filed 4–6–87; 8:45 am]

BILLING CODE 4160–17–M

Health Resources and Services Administration; Omnibus Budget Reconciliation Act of 1981; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of March 13, 1987, by the Assistant Secretary for Health to the Administrator, Health Resources and Services Administration (HRSA), the Administrator, HRSA, has delegated to the Director, Bureau of Health Care Delivery and Assistance, with authority to redelegate, the authorities under Title IX, Subtitle J of the "Omnibus Budget Reconciliation Act of 1981," Pub. L. 97–35, (42 U.S.C. 248b. note *eq seq.*) as amended, concerning orderly closure, transfer, and financial self-sufficiency of Public Health Service hospitals and clinics.

This delegation excludes the authority to (1) determine the feasibility of the proposals for transfer or achievement of financial self-sufficiency, and (2) execute and implement the transfer of HHS-owned real property and related personal property of the Public Health Service hospitals and clinics.

This delegation was effective on March 27, 1987.

Military Construction Authorization Act, 1982

Delegation of Authority

Notice is hereby given that in furtherance of the delegation of March 13, 1987, by the Assistant Secretary for Health to the Administrator, Health Resources and Services Administration (HRSA), the Administrator, HRSA, has delegated to the Director, Bureau of Health Care Delivery and Assistance, with authority to redelegate, the authorities under section 911 of Pub. L. 97–99, the "Military Construction Act, 1982, (42 U.S.C. 248c) as amended, concerning the continued use of certain former Public Health Service facilities.

This delegation was effective on March 27, 1987.

Dated: March 27, 1987.

David N. Sundwall,

Administrator, Health Resources and Services Administration.

[FR Doc. 87–7580 Filed 4–6–87; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–940–07–41212–24; A–21913]

Realty Actions; Arizona

Dated: March 26, 1987.

ACTION: Notice of Donation of Private Lands in Mohave County, Arizona.

SUMMARY: On March 9, 1987, the United States accepted title to the following described land pursuant to section 205 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1715:

Gila and Salt River Meridian, Arizona

T. 25 N., R. 21 W.
Sec. 27, W½NW¼NW¼.
Comprising 20 acres in Mohave County.

FOR FURTHER INFORMATION CONTACT: Marsha Luke, Arizona State Office (602) 241–5534.

The surface of the land acquired by the Federal Government will be open to entry under the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, at 9:30 A.M., thirty days from publication of this notice. The mineral estate is in private ownership and, therefore, will not be subject to entry under the United States mining or mineral leasing laws.

Inquires concerning the land should be addressed to the Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–7583 Filed 4–6–87 8:45 am]

BILLING CODE 4310–32–M

[ES–030–07–4212–11; ES–00157–006; ES–36452]

Realty Action; Recreation and Public Purposes Classification—Land Classification for Recreation and Public Purposes, Grant County, MN

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–36452, Grant County: T. 127 N., R. 43 W., Sec. 20, Tract 37, total of .44 acres; and T. 128 N., R. 43 W., Sec. 27, Tract 37, total of 1.09 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. 87–7584 Filed 4–6–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; C–3–87]

Filing of Plat of Survey; California

March 26, 1987.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Shasta County

T. 31 N., R. 5 W.

2. This supplemental plat of the East ½, Section 7, Township 31 North, Range 5 West, Mount Diablo Meridian, California, was accepted March 6, 1987.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87–7585 Filed 4–6–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; C–1–87]

Filing of Plat of Survey; California

March 26, 1987.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, San Diego County

T. 13 S., R. 2 E.

2. This supplemental plat of the East ½, Section 8, Township 13 South, Range 2 East, San Bernardino Meridian, California, showing new lottings created by the segregation of M.S. 6230, is based upon the plat approved September 21, 1875, and the mineral survey record was accepted March 6, 1987.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat had been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87–7586 Filed 4–6–87; 8:45 am]

BILLING CODE 4310–40–M

Minerals Management Service

Outer Continental Shelf Development Operations Coordination Document; Corpus Christi Oil & Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Corpus Christi Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 8546, Block 566, Matagorda Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Port O'Connor, Texas.

DATE: The subject DOCD was deemed submitted on March 27, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executive of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: March 30, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–7587 Filed 4–6–87; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA760–07–4410–01–2410]

DEPARTMENT OF AGRICULTURE

Forest Service

Public Land and Resources; Planning, Programming, and Budgeting National Forest Land and Resource Management Planning

AGENCIES: Bureau of Land Management, USDI, and Forest Service, USDA.

ACTION: Joint notice of land and resource management planning schedules.

SUMMARY: Land and resource management plans of the Bureau of

Land Management and the Forest Service frequently cover adjourning areas which share common resource issues and management concerns requiring continuous and close interagency coordination. Therefore, the USDI Bureau of Land Management and the USDA Forest Service have again elected to jointly announce land management planning schedules for lands which each agency administers. The purpose of publishing joint planning schedules is to provide agencies and the public with the opportunity to study the relationships between the agencies' current and projected planing activities.

The Bureau of Land Management's and the Forest Service's planning systems are authorized and administered under different laws and regulations. Consequently, this notice is organized into two parts (Part A—Bureau of Land Management and Part B—Forest Service).

Comments on the schedules should be directed to the appropriate (see **ADDRESS,** Part A and Part B).

Part A—Bureau of Land Management

Resources management planning for the Bureau of Land Management adminstered lands is governed by regulations 43 CFR Parts 1601 and 1610. Those regulations (43 CFR 1610.2(b)) require that the Bureau publish a planning schedule advising the public of the status of plans in preparation and projected new starts for the three succeeding fiscal years and calling for public comment on the projected new starts. The schedule below fulfills that requirement.

The planning process begins with the publications of a Notice of Intent to initiate a plan. The projected planning starts are shown on the schedule through 1990. Public notice and opportunity for participation in each resource management plan (RMP) shall be provided as required by the regulations (43 CFR 1610.2(f)). Publication of the draft RMP and associated draft environmental impact statement as indicated on the schedule is a key opportunity for public comment.

A key to the abbreviations used is provided after the schedule.

DATES: Comments on the schedule will be accepted until May 7, 1987.

ADDRESS: Comments should be sent to Director (760), Bureau of Land Management, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Forest W. Littrell, (202) 653–8824.

SUPPLEMENTARY INFORMATION:

PART A.—BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE

State District/ Resource Area	Plan Name (Major Resource Issues)	Fiscal year—			
		1987	1988	1989	1990
Alaska:					
Anchorage	Southwest RMP (recreation, wildlife, minerals, fisheries, subsistence).				Start
Artic	Corridor RMP (lands, oil & gas, recreation, wildlife, minerals, subsistence, wilderness).	DEIS	FEIS, PFEIS		
Glenallen	South Central RMP (national defense, recreation, minerals, lands, wild & scenic rivers, forestry, cultural).		Start		DEIS, FEIS
Steese/White Mtn.	Ft. Greely RMP (national defense, wildlife, recreation, minerals).	Start	DEIS	FEIS	
	Ft. Wainwright RMP (national defense wildlife, recreation, minerals).	Start	DEIS	FEIS	
	Fortymile RMP (minerals)				Start
Arizona:					
Arizona Strip:					
Districtwide	Arizona Strip RMP (minerals, recreation, range, wildlife).	Start		DEIS	FEIS
Phoenix:					
Phoenix	Phoenix RMP (range, wildlife, minerals, lands).	DEIS	FEIS		
Lower Gila	Lower Gila South RMP–A (national defense)	Start	DEIS	FEIS	
Kingman	Kingman RMP (range, wildlife, minerals)			Start	DEIS
Safford:					
Districtwide	Safford RMP (range, minerals, lands)	Start		DEIS	FEIS
Bakersfield:					
Bishop	Benton-Owens Valley/Bodie-Coleville MFP–A (wilderness).	PFEIS			
Caliente	S. Sierra Foothills MFP–A (wilderness)	PFEIS			
Folsom	Sierra MFP–A (wilderness)	PFEIS			
California Desert:					
El Centro	East San Diego MFP–A (wilderness)	PFEIS			
Indio	Escondido-Border MFP–A (wilderness)	PFEIS			
Susanville:					
Cedarville	Cowhead/Massacre MFP–A (wilderness)	PFEIS			
	Tuledad/Homecamp MFP–A (wilderness)	PFEIS			
Eagle Lake	Cal-Neva MFP–A (wilderness)	PFEIS			
	Willow-Creek MFP–A (wilderness)	PFEIS			
Ukiah:					
Arcata	Arcata RMP (lands, forestry, wildlife)	DEIS	FEIS		
	East Mendocino MFP–A (wilderness)	PFEIS			
	King Range MFP–A (wilderness)	PFEIS			
	Red Mountain MFP–A (wilderness)	PFEIS			

PART A.—BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE—Continued

State District/ Resource Area	Plan Name (Major Resource Issues)	Fiscal year—			
		1987	1988	1989	1990
Colorado:					
Canon City:					
Royal Gorge.	Royal Gorge RMP (recreation, oil and gas, range, realty).				Start
	Royal Gorge MFP-A (realty, Quail Mtn)	Start	DEIS	FEIS	
	Royal Gorge MFP-A (wilderness)	PFEIS			
San Luis	San Luis MFP-A (wilderness)	PFEIS			
	Saguache MFP-A (wilderness)	PFEIS			
	San Luis RMP (lands, minerals, range, wildlife, forestry).		DEIS	FEIS	
Craig:					
Little Snake.	Little Snake RMP (livestock, oil and gas, wildlife, coal).	FEIS			
	Little Snake RMP (wilderness)	DEIS			
White River	White River MFP-A (wilderness)	DEIS	PFEIS		
Kremmling	Kremmling RMP (wilderness)	DEIS			
Grand Junction:					
Glenwood Springs.	Glenwood Springs RMP (wilderness)	PFEIS			
Grand Junction.	Grand Junction RMP (wilderness)	PFEIS			
Montrose:					
Gunnison Basin.	Gunnison Basin RMP (riparian, range, land tenure adjustment).		Start	DEIS	FEIS
	Gunnison Basin MFP-A (wilderness)	PFEIS			
Gunnison Basin/ San Juan.	American Flats/Silverton MFP-A (wilderness)	PFEIS			
San Juan/ San Miguel.	San Juan/San Miguel RMP (wilderness)	PFEIS			
Uncompahgre.	Uncompahgre RMP (coal, wilderness)	DEIS	FEIS, PFEIS		
Idaho:					
Statewide	Plan Amendments (wilderness; areas less than 5000 acres).	DEIS	PFEIS		
Idaho Falls:					
Pocatello	Pocatello RMP (lands, minerals, grazing, wildlife).	DEIS, FEIS			
Medicine Lodge.	Medicine Lodge RMP (wilderness)	PFEIS			
	Medicine Lodge RMP-A (Egin-Hammer ROW).	FEIS			
Boise:					
Cascade	Cascade RMP (rangeland management, lands).	FEIS			
Owyhee	Owyhee MFP-A (wilderness)	PFEIS			
	Owyhee RMP (grazing, wildlife, lands)				Start
Bruneau	Bruneau MFP-A (wilderness)	PFEIS			
Jarbidge	Jarbidge RMP (wilderness)	PFEIS			
Salmon:					
Lemhi	Lemhi RMP (wilderness)	PFEIS			
Challis	Challis RMP (grazing, land tenure, forestry, recreation).			Start	DEIS
Shoshone:					
Monument	Monument RMP (wilderness)	PFEIS			
Montana:					
Butte:					
Dillon	Dillon MFP-A (wilderness)	PFEIS			
	Dillon MFP-A (Centennial wilderness; joint with USFS).	DEIS	PFEIS		
Garnet	Garnet RMP (wilderness)	PFEIS			
Headwaters.	Headwaters RMP (wilderness)	PFEIS			
	Headwaters RMP-A (Sleeping Giant wilderness).		PFEIS		
Dickinson, (N.D.).	North Dakota RMP (coal, lands, oil and gas, ORV).	DEIS, FEIS			

PART A.—BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE—Continued

State District/ Resource Area	Plan Name (Major Resource Issues)	Fiscal year—			
		1987	1988	1989	1990
Lewistown:					
Great Falls/ Havre.	West HiLine RMP (lands, ORV, wild & scenic rivers).	DEIS	FEIS		
Judith	Judith RMP (access, lands, ORV, recreation)		Start	DEIS	FEIS
Phillips	Phillips RMP (grazing, wildlife)			Start	DEIS
Valley	Valley MFP-A (Bitter Creek wilderness)	PFEIS			
	Valley RMP (grazing, wildlife)				Start
Lewistown/ Miles City:					
Various Resource Areas.	Plan Amendments (Missouri Breaks wilderness).	PFEIS			
Miles City:					
Big Dry	Jordan-N. Rosebud MFP-A (wilderness)	PFEIS			
	New Prairie MFP-A (wilderness)	PFEIS			
	Musselshell MFP-A (wilderness)	PFEIS			
Billings	Billings RMP (wilderness)	PFEIS			
Powder River.	Powder River RMP (wilderness)	PFEIS			
Nevada: Statewide.	Plan Amendments (wilderness; areas less than 5000 acres).		PFEIS		
Battle Mtn.:					
Shoshone-Eureka.	Shoshone-Eureka RMP-A (range, wildlife)	DEIS, FEIS			
	Shoshone-Eureka RMP (wilderness)	PFEIS			
Tonopah	Tonopah MFP-A (wilderness)	PFEIS			
Carson City:					
Lahontan	Lahontan RMP (wilderness)	PFEIS			
Walker	Walker RMP (wilderness)		PFEIS		
Elko:					
Elko	Elko RMP (wilderness)	PFEIS			
Wells	Wells RMP (wilderness)	PFEIS			
Ely:					
Egan	Egan RMP (wilderness)	PFEIS			
Schell	Schell MFP-A (wilderness)	PFEIS			
Las Vegas:					
Caliente	Nellis RMP (national defense, wild horses, access, minerals, wildlife).	Start	DEIS	FEIS	
	Caliente MFP-A (wilderness)		PFEIS		
Stateline-Esmeralda.	Clark County MFP-A (wilderness)	PFEIS			
	Esmeralda-So. Nye RMP (wilderness)		PFEIS		
Winnemucca:					
Paradise-Denio.	Paradise-Denio MFP-A (wilderness)	PFEIS			
Sonoma-Gerlach.	Sonoma-Gerlach MFP-A (wilderness)	PFEIS			
New Mexico:					
Statewide	New Mexico Statewide MFP-A (wilderness)	PFEIS			
Albuquerque:					
Farmington	Farmington RMP (grazing, lands, ORV, ROW).	DEIS, FEIS			
Taos	Taos RMP (grazing, lands, ORV, ROW)	DEIS, FEIS			
Las Cruces:					
All Resource Areas.	Plan Amendments (transmission line corridor)	DEIS, FEIS			
Las Cruces/ Lordsburg.	Las Cruces/Lordsburg RMP (lands, access, spc. mgt. areas, cultural).		Start		DEIS
	So. Rio Grande MFP-A (land tenure)	FEIS			
Socorro	Socorro RMP (grazing, lands, coal, wild horses).		DEIS, FEIS		

PART A.—BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE—Continued

State District/ Resource Area	Plan Name (Major Resource Issues)	Fiscal year—			
		1987	1988	1989	1990
White Sands.	White Sands RMP-A (national defense)	Start	DEIS	FEIS	
Roswell:					
Roswell	Roswell RMP (minerals, access, lands, special management areas).			Start	
Oregon:					
Statewide	Oregon Statewide MFP-A (wilderness)	DEIS	PFEIS		
Burns:					
Three Rivers.	Drewsey-Riley RMP (grazing, wildlife, watershed, lands).	Start		DEIS, FEIS	
Coos Bay:					
Districtwide	Coos Bay RMP (timber, wildlife, watershed, lands.				DEIS, FEIS
Eugene:					
Districtwide	Eugene RMP (timber, wildlife, watershed, lands).				DEIS, FEIS
Medford:					
Districtwide	Medford RMP (timber, wildlife, watershed, lands).				DEIS, FEIS
Prineville:					
Cental Oregon/ Deschutes.	Brothers-La Pine RMP (timber, lands, watershed, ORV).	DEIS	FEIS		
Roseburg:					
Districtwide	Roseburg RMP (timber, wildlife, watershed, lands).				DEIS, FEIS
Salem:					
Districtwide	Salem RMP (timber, wildlife, watershed, lands).				DEIS, FEIS
Yamhill	Westside Salem MFP-A (water supply project).	DEIS	FEIS		
Vale:					
Baker	Baker RMP (grazing, land tenure, timber, fisheries).	FEIS			
Utah:					
Statewide	Utah Statewide MFP-A (wilderness)	PFEIS			
Cedar City:					
Dixie	Dixie RMP (lands, recreation, wildlife, corridors, community expansion).	Start	DEIS, FEIS		
Escalante	Escalante RMP (coal, recreation)		Start		
Kanab	Kanab RMP (recreation, watershed)			Start	
Moab:					
San Juan	San Juan RMP (livestock, oil & gas, recreation, lands).	FEIS			
San Rafael	San Rafael RMP (livestock, oil & gas, coal, recreation).		DEIS, FEIS		
Price River	Price River RMP (recreation, minerals, wildlife, watershed).				Start
Salt Lake:					
Pony Express.	Pony Express RMP (range, lands, minerals)	Start	DEIS, FEIS		
Vernal:					
Diamond Mtn.	Diamond Mtn. RMP (wildlife, oil and gas)		Start		
Wyoming:					
Rawlings:					
Lander	Lander RMP (wilderness)	PFEIS			
	Lander RMP (wilderness; areas less than 5000 acres).		PFEIS		
Medicine Bow/ Divide.	Medicine Bow/Divide RMP (range, wildlife, recreation, minerals).	DEIS, FEIS			
Rock Springs:					
Pinedale	Pinedale RMP (rangeland, oil and gas, lands, forestry recreation, wildlife, watershed).	DEIS, FEIS			
Worland:					
Cody	Cody RMP (oil & gas, range)	DEIS	FEIS		

PART A.—BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE—Continued

State District/ Resource Area	Plan Name (Major Resource Issues)	Fiscal year—			
		1987	1988	1989	1990
Washakie.....	Washakie RMP (range, wilderness).....	DEIS, FEIS.....	PFEIS.....	.....	

[1] Projected planning starts for California will appear in the FY 88 planning schedule.

Key to Abbreviations:
DEIS—Draft environmental impact statement.
FEIS—Final environmental impact statement.
MFP-A—Management framework plan amendment.
ORV—Off road vehicle.
PFEIS—Preliminary final environmental impact statement (wilderness only).
RMP—Resource management plan.
ROW—Rights-of-way.

Robert Burford,

Director.

Part B—Forest Service

The National Forest Management Act of 1976 directed the Secretary of Agriculture to attempt to complete land and resource management plans for each "administrative unit" (e.g., National Forest) of the National Forest System by September 30, 1985. Regulations to guide this effort were initially developed in 1979, and revised in 1982 at the direction of the Presidential Task Force on Regulatory Relief (Vol. 47, N. 190 of the **Federal Register,** September 30, 1982). Additional revision to the rules was necessary to respond to a court decision that the 1979 Roadless Area Review and Evaluation (RARE II) environmental statement and associated procedures were inadequate under the National Environmental Policy Act (NEPA).

The NFMA regulations require integrated planning for all resources of the National Forest System—recreation, fish and wildlife, water, timber, range, and wilderness. The rules set forth a process for developing and revising the land and resource management plans as required by the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act of 1976 (NFMA). These rules require development of Regional Guides and Forest Plans. Each plan will include all management planning for resources and be supported by an environmental impact statement.

All drafts and final Regional Guides and Forest Plans and associated environmental impact statements have been or will be filed with the Environmental Protection Agency and made available to the public for comment.

A planning schedule is included below showing the fiscal year in which draft and final documents have been or will be filed. Also given are the addresses of the Forest Service's nine Regional Offices and National Forest headquarters in each Region for which plans are to be prepared.

Readers interested in the progress and status of a particular Regional Guide or Forest Plan should contact the appropriate Regional Forester or Forest Supervisor.

DATES: Comments on the schedule will be accepted until May 7, 1987.

ADDRESS: Comments should be sent to: Chief, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Joyce P. Parker, Land Management Planning, P.O. Box 2417, Washington, DC 20013, (202) 447-6697.

J. Lamar Beasley,

Deputy Chief.

March 23, 1987.

NATIONAL FOREST SYSTEM FIELD OFFICES AND FISCAL YEAR FILING DATES OF REGIONAL GUIDES AND FOREST PLANS WITH ENVIRONMENTAL PROTECTION AGENCY

Headquarters location [1]	Fiscal year to be completed	
	DEIS	FEIS [3]
R-1, Northern Region, Federal Building, Missoula, Montana 59807		
Regional guide.....	1981	1981
IDAHO—		
Clearwater, Orofino 83544.....	*1985	1987
Idaho Panhandle National Forests,[2] Coeur d'Alene, Coeur d'Alene 83814.....	*1985	1987
Kaniksu	.....	.....
St. Joe	.....	.....
Nezperce, Grangeville 83530.....	1985	1987

NATIONAL FOREST SYSTEM FIELD OFFICES AND FISCAL YEAR FILING DATES OF REGIONAL GUIDES AND FOREST PLANS WITH ENVIRONMENTAL PROTECTION AGENCY—Continued

Headquarters location [1]	Fiscal year to be completed	
	DEIS	FEIS [3]
MONTANA—		
Beaverhead, Dillon 59725.....	1985	1986
Bitterroot, Hamilton 59840.....	*1985	1987
Custer, Billings 59103.....	1985	1987
Deerlodge, Butte 59701.....	1985	1987
Flathead, Kalispell 59901.....	*1984	1986
Gallatin, Bozeman 59715.....	1985	1987
Helena, Helena 59601.....	*1985	1986
Kootenai, Libby 59923.....	1985	1987
Lewis and Clark, Great Falls 59403.....	*1984	1986
Lolo, Missoula 59801.....	*1985	1986
R-2, Rocky Mountain Region, 11177 W. 8th Ave., Box 25127, Lakewood, Colorado 80225		
Regional Guide.....	1981	1983
COLORADO—		
Arapaho-Roosevelt,[2] Ft. Collins 80521.....	1982	1984
Grand Mesa, Uncompahgre, and Gunnison,[2] Delta 81416.....	1983	1983
Pike and San Isabel,[2] Pueblo 81008.....	1982	1985
Rio Grande, Monte Vista 81144.....	1983	1985
Routt, Steamboat Springs 80477.....	1983	1984

NATIONAL FOREST SYSTEM FIELD OFFICES AND FISCAL YEAR FILING DATES OF REGIONAL GUIDES AND FOREST PLANS WITH ENVIRONMENTAL PROTECTION AGENCY—Continued

Headquarters location [1]	Fiscal year to be completed	
	DEIS	FEIS [3]
San Juan, Durango 81301	1982	1983
White River, Glenwood Springs 81601	1983	1984
NEBRASKA—		
Nebraska-Samuel R. McKelvie,[2] Chadron 69337	1982	1985
SOUTH DAKOTA—		
Black Hills, Custer 57730	1982	1983
WYOMING—		
Bighorn, Sheridan 82801	1984	1985
Medicine Bow, Laramie 82070	1984	1986
Shoshone, Cody 82414	1984	1986
R-3, Southwestern Region, 517 Gold Ave., SW, Albuquerque, New Mexico 87102		
Regional guide	1981	1983
ARIZONA—		
Apache-Sitgreaves,[2] Springerville 85938	1986	1987
Coconino, Flagstaff 86001	1986	1987
Coronado, Tuscon 85702	1985	1986
Kaibab, Williams 86046	1986	1987
Prescott, Prescott 86301	1985	1987
Tonto, Phoenix 85034	1985	1986
NEW MEXICO—		
Carson, Taos 87571	1985	[4] 1987
Cibola, Albuquerque 87112	1984	1985
Gila, Silver City 88061	1985	[4] 1987
Lincoln, Alamogordo 88310	1985	[4] 1987
Santa Fe, Santa Fe 87501	*1986	1987
R-4, Intermountain Region, 324 25th Street, Ogden, Utah 84401		
Regional guide	1981	1984
IDAHO—		
Boise, Boise 83706	1987	1988
Caribou, Pocatello 83201	[4] 1985	1986
Challis, Challis 83226	1985	1987
Payette, McCall 83638	1985	1987
Salmon, Salmon 83467	1985	1987
Sawtooth, Twin Falls 83301	1985	1987
Targhee, St. Anthony 83445	*1985	1985
NEVADA—		
Humboldt, Elko 89801	1985	1986
Toiyabe, Reno 89501	1985	1986
UTAH—		
Ashley, Vernal 84078	1985	[4] 1987
Dixie, Cedar City 84720	1985	1986
Fishlake, Richfield 84701	1985	1986
Manti-LaSal, Price 84501	1985	[4] 1987
Uinta, Provo 84601	1985	1985
Wasatch-Cache,[2] Salt Lake City 84138	1985	1985
WYOMING—Bridger-Teton,[2] Jackson 83001	1987	1987
R-5, Pacific Southwest, 630 Sansome Street, San Francisco, California 94111		
Regional guide	1981	1984
CALIFORNIA—		
Angeles, Pasadena 91101	1985	1987
Cleveland, San Diego 92188	1985	1986
Eldorado, Placerville 95667	[4] 1987	1988
Inyo, Bishop 93514	[4] 1987	1988
Klamath, Yreka 96097	*1987	1989
Lassen, Susanville 96130	1986	1988
Los Padres, Goleta 93107	1986	1988
Mendocino, Willows 95988	[4] 1987	1988
Modoc, Alturas 96101	1986	1989
Plumas, Quincy 95971	1986	1987
San Bernardino, San Bernardino 92408	1986	1988
Sequoia, Porterville 93257	1986	1987
Shasta-Trinity,[2] Redding 96001	*[4] 1987	1989
Sierra, Fresno 93721	*1986	1988
Six Rivers, Eureka 95501	[4] 1987	1988
Stanislaus-Calaveras, Big Tree,[2] Sonora 95370	1987	1988
Tahoe, Nevada City 95959	1986	1988
Lake Tahoe Basin Management Unit, So. Lake Tahoe	*1986	1988
R-6, Pacific Northwest Region, 319 SW Pine Street, P.O. Box 3623, Portland, Oregon 97208		
Regional guide	1982	1984
Supplemental EIS	*1986	*1987
OREGON—		
Deschutes, Bend 977701	1986	1988
Fremont, Lakeview 97630	1987	1988
Malheur, John Day 97845	1987	1988
Mt. Hood, Portland 97233	1987	1988
Ochoco, Prineville 97754	[4] 1987	1988
Rogue River, Medford 97501	1987	1988
Siskiyou, Grants Pass 97526	[4] 1987	1987
Siuslaw, Corvallis 97330	[4] 1987	1988
Umatilla, Pendleton 97801	1987	1988
Umpqua, Roseburg 97470	1987	1988
Wallowa-Whitman,[2] Baker 97814	1986	1988
Willamette, Eugene 97440	1987	1988
Winema, Klamath Falls 97601	1987	1988
WASHINGTON—		
Colville, Colville 99114	1987	1988
Gifford Pinchot, Vancouver 98660	1987	1988
Mt. Baker-Snoqualmie,[2] Seattle 98101	1987	1988
Okanogan, Okanogan 98840	1986	1988
Olympic, Olympia 98501	[4] 1987	1988
Wenatchee, Wenatchee 98801	[4] 1987	1988

NATIONAL FOREST SYSTEM FIELD OFFICES AND FISCAL YEAR FILING DATES OF REGIONAL GUIDES AND FOREST PLANS WITH ENVIRONMENTAL PROTECTION AGENCY—Continued

Headquarters location [1]	Fiscal year to be completed	
	DEIS	FEIS [3]
R-8, Southern Region, 1720 Peactree Road, NW, Atlanta, Georgia 30309		
Regional guide	1982	1984
ALABAMA—		
National Forests in Alabama,[2] Montgomery 36101	1985	1986
William B. Bankhead		
Conecuh		
Talladega		
Tuskegee		
ARKANSAS—		
Ouachita, Hot Springs 79101	1985	1986
Ozark-St. Francis,[2] Russellville 72801	1985	1986
FLORIDA—		
National Forests in Florida,[2] Tallahassee 32301	1985	1986
Apalachicola		
Ocala		
Osceola		
GEORGIA—		
Chattahoochee-Oconee,[2] Gainesville 30501	1984	1985
KENTUCKY—Daniel Boone, Winchester 40391	1985	1985
LOUISIANA—Kisatchie, Pineville 71360	1984	1985
MISSISSIPPI—		
National Forests in Mississippi,[2] Jackson 39205	1985	1985
Bienville		
Delta		
DeSoto		
Holly Springs		
Homochitto		
Tombigbee		
NORTH CAROLINA—		
National Forests in North Carolina,[2] Asheville 28802		
Nantahala and Pisgah	1985	1987
Uwharrie and Croatan	1985	1986
PUERTO RICO—Carribbean, Rio Piedras 00928	1985	1986
SOUTH CAROLINA—		
Francis-Marion	1984	1985
Sumter,[2] Columbia 29202	1985	1985
TENNESSEE—Cherokee, Cleveland 37311	1985	1986
TEXAS—		
National Forests in Texas,[2] Lufkin 75901	1985	1987
Angelina		
Davy Crockett		
Sabine		
Sam Houston		
VIRGINIA—		
George Washington, Harrisonburg 22801	1985	1986
Jefferson, Roanoke 24011	1985	1986
R-9, Eastern Region, 633 West Wisconsin Avenue, Milwaukee, Wisconsin 53203		
Regional Guide	1982	1984
ILLINOIS—Shawnee, Harrisburg 62946	1985	[4] 1987
INDIANA and OHIO—		
Wayne-Hoosier,[2] Bedford, IN 47421		
Wayne	[4] 1987	1987
Hoosier	1984	1986
MICHIGAN—		
Hiawatha, Escanaba 49829	1985	[4] 1987
Huron-Manistee,[2] Cadillac 49601	1985	1986
Ottawa, Ironwood 49938	1985	[4] 1987
MINNESOTA—		
Chippewa, Cass Lake 56633	1985	1986
Superior, Duluth 55801	1985	1986
MISSOURI—Mark Twain, Rolla 65401	1985	1986
NEW HAMPSHIRE and MAINE—White Mountain, Laconia, NH 03246	1985	1986
PENNSYLVANIA—Allegheny, Warren 16365	1985	1986
VERMONT—Green Mountain, Rutland 05701	1985	[4] 1987
WEST VIRGINIA—Monongahela, Elkins 26241	1985	1986
WISCONSIN—		
Chequamegon, Park Falls 54552	1985	1986
Nicolet, Rhinelander 54501	1985	1986
R-10, Alaska Region, Federal Office Building, P.O. Box 1628, Juneau, Alaska 99802		
Regional guide	1981	[4] 1984
ALASKA—		
Chugach, Anchorage 99502	1982	1984
Tongass-Chatham, Sitka 99835	[5] 1989	[5] 1989
Tongass-Ketchikan, Ketchikan 99901	[5] 1989	[5] 1989
Tongass-Stikine, Petersburg 99833	[5] 1989	[5] 1989

[1] Mailing address for each National Forest.
[2] Two or more separately proclaimed National Forests.
[3] DEIS and FEIS mean Draft and Final Environmental Impact Statements.
[4] Filed with EPA in fiscal year 1987.
[5] One EIS will be filed for the Tongass National Forest.
*An earlier published Draft EIS will be supplemented or revised.

[FR Doc. 87-7457 Filed 4-6-87; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 28, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by April 22, 1987.

Carol D. Shull,
Chief of Registration, National Register.

ALASKA

Ketchikan Gateway Borough

Ketchikan, *Ketchikan Ranger House*, 309 Gorge St.

CONNECTICUT

New Haven County

Branford, *Branford Center Historic District*, Roughly bounded by US 1, Branford River on the East and South, Monroe, and Kirkham Sts.

INDIANA

Jackson County

Low Spur Archaeological Site (12 J 87)

KENTUCKY

Harrison County

Cynthiana, *Spur Gasoline Station*, 201 E. Bridge St.

MARYLAND

Wicomico County

Hebron vicinity, *Western Fields*, Porter Mill Rd.

MISSOURI

Pike County

Louisiana, *Georgia Street Historic District*, Roughly Georgia St. between Main and Seventh Sts.

St. Louis (Independent City)

Oakherst Place Concrete Block District, Roughly bounded by Julian, Oakley, Plymouth, and Oakherst

NEW YORK

Onondaga County

Syracuse, *Syracuse Post Office and Courthouse*, 4 Clinton Square

Westchester County

Tarrytown, *Christ Episcopal Church*, Broadway and Elizabeth Sts.

NORTH CAROLINA

Mecklenburg County

Charlotte, *Myers Park Historic District*, Roughly bounded by N C 16, Queens Rd. East and West, and Lillington Ave.

OHIO

Cuyahoga County

Cleveland, *Colonial and Euclid Arcades*, 508 and 600 Euclid Ave.

Erie County

Sandusky, *Doerzbach, George J., House*, 1208–1210 Central Ave.

Fairfield County

Lancaster vicinity, *Artz, John, Farmhouse*, 5125 Duffy Rd.

Fayette County

Mt. Sterling vicinity, *McCafferty, William, Farmhouse*, 7099 O H 207 N E

Washington Court House, *Robinson-Pavey House*, 421 W. Court St.

Franklin County

Gahanna, *Old Peace Lutheran Church*, 78–82 N. High St.

Fulton County

Wausen, *Jones-Read-Touvelle House*, 435 E. Park St.

Montgomery County

Dettering, *Long-Mueller House*, 936 Laurelwood Rd.

Pickaway County

Orient vicinity, *Scioto Township District No. 2 Schoolhouse*, 8143 Snyder Rd.

SOUTH CAROLINA

Charleston County

Edisto Island vicinity, *Old House Plantation and Commissary (Boundary Increase) (Edisto Island M R A)*, .5 mi. E of S C 174 and Oak Island Rd. Jct., then right on dirt Rd.

Oconee County

Seneca, *Seneca Historic District (Boundary Increase)*, 300 S. Fairplay St.

[FR Doc. 87–7538 Filed 4–6–87; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Controlled Substances; Proposed Revised 1987 Aggregate Production Quotas

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed revised 1987 aggregate production quotas.

SUMMARY: This notice proposes revised 1987 aggregate production quotas for controlled substances in Schedule II of the Controlled Substances Act. Since the establishment of the 1987 aggregate production quota on December 30, 1986 (51 FR 47071), DEA has reviewed data submitted by the registered manufacturers concerning 1986 dispositions and year-end inventories and has determined that revisions of some of the previously established quotas are necessary.

DATE: Comments or objections should be received on or before May 7, 1987.

ADDRESS: Send comments or objections to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attn: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Scheudules I and II each year.

This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On December 30, 1986, a notice of the 1987 aggregate production quotas was published in the **Federal Register** (51 FR 47071). Indicated in that notice was that, pursuant to Title 21 of the Code of Federal Regulations, § 1303.23(c), the Administrator of the Drug Enforcement Administration would adjust these quotas in early 1987. These aggregate production quotas represent those amounts of controlled substances that may be produced in the United States in 1987 and does not include amounts which may be imported for use in industrial processes.

Based on a review of 1986 year-end inventories, 1986 disposition data submitted by quota applicants, estimates of the medical needs of the United States submitted to the Drug Enforcement Administration by the Food and Drug Administration and other information available to DEA, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes the following changes in the 1987 aggregate production quotas for the listed controlled substances, expressed in grams of anhydrous acid or base:

Schedule II	Previously established 1987 aggregate production quota	Proposed revised 1987 aggregate production quota
Alfentanil	10,000	0
Amobarbital	887,000	0
Amphetamine	325,000	372,000
Codeine (for sale)	58,001,000	60,199,000
Codeine (for conversion)	4,064,000	3,814,000
Desoxyephedrine	1,360,000	1,314,000
1,300,000 grams for the production of levodesoxyephedrine for use in a noncontrolled, nonprescription product and 14,000 grams for the production of methamphetamine.		
Dextropropoxyphene	69,637,000	74,108,000
Dihydrocodeine	823,000	444,000
Diphenoxylate	584,000	971,000
Hydrocodone	1,859,000	2,431,000

Schedule II	Previously established 1987 aggregate production quota	Proposed revised 1987 aggregate production quota
Hydromorphone	196,000	206,000
Levorphanol	22,500	14,500
Meperidine	11,282,000	11,596,000
Methadone	1,510,000	1,231,000
Methadone Intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane)	1,886,000	1,539,000
Mixed Alkaloids of Opium	10,500	3,000
Morphine (for sale)	2,078,000	2,802,000
Morphine (for conversion)	62,557,000	64,466,000
Opium (tinctures, extracts etc. expressed in terms of USP powdered opium)	1,506,000	1,676,000
Oxycodone (for sale)	2,333,000	2,202,000
Pentobarbital	12,000,000	12,937,000
Phenmetrazine	100,000	0
Secobarbital	1,963,000	927,000
Phenylacetone	755,000	944,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the proposal relating to any of the above mentioned substances without filing comments or objections regarding the other. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by a notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Pursuant to section 3(c)(3) and (3)(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominately upon major manufacturers of the affected controlled substances.

Dated: March 30, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87-7645 Filed 4-6-87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of recordkeeping/reporting requirements under review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency indentification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small business or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the requests for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clerance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-1301, Washington, D.C. 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, D.C. 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Bureau of Labor Statistics

Survey of Employer Provided Child-Care Benefits
BLS 372
One-time survey
State or local government; Businesses or other for-profit,
Federal agencies or employees, Non-profit institutions;
Small businesses or organizations
10,000 responses; 1,333 hours; 1 form

The Survey of Employer Provided Child-Care Benefits will collect information on establishment practices of providing child-care and related benefits. The results will provide estimates of the incidence of these various benefits across broad industry groups nationwide.

Employment or Training Administration

Data Collection and Analyses of JTPA Evaluation Experiments
Other
Individuals or households
45,532 respondents; 15,402 hours; survey

JTPA mandates evaluation of the effectiveness of JTPA programs.

DUE to ambiguous results of prior evaluations, USDOL will carry out a classical field experiment in a sample of 20 locations to measure net impacts, and improve future quasiexperimental analyses.

Approval is sought for information collections to support this evaluation.

Occupational Safety and Health Administration

Cadmium
Other, nonrecurring
Businesses or other for-profit
205 responese; 113 hours

The information for which this request has been submitted is required for the Regulatory Impact Analysis of a proposed Cadmium Standard. The information will be requested of businesses who manufacture cadmium-containing products or cadmium compounds.

Data on finances, employee exposures, processes, and exposure limiting practices will be sought.

Revision

Bureau of Labor Statistics

CPI Commodities and Services Data Collection Forms
1220–0039; BLS 3400, BLS 3400A, BLS 3400B, BLS 3400C, BLS 3401
Monthly or bimonthly
State or local governments; Businesses or other for-profit;
Non-profit institutions; Small businesses or organizations
275,204 responses; 87,683 hours; 5 forms

The Consumer Price Index (CPI) is the nation's leading measure of inflation at the retail level. It is widely used to measure the success of national economic policy and to escalate federal and private payments of many kinds. The Commodities and Services Survey provides the measure of price change for about 80 percent of the CPI. Effective March 31, 1987, responsibility for the collection of residential electricity prices will be transferred from the Department of Energy (DOE) to the Bureau of Labor Statistics (BLS). Although individual electricity prices are currently available from DOE, all electricity data collected by BLS will be subject to the usual BLS confidentiality restrictions. Thus, beginning in April 1987 only aggregate electricity data will be available to the public.

Extension

Employment and Training Administration

Forms for Interstate Clearance Program of Services to Migratory Workers and Employers
1205–0134; ETA 790, 795, 785, 785A
On occasion
State or local governments
52 respondents; 6,500 burden hours; 4 forms

State Employment Security Agencies use forms in servicing agricultural employers to insure their labor needs for domestic migratory agricultural workers are met; in servicing domestic agricultural workers to assist them in locating jobs expeditously and orderly; and to insure exposure of employment opportunities to domestic agricultural workers before certification for employment of foreign workers.

Mine Safety and Health Administration

Annual Status Report and Certification and Weekly Inspections of Refuse Piles and Impoundments
1219–0015
Annually; weekly
Businesses and other for profit; small businesses or organizations
675 respondents; 79,350 hours

Requires coal mine operators to submit to MSHA an annual status report and certification on refuse piles and impoundments; and to keep records of the results of weekly examinations and instrumentation monitorings of impoundments.

Hazard Communication

OSHA–245
Occupational Safety and Health Administration
Recordkeeping; On Occasion
Businesses or Other Profit, Small Businesses or Organizations
328,000 Responses; 806,640 Hours; 1 form

The Hazard Communication Standard requires chemical manufacturers and importers to generate hazard information about their products, and make it available to employers and employees covered by the rule. Respondents will be chemical manufacturers, importers, and distributors of chemicals. Transmittal of such information will increase protection to employees exposed to chemicals and decrease the incidence of chemical source illnesses and injuries.

Departmental Management, Office of the Assistant Secretary for Administration and Management

Qualifications Inquiry for Positions in the Local 12 Bargaining Unit–DL 1–1104
1225–0016; PERS–5
On occasion
Individuals or households
1,000 responses; 250 hours; one form

This form is required under the Department of Labor's negotiated Merit Staffing Plan for positions in the Local 12 barganining unit to collect information by the Personnel Office from the applicants supervisor. The information will be used by raters to evaluate outside applicants against the requirements of the vacancy to be filled.

Reinstatement

Occupational Safety and Health Administration

Quarterly Report of State Compliance and Standards Activities and Migrant Housing Inspections/Violations Report
1218–0004; OSHA 120, 120A, 124
Quarterly
State or local governments
3 responses; 360 hours

29 CFR 1902 requires each State having an approved plan to submit reports so that the Secretary may evaluate the manner in which each State is carrying out its responsibility under the plan.

Occupational Safety and Health Administration

Powered Platforms for Exterior Maintenance
1218–0121
On Occasion
Businesses or other for-profit
234,000 responses; 243,750 hours; 3 forms

OSHA is requiring this information to be collected by employers for determining the cumulative maintenance of a powered platform and for taking the necessary preventive action to assure employer safety.

Occupational Safety and Health Administration

Ionizing Radiation
OSHA–253
On occasion, annually
Businesses or Other For-Profit; Federal Agencies or
Employees, Small Businesses or ogranizations
Number of responses vary; 44,660 Hours; 0 form This information is to be collected by employers to protect employees exposed to radiation in the workplace.

Signed at Washington, DC, this 2nd day of April, 1987.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 87–7660 Filed 4–6–87; 8:45 am]

BILLING CODE 4510–26–M

Employment and Training Administration

[TA–W–18,227]

Chevron, U.S.A., Inc., Cleves Refinery, Cleves, OH; Negative Determination Regarding Application for Reconsideration

By an application dated March 2, 1987, the Oil, Chemical and Atomic Workers International Union (OCAW) requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance filed on behalf of workers at Chevron, U.S.A., Incorporated, Cleves, Ohio. The denial notice was signed on February 2, 1987 and published in the **Federal Register** on February 19, 1987 (52 FR 5211).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous:

(2) If it appears that the determination complained of was based on a mistake

in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that the Chevron, U.S.A. refinery at Cleves could not remain competitive because it did not have the capability to refine low cost imported crudes.

In order for a worker group to become certified eligible to apply for adjustment assistance it must meet all three group eligibility criteria of the Group Eligibility Requirements of the Trade Act of 1974—significantly decreased employment; decreased sales or production and increased imports contributing importantly to worker separations. Investigative findings show that the decreased employment criterion was not met in 1985. The Cleves refinery closed in July, 1986.

The predominant portion of production at the Cleves refinery was gasoline and diesel fuel. U.S. imports of motor gasoline decreased absolutely and relative to domestic shipments in the first half of 1986 compared to the same period in 1985. The ratio of imports to domestic gasoline shipments was less than five percent in the first half of 1986. U.S. imports of distillate fuel oil, including diesel fuel, also declined absolutely and relative to domestic shipments over the same periods. The ratio of imports to domestic shipments was about six percent in the first half of 1986.

Concerning the claim that the Cleves refinery did not have the potential or capability to refine high sulfur imported crudes, this, in itself, would not form a basis for certification. Technological unemployment and potential imports together would not meet the increased import criterion of the Trade Act.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 31st day of March, 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87-7661 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-18,883]

Cooper Industries, Arrow Hart Division, Danielson, CT; Affirmed Determination Regarding Application for Reconsideration

The International Brotherhood of Electrical Workers (IBEW) requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of former workers at Cooper Industries, Arrow Hart Division, Danielson, Connecticut. The determination was published in the **Federal Register** on March 10, 1987 (52 FR 7330).

The union claims, among other things, that the Danielson plant was an integrated production facility with the Hartford plant of Cooper Industries whose workers are covered under a certification (TA-W-17,815).

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 31st day of March 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-7662 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-18,012 et al.]

Standard Oil Production Co.; Negative Determination Regarding Application for Reconsideration

In the matter of TA-W-18,012 Anchorage, Alaska; TA-W-18,013 Executive Offices, Houston, Texas; TA-W-18,014 Gulf Coast Division, Houston, Texas; TA-W-18,015 Continental Division, Dallas, Texas; TA-W-18,016 Technology Center, Dallas, Texas; TA-W-18,017 Midland, Texas; TA-W-18,018 Oklahoma City, Oklahoma; TA-W-18,019 Headquarters, Cleveland, Ohio; TA-W-18,020 Warrensville Lab, Cleveland, Ohio; and TA-W-18,021 Casper, Wyoming.

By an application dated February 19, 1987, a company official requested administrative reconsideration of the Department's negative determinations on the subject petitions for trade adjustment assistance filed on behalf of workers at the above mentioned locations of the Standard Oil Production Company. The denial notice was signed on January 13, 1987 and published in the **Federal Register** on February 19, 1987 (52 FR 5210).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioner claims that the Standard Oil Production Company could not justify its exploration and production efforts because of global oil economics dictated by OPEC pricing and production.

In order for a worker group to become certified eligible to apply for adjustment assistance it must meet all three group eligibility criteria of the Group Eligibility Requirements of the Trade Act of 1974—decreased employment; decreased sales or production and increased imports contributing importantly to worker separations. Investigative findings show that the decreased sales or production criterion was not met in 1985. Sales and production at the Standard Oil Production Company increased, in quantity and in value, in 1985 compared to 1984 and, in quantity, in 1986 compared to 1985. Further, the average employment of production workers at the Standard Oil Production Company increased in 1985 compared to 1984.

The "contributed importantly" test of the increased import criterion was not met in the first half of 1986. The findings showed that nearly all of the Standard Oil's production is shipped to a wholly owned subsidiary which had decreased imports of crude oil in the first half of 1986 compared to the same period in 1985. This occurred while the Standard Oil increased its production and sales in the first half of 1986 compared to the same period in 1985.

Most of the crude oil is refined into gasoline and distillate fuel oil by Standard Oil's major customer. U.S. imports of gasoline declined absolutely and relative to domestic shipments in the first half of 1986 compared with the same period of 1985. The ratio of imports to domestic shipments was less than five percent in the first half of 1986. U.S. imports of distillate fuel oil declined absolutely and relative to domestic shipments in 1985 compared to 1984 and in the first six months of 1986 compared

to the same period in 1985. The ratio of imports to domestic shipments was about six percent in the first half of 1986.

Further, the fact that worker separations occurred among the salaried and non-production employees because of the drop in oil prices would not form a basis for certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's price decision. Accordingly the application is denied.

Signed at Washington, DC, this 30th day of March 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services.

[FR Doc. 87-7663 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-17,927]

USS Corp. (Formerly United States Steel Corp.), Lorain Works, Lorain, OH; Affirmed Determination Regarding Application for Reconsideration

On December 29, 1986 the petitioners requested administrative reconsideration and were granted a filing extension to supplement their request for reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of workers and former workers at USS Corporation, Lorain Works, Lorain, Ohio. The determination was published in the **Federal Register** on December 2, 1986 (51 FR 43483).

The petitioners claim, among other things, that the Department in its initial investigation did not distinguish between carbon bar and alloy bar products produced at the Lorain Works. It is also claimed that import information on commodity classes (6068600, 613216, 6103945 and others) are at variance with the overall decrease in imports in each of the last two years and inconsistent with the Department's findings.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 27th day of March, 1987.

Barbara Ann Farmer,

Acting Director, Office of Program Management, UIS.

[FR Doc. 87-7664 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-87-56-C]

H L & W Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

H L & W Coal Company, 14 Maple Street, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its H L & W Slope (I.D. No. 36-07825) 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 the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face shall be 3,000 cubic feet a minute.

2. Air sample analysis, history reveals that harmful quantities of methane are nonexistent in the mine. Ignition, explosion, and mine fire history are nonexistent for the mine. There is no history of harmful quantities of carbon monoxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cublic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

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 May 7, 1987. Copies of the petition are available for inspection at that address.

Dated: March 30, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-7665 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-57-C]

Mine Hill Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Mine Hill Coal Company, R.D. # 2, Box 2844, Pottsville, Pennsylvania 17901 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Little Buck Mountain Slope (I.D. No. 36-07032) 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 requirements that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no

emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1987. Copies of the petition are available for inspection at that address.

Dated: May 25, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-7666 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-65-C]

Mt. Vernon Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Mt. Vernon Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1101-8 (water sprinkler systems; arrangement of sprinklers) to its Rend Lake Mine (I.D. No. 11-00601), located in Jefferson County, Illinois and its Wheeler Creek Mine (I.D. No. 11-02387), located in Hamilton County, Illinois. 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 installation requirements of water sprinkler systems.

2. As an alternate method, petitioner proposes to use a single line of automatic sprinklers for fire protection systems at main and secondary belt conveyor drives. In support of this request, petitioner states that:

(a) Automatic sprinklers will be maintained at a distance of not more than 10 feet apart with actuation temperatures between 200 degrees F. and 230 degrees F.;

(b) Automatic sprinklers will be located so that the discharge of water will extend over the belt drive, belt take-up, electrical control, and gear reducing unit;

(c) During operation of the system, water pressure will not be less than 10 psi; and

(d) A test to insure proper operation will be conducted during the installation of each new system and during subsequent repair or replacement of any critical part thereof.

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 May 7, 1987. Copies of the petition are available for inspection at that address.

Dated: March 25, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-7667 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-47-C]

Terco, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Terco, Inc., HC 73, Box 1723, Bryants Store, Kentucky 40921 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 1 Mine (I.D. No. 15-14730), and its Terco No. 3 Mine (I.D. No. 15-12478) both located in Knox 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 a methane monitor be installed on any electric face cutting equipment, continuous miner, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 35% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of continuous methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous miner will be available to assure that all coal hauling tractors will be equipped with a continuous miner;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

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 May 7, 1987. Copies of the petition are available for inspection at that address.

Dated: March 30, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-7668 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-49-C]

Three X Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Three X Coal Company, P.O. Box 1149, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 2 (I.D. No. 15-15680) located in Knox 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 a methane monitor be installed on any electric face cutting equipment, continuous miner, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 35% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of continuous methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous monitoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapsed time between trips does not exceed 20 minutes. This will provide continuous monitoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery tractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous miner will be available to assure that all coal hauling tractors will be equipped with a continuous miner;

(e) Each monitor will be removed from the mine at the end of the shift, and will be inspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

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 May 7, 1987. Copies of the petition are available for inspection at that address.

Dated: March 30, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-7669 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-64-C]

U.S. Steel Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

U.S. Steel Mining Co., Inc., 600 Grant Street, Pittsburgh, Pennsylvania 15230 has filed a petition to modify the application of 30 CFR 75.701 (grounding metallic frames, casings, and other enclosures of electric equipment) to its Gary No. 50 Mine (I.D. No. 46-01816), and its Shawnee Mine (I.D. No. 46-05907), both located in Pineville 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 metallic frames, casings, and other enclosures of electric equipment that can become "alive" through failure of insulation or by contact with energized parts be grounded.

2. Petitioner uses a continuity ground monitoring system and states that an internal grounding conductor cannot be used.

3. As an alternate method, petitioner seeks a modification of the standard to allow the use of mechanical connection without the external grounding shunt. Petitioner believes that the mechanical connection between the plug and receptacle housings of the connector provides an effective electrical ground.

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 May 7, 1987. Copies of the petition are available for inspection at that address.

Dated: March 25, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-7670 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-69-C]

W & D Coal Company, Inc., Petition for Modification of Application of Mandatory Safety Standard

W & D Coal Company, Inc., P.O. Box 92, Artemus, Kentucky 40903 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 1 Mine (I.D. No. 15-13376) located in Knox 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 a methane monitor be installed on any electric face cutting equipment, continuous miner, longwall face equipment and loading machine and shall be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 35% of the that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use hand held continuous oxygen and methane monitors in lieu of

continuous methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor will be equipped with a hand held continuous montoring methane and oxygen detector and all persons will be trained in the use of the detector;

(b) A gas test will be performed, prior to allowing the coal loading tractor in the face area, to determine the methane concentration in the atmosphere. The air quality will be monitored continuously after each trip, provided the elapse time between trips does not exceed 20 minutes. This will provide continuous montoring of the mine atmosphere for methane to assure any undetected methane buildup between trips;

(c) If one percent of methane is detected, the operator will manually deenergize his/her battery fractor immediately. Production will cease and will not resume until the methane level is lower than one percent;

(d) A spare continuous miner will be available to assure that all coal hauling tractors will be equipped with a continuous miner;

(e) Each monitor will be removed from the mine at the end of the shift, and will be indspected and charged by a qualified person. The monitor will also be calibrated monthly; and

(f) No alterations or modifications will be made in addition to the manufacturer's specifications.

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, 41015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1987. Copies of the petition are available for inspection at that address.

Dated: March 30, 1987.

Patricia W. Silvey,

Associate Assistant Secretary.

[FR Doc. 87-7671 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-66-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Holton Mine (I.D. No. 44-04197) located in Lee County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that due to the differing degrees of stability to which roof conditions deteriorate in the tailgate entry as the longwall face is mined, application of the standard will result in a diminution of safety.

3. As an alternate method, petitioner proposes to establish air monitoring checkpoints at specific locations. In further support of this request, petitioner states that:

(a) When an area of the tailgate entry cannot be safely traveled, the approach to that area will be dangered off and the quality and quantity of air returning from the longwall face will be evaluated for methane content and volume outby the dangered-off area (with access traveled from the mouth of the panel); and

(b) One-hour, self-contained self-rescuers will be maintained along the longwall face in sufficient numbers to provide easy and prompt access should an emergency arise. All persons who work in this area will be advised when portions of the tailgate entry are dangered off and will be reinstructed in emergency evacuation procedures.

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 comment. These comments must be filed with the Office of Standard, 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 May 7, 1987. Copies of the petition are available for inspection at that address.

Dated: March 25, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-7672 Filed 4-6-87; 8:45 am]

BILLING CODE 4510-13-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-352]

Philadelphia Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-39 issued to Philadelphia Electric Company for operation of the Limerick Generating Station, Unit 1, located in Montgomery County, Pennsylvania.

The proposed amendment would change the Technical Specifications (TS) in accordance with the licensee's application for amendment dated January 30, 1987, and as supplemented on March 27, 1987, to permit an increase in the allowable control room air leakage rate. The change to the surveillance requirement in TS 4.7.2.e.3 would allow an increase from 525 cubic feet per minute (cfm) to 2100 cfm in the amount of outside air which must be taken in by the control room heating, ventilating and air conditioning (HVAC) systems in order to maintain a control room internal positivve pressure of at least one-eight inch water gauge during a radiation isolation pressure mode of operation of the control room habitability systems. The change is requested to permit the establishment of a larger opening into the common Unit 1 and 2 control room to facilitate cable pulling associated with the construction of Unit 2.

The control room HVAC systems operate in three modes of operation as follows: (1) The chlorine isolation mode in response to a chlorine accident (2) the other toxic chemical isolation mode in response to other toxic chemical accidents, and (3) the radiation isolation mode in response to a high radiation accident. The response to the other toxic chemical accidents, as required by the degree of severity of the event, is to manually isolate the control room, initiate the control room emergency fresh air supply system (CREFAS) to process the recirculated air through charcoal filters, and use by the operators of self contained breathing apparatus. The response for the chlorine accident is similar except that the isolation is automatic. The response to the radiation accident is to automatically isolate the control room except for a specified intake of outside air which is processed by the CREFAS

before being used to maintain the control room at a positive internal pressure.

The proposed change would result in no physical system design changes to the normal control room (CR) HVAC or CREFAS system. A CR admitting 2100 cfm, instead of 525 cfm, in the radiation isolation mode would require a corsponding increase in the flowrate processed by the CREFAS prior to supplying it to the CR. The value of 2100 cfm is within the 3000 cfm capability of the CREFAS as discussed in the FSAR. A control room, that is assumd to be consistent with a demonstrated 2100 cfm inleakage capability when unpressurized and isolated in the chlorine or other toxic chemical isolation mode would require the operators to rely on self contained breathing apparatus at an earlier time (2.1 minutes) than if the leadage were consistent with the lower value of 525 cfm (2.6 minutes).

Before 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.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided analyses of no significant hazards considerations in its request for the license amendment. The licensee has concluded, with appropriate bases, that the proposed amendment satisfies the standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations.

The NRC staff has made a preliminary review of the licensee's submittals. The staff's evaluation of the proposed changes is provided below.

Standard 1—Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The control room HVAC systems, including the control room emergency fresh air system, operate in response to three accident scenarios which include a high radiation accident, a chlorine release accident and other toxic chemical release accident. There are no physical changes to the design of the CR HVAC or the CREFAS system. The system's controls will compensate for the increased opening area into the control room space by increasing the volume of outside air to the control room in order to keep the control room pressurized in response to the high radiation accident. The increase in the potential CR inleakage rate during its chlorine and other toxic chemical isolation response modes continues to provide more than two minutes for operators to put on self contained breathing apparatus. The increase in the allowable leakage rate and the associated increase in the HVAC flow rate is considered by the licensee to be independent of those events which would cause a high radiation or toxic chemical release accident; the probability of any accident previously evaluated is, therefore, not significantly increased. The licensee has evaluated the change in consequences resulting from the increased leakage and finds that the radiological doses to the operators, as shown in Table 1 of the amendment application and the supplemental letter dated March 27, 1987, would not be significantly increased. These calculated doses remain well within the dose guidelines of Section 6.4 of the Standard Review Plan (SRP). The licensee has evaluated the change in consequences from the chlorine and other toxic chemical release accidents and finds that there is no significant increase in consequences since the operators will continue to have more than the two minute minimum specified in SRP 6.4 in which to put on self contained breathing apparatus.

Standard 2—Create the Possibility of a New or Different kind of Accident From An Accident Previously Evaluated

The proposed changes do not physically alter the normal HVAC or CREFAS system design or operation nor does it affect the performance of any other system. The proposed change involves an increase in system flow rate which is within the design capability of the system to meet normal operational requirements and the high radiation accident. The proposed changes continue to allow the system to be isolated upon a chlorine or other toxic chemical accident in sufficient time to provide the operators with over two minutes to don self contained breathing apparatus. The licensee states that the analyses at the proposed increased air leakage rate are based on the existing design basis radiological accident described in FSAR Sections 15.6 and 15.10.2 and releases of toxic chemicals as described in FSAR Section 2.2.3 and that no new or different types of accidents are created by increasing the allowable leakage rate into the control room.

Standard 3—Involve a Significant Reduction in a Margin of Safety

The licensee states that while the CR dose following the postulated design basis accidents described in FSAR Sections 15. 6 and 15.10.2 is increased with the higher leakage rate, the reduction in the margin of safety is minimal as shown in Table 1 of the amendment application. Table 1 shows that although there will be an increase in the calculated dose as a result of a high radiation accident the increase is insignificant and the dose continues to be a small fraction of the limits established in General Design Criterion 19 and in the Standard Review Plan.

Since the allowable inleakage to the CR in a toxic chemical isolation mode would be increase by the proposed amendment the time available to the operators to don protective breathing apparatus before the concentration of chlorine or other toxic chemicals in the CR atmosphere becomes excessive is reduced. The licensee states that the effect of the proposed change is to reduce the time available for the operators to respond to the limiting chemical, ethylene oxide, from 2.6 minutes as stated in FSAR Table 2.2–6, to 2.1 minutes. The 2.1 minute period is still in excess of the protective action limit of two minutes or less as discussed in Section 6.4 of the Standard Review Plan. On this basis the licensee has concluded that the proposed change does not involve a significant reduction in a margin of safety.

The staff notes that the change from 2.6 minutes to 2.1 minutes in the available time for donning breathing apparatus is, as stated by the licensee, a decrease in the margin of safety. Although this change does result in a reduction in the margin associated with the time to implement protective measures prior to incapacitation, the staff is aware of the various conservatisms that are applied to the overall evaluation of the toxic gas risk. This includes conservatisms with respect to the likelihood and magnitude of a toxic gas release, as well as the degree of gas dispersion and infiltration into the control room. Hence, when considered in the context of the complete sequence of events associated with toxic gas hazards and accident analyses, the effect of the calculated decrease from 2.6 to 2.1 minutes on the overall toxic gas risk is small.

The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. Example vi relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system of component specified in the Standard Review Plan (SRP).

In this case the proposed change is similar to Example vi in that even though the margin between the calculated and the allowable control room doses due to a radiation accident and the margin between the previously available time and the minimum allowable time for the operators to put on self contained breathing apparatus in response to a toxic chemical accident is reduced, the change results in calculated doses and a response time which are within the acceptance criteria specified in the SRP.

As the changes requested by the licensee's January 30, 1987 submittal fit Example (vi) as well as satisfy the criteria of 10 CFR 50.92, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice with be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number this **Federal Register** notice. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington DC.

By May 7, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or by the Chairman of the Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first perhearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which may include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party. Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Walter R. Butler, Director, BWR Project Directorate No. 4, Division of DWR Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Conner and Wetterhahn, 1747 Pennsylvania Avenue, Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 30, 1987, as supplemented by letter dated March 27, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated at Bethesda, Maryland, this 2nd day of April, 1987.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, BWR Project Directorate No. 4, Division of BWR Licensing.

[FR Doc. 87–7684 Filed 4–6–87; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Revised Meeting Agenda

In accordance with the purposes of sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on April 9–11, 1987, in Room 1046, 1717 H Street, NW., Washington, DC. The agenda for this meeting was published in the Federal Register on March 26 1987, Vol. 52, No. 58, FR–9737.

Friday, April 10, 1987

1:30 P.M.–4:00 P.M.

Operating Experience (Open/Closed)—Briefing and discussion of recent incidents and events at nuclear facilities.

Portions of this session will be closed as required to duscuss Proprietary Information applicable to the matter being considered in accordance with 5 U.S.C. 552b(c)(4) and to discuss investigatory records complied for purposes of law enforcement or information which, if written, would be contained in such records to the extent that production of such records would interfere with enforcement proceedings per 5 U.S.C. 552b(c)(7)(A).

Procedures for the conduct of this meeting remain as previously noticed.

Dated: April 2, 1987.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 87–7666 Filed 4–6–87; 8:45 am]

BILLING CODE 6560–50–M

NUCLEAR REGULATORY COMMISSION

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3181–6]

Commercial Mixed Low-Level Radioactive and Hazardous Waste

AGENCY: Nuclear Regulatory Commission/Environmental Protection Agency.

ACTION: Notice of availability of guidance document and request for comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) and the Environmental Proection Agency (EPA) are issuing a jointly developed document which provides guidance on the definition and identification of commercial mixed low-level radioactive and hazardous waste (Mixed LLW) and sets out answers to anticipated questions from potential generators of this waste. This document was developed to assist commercial low-level radioactive waste generators in assessing whether they are currently generating Mixed LLW.

DATES: NRC and EPA will accept comments on this guidance document until July 6, 1987.

ADDRESSES: Comments on the guidance document should be directed to both NRC and EPA. For NRC, the public must send an original and two copies of their comments to: Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. For EPA, the public must send an original and two copies of their comments to: EPA RCRA Docket (S–212) (WH–562), Office of Solid Waste, 401 M Street SW., Washington, DC 20460. Communications should be identified by docket reference codes "F–87–LLWN–FFFFF".

Copies of this guidance document may be obtained free of charge from NRC upon written request to Linda Luther, Docket Control Center, Division of Waste Management, U.S. Nuclear Regulatory Commission, Mail Stop 623–SS, Washington, DC 20555, telephone (800) 368–5642, Ext. 74426. It may also be obtained free of charge from EPA by calling the RCRA Hotline telephone (800) 424–9346, or in Washington, DC by calling 382–3000, or by writing to the Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Requests should be identified as follows: OSWER Directive 9432.00–2. In addition, this document is available for viewing in the EPA RCRA Docket (Sub-basement), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket is open from 9:30 a.m. to 3:30 p.m. Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments.

FOR FURTHER INFORMATION CONTACT: Dr. Sher Bahadur, Division of Waste Management, Nuclear Regulatory Commission, Mail Stop 623–SS, Washington, DC 20555; or Mr. Alan Corson, Characterization and Assessment Division, Environmental Protection Agency, Mail Code WH–562B, 401 M Street SW., Washington, DC 20460.

Copies of NUREGs referenced in this document may be purchased through the U.S. Government Printing Office by calling (202) 275–2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. Copies are available for inspection and copying for a fee in the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

SUPPLEMENTARY INFORMATION: This announcement notices availability and solicits comments on the "Guidance on the Definition and Identification of Commercial Mixed Low-Level Radioactive and Hazardous Waste and Answers to Anticipated Questions." This guidance was jointly developed by the NRC and EPA and was approved on January 8, 1987 with the purpose of assisting low-level radioactive waste generators in assessing whether they are currently generating Mixed LLW.

Both agencies strongly encourage interested organizations and individuals to comment on the guidance, and to suggest additional areas of inquiry if appropriate.

Dated at Washington, DC, this 1st day of April, 1987.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Office of Nuclear Materials Safety and Safeguards.

For the Environmental Protection Agency.

J. Winston Porter,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 87-7626 Filed 4-6-87; 8:45 am]

BILLING CODE 6560-50-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24290; File No. SR-NASD-87-7]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted a proposed rule change on February 3, 1987, pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend section 66(b) of the NASD's Uniform Practice Code to reduce the time period for settling syndicate accounts from 120 days to 90 days.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 24110, February 18, 1987) and by publication in the **Federal Register** (52 FR 6090, February 27, 1987). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A, and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved. In accordance with the letter amendment filed by the NASD on March 20, 1987, the proposed rule change will become effective on May 1, 1987.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: April 1, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-7678 Filed 4-6-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

April 1, 1987

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 stocks:

Consolidated Rail Corporation
Common Stock, $1.00 Par Value (File No. 7-9870)

Colonial Municipal Income Trust
Shares of Beneficial Interest, No Par Value (File No. 7-9871)

Petrolane Partners, L.P.
Depository Receipts, No Par Value (File No. 7-9872)

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 April 22, 1987, 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-7679 Filed 4-6-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

March 31, 1987.

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:

Consolidated Rail Corporation, Common Stock, $1.00 Par Value (File No. 7-9868)

Maritrans Partners L.P., Depository Receipts Representing Units of Limited Partnership Interest (File No. 7-9869)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated tranasction reporting system.

Interested persons are invited to submit on or before April 21, 1987 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. 87-7598 Filed 4-6-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-16542]

Application and Opportunity for Hearing; Citicorp

April 1, 1987.

Notice is hereby given that Citicorp (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeships of United States Trust Company of New York (the "Trust Company") under four existing indentures, and a Pooling and Servicing Agreement, dated as of January 1, 1987 under which certificates evidencing interests in a pool of mortgage loans have been issued, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trust Company from acting as Trustee under any of such indentures or the agreement.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such a conflicting interest, either eliminate the conflicting interest or resign as trustee. Subsection (1) of section 310(b) provides, with certain exceptions, that a trustee under a qualified indenture shall be deemed to

have a conflicting interest if such trustee is trustee under another indenture under which any other securities of an obligor upon the indenture securities are outstanding.

The Applicant alleges that: (1) The Trust Company currently is acting as Trustee under four indentures under which the Applicant is the obligor. The indenture dated as of February 15, 1972 involved the issuance of Floating Rate Notes due 1989; the indenture dated as of March 15, 1977 involved the issuance of various series of unsecured and unsubordinated Notes; the indenture dated as of August 25, 1977 involved the issuance of Rising-Rate Notes, Series A; and the indenture dated as of April 21, 1980 involved the issuance of various series of unsecured and unsubordinated Notes. Said indentures were filed as, respectively, Exhibits 4(a), 2(b), 2(b), and 2(a) to Applicant's respective Registration Statement Nos. 2–42915, 2–58355, 2–59396 and 2–64862 under the Securities Act of 1933 (the "1933 Act"), and have been qualified under the Act. Said four indentures are hereinafter called the "Indentures" and the securities issued pursuant to the Indentures are hereinafter called the "Notes."

(2) The Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(3) On January 15, 1987, the Trust Company entered into a Pooling and Servicing Agreement dated as of January 1, 1987 (the "1986–T Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on January 15, 1987 Mortgage Pass-Through Certificates, Series 1986–T 8.50% Pass-Through Rate (the "Series 1986–T Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986–T Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $97,389,210.99 at the close of business on January 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986–T Certificates. On January 15, 1987, Applicant, the parent of Citibank, N.A., entered into a guaranty of even date (the "1986–T Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1986–T Certificates, to be liable for 7.0% of the initial aggregate principal balance of the 1986–T Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986–T Guaranty. The 1986–T Guaranty states the Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986–T Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986–T Certificates were registered under the 1933 Act (Registration Statement on Forms S–11 and S–3, File No. 33–6358) as part of a delayed or continous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the 1933 Act. The Series 1986–T Certificates were offered by a Prospectus Supplement Dated December 16, 1986, supplemental to a Prospectus dated November 7, 1986. The 1986–T Agreement has not been qualified under the Act.

(4) The obligations of Applicant under the Indentures and the 1986–T Guaranty are wholly unsecured, are unsubordinated and rank *pari passu*. Any differences that exist between the provisions of the Indentures and the 1986–T Guaranty are unlikely to cause any conflict of interest among the trusteeships of the Trust Company under the Indentures and the 1986–T Agreement.

(5) The Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under Rule 8(b) of the Commission's Rules and Practice in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22–16542, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC.

Notice is Further Given that an interested person may, not later than April 20, 1987, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549.

At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–7680 Filed 4–6–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

March 31, 1987.

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:

Sun Chemical Corporation (New), Class A Common Stock, No Par Value (File No. 7–9866)

Sun Chemical Corporation (New), Class B Common Stock No Par Value (File No. 7–9867)

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 April 21, 1987, 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. 87–7599 Filed 4–6–87; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22-16430]

Application and Opportunity for Hearing; Citicorp

April 1, 1987.

Notice is hereby given that Citicorp (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of United States Trust Company of New York (the "Trust Company") under four existing indentures, and a pooling and Servicing Agreements dated December 1, 1986 under which certificates evidencing interests in a pool of mortgage loans have been issued, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trust Company from acting as Trustee under any of such indentures or the agreement. Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such a conflicting interest, either eliminate the conflicting interest or resign as trustee. Subsection (1) of

Section 310(b) provides, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under which securities of an obligor upon the indenture securities are outstanding.

The Applicant alleges that: (1) The Trust Company currently is acting as Trustee under four indentures under which the Applicant is the obligor. The indenture dated as of February 15, 1972 involved the issuance of Floating rate notes due 1989; the indenture dated as of March 15, 1977 involved the issuance of various series of unsecured and unsubordinated notes; the indenture dated as of August 25, 1977 involved the issuance of rising-rate notes, Series A; and the indenture dated as of April 21, 1980 involved the issuance of various series of unsecured and unsubordinated notes. These indentures were filed as, respectively, Exhibits 4(a), 2(b), 2(b), and 2(a) to Applicant's respective registration statement nos. 2-42915, 2-58355, 2-59396 and 2-64862 filed under the Securities Act of 1933 (the "1933 Act"), and have been qualified under the Act. Said four indentures are hereinafter called the "Indentures" and the securities issued pursuant to the Indentures are hereinafter called the "Notes".

(2) The Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(3) On December 22, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of December 22, 1986 (the "1986-S Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on December 22, 1986 Mortgage Pass-Through Certificates, Series 1986-S 9.00% Pass-Through Rate (the "Series 1986-S Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986-S Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $125,377,276.53 at the close of business on December 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986-S Certificates. On December 22, 1986, Applicant, the parent of Citibank, N.A., entered into a guaranty of even date (the "1986-S Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1986-S Certificates, to be liable for 6.5% of the initial aggregate principal balance of the 1986-A Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986-S Guaranty. The 1986-S Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986-A Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986-S Certificates were registered under the Securities Act of 1933 (registration statement on Forms S-11 and S-3, File No. 33-6358) as part of a delayed or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the 1933 Act. The Series 1986-S Certificates were offered by a prospectus supplement dated December 3, 1986, supplemental to a Prospectus dated November 7, 1986. The 1986-S Agreement has not been qualified under the Act.

(4) The obligations of Applicant under the Indentures and the 1986 Guaranty are wholly unsecured, are unsubordinated and rank *pari passu*. Any differences that exist between the provisions of the Indentures and the 1986-S Guaranty are unlikely to cause any conflict of interest among the trusteeships of the Trust Company under the Indentures and the 1986-S Agreements.

(5) Applicant has waived notice of hearing, hearing, and any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice in connection with this matter. For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22-16430, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC.

Notice is further given that any interested person may, not later than April 21, 1987, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by said application that he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan Katz,

Secretary.

[FR Doc. 87-7600 Filed 4-6-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Notice No. 1008]

Certification To Authorize Continuation of Certain Assistance for Haiti

Pursuant to the authority vested in me by Executive Order 12163, as amended, I hereby reconfirm the certification issued by the Acting Secretary on December 23, 1986, as it applies to the provision of assistance under chapter 5 of part II of the Foreign Assistance Act of 1961, as amended, and I hereby determine that the following conditions imposed by section 203 of the Special Foreign Assistance Act of 1986 (Pub. L. 99-529) with respect to the provisions of assistance under that chapter, as well as chapter 2 of Part II and the Arms Export Control Act, have been met.

(1) Th[illegible]ment of Haiti has submitte[illegible]nal request to the United States sp[illegible]g a comprehensive plan for the ref[illegible]and reorganization of the mission, command, and control structures of the Haitian armed forces consistent with a transition to democracy, the rule of law, constitutional government, and an elected civilian government. Such a plan should include a publicly announced commitment by the armed forces of Haiti to abide by international human rights standards and adoption of a code of conduct to assure adherence to these standards.

(2) The Government of Haiti is making substantial efforts:

a. To prevent the involvement of the Haitian Armed Forces in human rights abuses and corruption by removing from those forces and prosecuting, in accordance with due process, those military personnel responsible for the human rights abuses and corruption;

b. To ensure that freedom of speech and assembly are respected;

c. To conduct investigations into the killings of unarmed civilians in Gonaives, Martissant, and Fort Dimanche, to prosecute, in accordance with due process, those responsible for those killings, and to prevent any similar occurrences in the future;

d. To provide education and training to the Haitian armed forces with respect to internationally recognized human rights and the civil and political rights essential to democracy, in order to enable those forces to function consistent with those rights; and

e. To take steps to implement the policy of the Government of Haiti requiring former members of the volunteers for National Security (VSN) to turn in their weapons and to take the necessary actions to enforce this requirement.

This certification shall be reported to the Congress immediately and shall be published in the **Federal Register.**

Dated: March 23, 1987.

George P. Shultz,

Secretary of State.

[FR Doc. 87-7643 Filed 4-6-87; 8:45 am]

BILLING CODE 4710-29-M

[Public Notice CM-8/1063]

Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on May 8, 1987, at the Springfield Hilton Hotel, 6550 Loisdale Road, Springfield, Virginia. The meeting will begin at 9:00 a.m. in Room 222.

Study Group 6 deals with matters relating to the propagation of radio waves in and through the ionosphere. The purpose of the meeting will be to continue the plan of work for the Study Group during the 1986-1990 period.

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.

April 1, 1987.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 87-7644 Filed 4-6-87; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Order Adjusting International Cargo Rate Flexibility Level

Policy statement PS-109, implemented by Regulation ER-1322 of the Civil Aeronautics Board and adopted by the Department, established geographic zones of cargo pricing flexibility, within which cargo rate tariffs filed by carriers would be subject to suspension only in extraordinary circumstances.

The standard foreign rate level (SFRL) for a particular market is the rate in effect on April 1, 1982, adjusted for the cost experience of the carriers in the relevant ratemaking entity. The first adjustment was effective April 1, 1983. By Order 86-9-91, the Department established the currently effective SFRL adjustments.

In establishing the SFRL for the six-month period starting April 1, 1987, 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 the carriers.

By Order 87-4-2 cargo rates may be adjusted by the following adjustment factors over the April 1, 1982, level:

Atlantic	.9238
Western Hemisphere	.8576
Pacific	1.1815

For Further Information Contact: Julien Schrenk, (202) 366-2441.

By the Department of Transportation.

Vance Fort,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-7621 Filed 4-6-87; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

[Docket No. 43343; Notice 87-8]

Electronic Tariff Filing System; Meetings of Subcommittees of the Advisory Committee

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Subcommittee Meetings.

SUMMARY: The Department announces the first meetings of the subcommittees on technical issues and posting requirements of the Electronic Tariff Filing System Advisory Committee.

DATE: The meeting of the Posting Requirements Subcommittee will commence on April 22, 1987, at 10:00 a.m. The Technical Issues (Database) Subcommittee will meet at 2:00 p.m. on April 22, 1987, and continue through April 23, 1987.

ADDRESS: Meetings of both subcommittees will be held in Room 6434 in the Department of Transportation headquarters building at 400 7th St., SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Moore, Chief, Tariffs Division, Office of International Aviation, 400 7th St., SW., Washington, DC 20590, Telephone: (202) 366-2414.

The meeting will be open to public observation. A period will be set aside for oral comments or questions by the public which do not exceed 10 minutes for each individual. Public comments regarding subcommittee affairs may be submitted at any time before or after the meeting. Approximately 10 seats will be available for the public on a first-come, first-serve basis.

Copies of the minutes will be available at cost on request 30 days after the meeting.

Dated: April 1, 1987.

By:

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-7620 Filed 4-6-87; 8:45 am]

BILLING CODE 4910-62-M

Notice of 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 87–2–3 set the currently effective two-month SFFL applicable through March 31, 1987.

In establishing the SFFL for the two-month period beginning April 1, 1987, 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 87–4–1 fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic	0.9617
Latin America	1.0412
Pacific	1.3693
Canada	1.1402

For further information contact: Julien R. Schrenk (202) 366–2441.

By the Department of Transportation.

Vance Fort,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 87–7622 Filed 4–6–87; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

San Jose International Airport, San Jose, CA; Noise Exposure Maps

AGENCY: Federal Aviation Administration, DOT.

ACTION: Revised Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps submitted by the city of San Jose, California, for the San Jose International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is August 29, 1986. This provides an amended date which was previously reported as December 30, 1986, in the **Federal Register** Notice announcing receipt of the Noise Compatibility Program issued February 11, 1987, and published in the **Federal Register** on February 27, 1987 (52 FR 6091).

FOR FURTHER INFORMATION CONTACT: Thomas J. Conley, Environmental Protection Specialist, AWP–611.3, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, World Way Postal Center, Los Angeles California 90009, (213) 297–1621.

SUPPLEMENTARY INFORMATION: This notice annouces that the FAA finds that the Noise Exposure Maps submitted for the San Jose International Airport, San Jose, California, are in compliance with applicable requirements of the Federal Aviation Regulation (FAR) Part 150, effective August 29, 1986.

FAA notified the city of San Jose of its determination of the Noise Exposure Maps by letter dated August 29, 1985, in accordance with § 150.21(c) of FAR Part 150, but by oversight, did not publish notice of its determination in the **Federal Register** at that time. This constitutes FAA's **Federal Register** Notice in accordance with § 150.21(c).

Under section 103 of the Aviation Safety and Notice Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA Noise Exposure Maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted Noise Exposure Maps that are found by the FAA to be in compliance with the requirements of FAR Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the Noise Exposure Maps and related descriptions submitted by the city of San Jose, on August 29, 1986. The specific maps under consideration are Exhibits V–1 and V–2 in the submission. FAA has determined that the Noise Exposure Maps for the San Jose International Airport are in compliance with applicable requirements. This determination is effective on August 29, 1986. FAA's determination on an airport operator's Noise Exposure Maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, nor is it a commitment to approve a Noise Compatibility Program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a Noise Exposure Map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or interpreting the Noise Exposure Maps to resolve questions concerning, for example, which properties should be covered by provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under FAR Part 150 or through FAA's review of Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator who submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of the FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the Noise Exposure Maps and the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue SW., Room 617, Washington, DC 20591

Western-Pacific Region, Airports Division, AWP–600, Federal Aviation Administration, 15000 S. Aviation Boulevard, Room 6E25, Hawthorne, California 90261

Mr. Raul L. Regalado, C.A.E., Director of Aviation, San Jose, International Airport, San Jose, California 95110–1285.

Questions may be directed to the individual named above under heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California, on March 23, 1987.

Herman C. Bliss,

Manager, Airports Division, FAA, Western Pacific Region

[FR Doc. 87-7608 Filed 4-6-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 626; Ref: ATF O 1100.113B]

Delegation of Certain Authorities of the Director in 27 CFR Parts 47, 178, 179; Delegation Order

1. *Purpose.* This order delegates certain authorities now vested in the Director by regulations in 27 CFR Parts 47, 178 and 179 to the Associate Director (Compliance Operations). The order also permits the redelegation of certain authorities to lower organizational levels.

2. *Cancellation.* ATF O 1100.113A, Delegation Order—Delegation of Certain Authorities of the Director in 27 CFR Parts 47, 178, 179, dated 7/26/83, is canceled.

3. *Background.* a. Under current regulations, the Director has authority to take final action on certain matters relating to:

(1) Commerce in Firearms and Ammunition, 27 CFR Part 178.

(2) Machineguns, Destructive Devices, and Certain Other Firearms, 27 CFR Part 179.

(3) Importation of Arms, Ammunition, and Implements of War, 27 CFR Part 47.

b. Certain of these authorities were delegated by the Director to the Associate Director (Compliance Operations). Regulatory provisions promulgated under the amendments to the Federal firearms laws delegate additional authorities to the Director. These amendments necessitate that these authorities now be redelegated to the Associate Director (Compliance Operations).

c. In order to properly fulfill ATF responsibilities with respect to these delegated authorities, the Associate Director (Compliance Operations) will coordinate actions that may have an impact on law enforcement activities with the Associate Director (Law Enforcement). Authorities redelegated by the Associate Director (Compliance Operations) to lower organizational levels will be coordinated with the appropriate law enforcement office.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, the authority to take final action on the following matters relating to 27 CFR Parts 178, 179, and 47 is hereby delegated to the Associate Director (Compliance Operations).

a. *27 CFR Part 178:*

(1) To prescribe all forms required by 27 CFR Part 178, under 27 CFR 178.21.

(2) To approve written applications for alternate methods or procedures, under 27 CFR 178.22(a).

(3) To withdraw authority for any alternate method or procedure, under 27 CFR 178.22(a).

(4) To approve written applications for emergency variations, under 27 CFR 178.22(b).

(5) To withdraw authority for any emergency variations, under 27 CFR 178.22(b).

(6) To compile for publication in the **Federal Register**, annually revise, and furnish to Federal firearms licensees a list of state laws and published ordinances which are relevant to the enforcement of Part 178, under 27 CFR 178.24.

(7) To determine whether a particular firearm is a curio or relic, under 27 CFR 178.26.

(8) To determine whether a device is excluded from the definition of a destructive device, under 27 CFR 178.27.

(9) To approve the transportation in interstate or foreign commerce of any destructive device, machinegun, short-barreled shotgun, or short-barreled rifle, under 27 CFR 178.28.

(10) To authorize alternate means of identification of a firearm or a destructive device by a licensed importer or licensed manufacturer, under 27 CFR 178.92.

(11) To approve applications for sale or delivery of destructive device or weapon, under 27 CFR 178.98.

(12) To furnish each licensed dealer information defining which projectiles are considered armor piercing, under 27 CFR 178.99(e).

(13) To approve applications to import firearms, firearms barrels, and ammunition, under subpart G of 27 CFR Part 178, under 27 CFR 178.112, 178.113, 178.114, and 178.116.

(14) To designate research organizations exempt from the provisions of 178.98, with respect to the sale or delivery of destructive devices, machineguns, short-barreled shotguns, or short-barreled rifles to such research organizations, under 27 CFR 178.145.

(15) To exempt certain armor piercing ammunition from recordkeeping requirements of this part, and to require that a sample of the ammunition be submitted for examination and evaluation, under 27 CFR 178.148.

(16) To authorize manufacture, importation, sale, or delivery of armor piercing ammunition for the purpose of testing or experimentation, under 27 CFR 178.149.

b. *27 CFR Part 179:*

(1) To prescribe all forms required by 27 CFR Part 179, under 27 CFR 179.21.

(2) To determine whether a device is excluded from the definition of a destructive device, under 27 CFR 179.24.

(3) To determine whether a firearm or device, which although originally designed as a weapon, is by reason of the date of its manufacture, value, design, and other characteristics primarily a collector's item and is not likely to be used as a weapon, under 27 CFR 179.25.

(4) To approve alternate methods or procedures, under 27 CFR 179.26(a).

(5) To withdraw approval of alternate methods or procedures, under 27 CFR 179.26(a).

(6) To approve emergency variations, under 27 CFR 179.26(b).

(7) To withdraw approval of emergency variations, under 27 CFR 179.26(b).

(8) To relieve qualified persons of the requirement to pay special (occupational) tax, under 27 CFR 179.33(a).

(9) To relieve qualified manufacturers from compliance with any provision of 27 CFR Part 179, under 27 CFR 179.33(a).

(10) To maintain supply of stamps bearing the words "National Firearms Act," representing payment of tax on the making of a firearm, under 27 CFR 179.61.

(11) To affix National Firearms Act stamp to original application authorizing the making of a firearm, under 27 CFR 179.62.

(12) To approve applications to make a firearm, under 27 CFR 179.64.

(13) To approve applications to make a firearm for the United States, under 27 CFR 179.69.

(14) To approve applications to make a firearm by or on behalf of certain Government entities, under 27 CFR 179.70.

(15) To approve applications to transfer firearms and to affix NFA stamps, under 27 CFR 179.86.

(16) To approve applications to transfer firearms to special (occupational) taxpayers, under 27 CFR 179.88(b).

(17) To approve applications to transfer firearms to certain Government entities, under 27 CFR 179.90(b).

(18) To approve applications to transfer unserviceable firearms as a curio or ornament, under 27 CFR 179.91.

(19) To maintain a central registry (the National Firearms Registration and Transfer Record) of all firearms in the United States which are not in the possession or under the control of the United States, under 27 CFR 179.101.

(20) To authorize other means of identification of firearms and destructive devices, under 27 CFR 179.102.

(21) To receive notice and effectuate registration of firearms manufactured, under 27 CFR 179.103.

(22) To approve registration of firearms acquired by certain Government entities, under 27 CFR 179.104.

(23) To approve importations of firearms, under 27 CFR 179.111(a).

(24) To receive notice and effectuate registration of imported firearms, under 27 CFR 179.112(a).

(25) To approve importations of firearms by an importer or dealer qualified under 27 CFR Part 179, for use as a sample in connection with sales of such firearms to Federal, State, or local Government entities, under 27 CFR 179.112(d).

(26) To approve applications for the conditional importation of firearms and impose conditions upon such importation, under 27 CFR 179.113.

(27) To approve applications and execute permits for the exportation of firearms, under 27 CFR 179.115.

(28) To vary the requirements relating to permits and supporting documents for firearms exported to persons in the insular possessions of the United States, under 27 CFR 179.121.

(29) To issue duplicate documents evidencing possession of a firearm, under 27 CFR 179.142.

(30) To maintain supply of stamps bearing the words "National Firearms Act," representing payment of the transfer tax or tax on making a firearm, under 27 CFR 179.161.

(31) To affix the appropriate "National Firearms Act" stamp evidencing payment of the transfer tax or tax on making a firearm, under 27 CFR 179.161.

c. *27 CFR Part 47:*

(1) To approve applications for registration of persons to import articles enumerated on the U.S. Munitions Import List, under 27 CFR 47.32(a).

(2) To approve the refund of registration fee, under 27 CFR 47.32(c).

(3) To prescribe a longer or shorter period of records retention, under 27 CFR 47.34(b).

(4) To prescribe all forms required by 27 CFR Part 47, under 27 CFR 47.35(a).

(5) To approve permit applications to import firearms, ammunition, and implements of war, under 27 CFR 47.42.

(6) To amend, alter, or certify permits to import firearms, ammunition, and implements of war, under 27 CFR 47.43(c).

(7) To deny, revoke, suspend, or revise permits to import firearms, ammunition, and implements of war, under 27 CFR 47.44 (a) and (b).

(8) To certify to the legality of importation of articles on the U.S. Munitions Import List, under 27 CFR 47.51.

5. *Redelegation.* a. The authorities in paragraphs 4a(7), 4a(8), 4a(10), 4a(12), 4a(15), 4b(2), 4b(3), and 4b(20) may be redelegated to Compliance Operations personnel in Bureau Headquarters, but not lower than the position of division chief.

b. The authorities in paragraphs 4a(1), 4a(3), 4a(5), 4a(14), 4a(16), 4b(1),4b(5), 4b(7), 4b(8), 4b(9), 4b(10), 4b(19), 4b(30), 4c(3), 4c(4), and 4c(7) may be redelegated to Compliance Operations personnel in Bureau Headquarters, but not lower than the position of branch chief.

c. The authorities in paragraphs 4a(9), 4a(11), 4a(13), 4b(11), 4b(12), 4b(13), 4b(14), 4b(15), 4b(16), 4b(17), 4b(18), 4b(21), 4b(22), 4b(23), 4b(24), 4b(25), 4b(26), 4b(27), 4b(28), 4b(29), 4b(31), 4c(1), 4c(2), 4c(5), 4c(6), and 4c(8) may be redelegated to Compliance Operations personnel in Bureau Headquarters, but not lower than the position of application examiner.

d. The authorities in paragraphs 4a(2), 4a(4), 4a(6), 4b(4), and 4b(6), may beredelegated to Compliance Operations personnel in Bureau Headquarters, but not lower than the position of specialist.

e. The authorities in paragraphs 4a(2), 4a(4), 4b(4), and 4b(6) may be redelegated to the regional director (compliance) to approve, without submission to Bureau Headquarters, requests which are identical to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate these authorities to a position not lower than chief, technical services, or area supervisor. The authorities in paragraphs 4a(3),4a(5), 4b(5), and 4b(7) may be redelegated to the regional director (compliance) who may redelegate the authorities to a position not lower than chief, technical services, regarding alternate methods, procedures or emergency variations approved by regional offices only.

6. *For Information Contact.* Robert Trainor, Procedures Branch, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20026 (202) 566-7602.

7. *Effective Date.* This delegation order becomes effective on April 7, 1987.

Approved: March 26, 1987.

Stephen E. Higgins,

Director.

[FR Doc. 87-7543 Filed 4-6-87; 8:45 am]

BILLING CODE 4810-13-M

Sunshine Act Meetings

Federal Register
Vol 52, No. 66
Tuesday, April 7, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, March 31, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum re: Proposed Statement of Policy for Minimum Disclosure by Insured State Nonmember Banks which statement of policy would set forth the various types of information as insured state nonmember bank should make available to the public upon request.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of New WSB Savings Bank, New York City (Brooklyn), New York, a proposed stock savings bank in organization, for consent to merge, under its charter and with the title "The Williamsburgh Savings Bank," with The Williamsburgh Savings Bank, New York City (Brooklyn), New York, an insured mutual savings bank, and for consent to establish the main office and twelve existing branches of The Williamsburgh Savings Bank as the main office and branches of the resultant bank, and for consent to convert The Williamsburgh Savings Bank to a stock form of organization and to prepay its outstanding net worth certificates.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: April 2, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-7719 Filed 4-3-87; 11:34 am]

BILLING CODE 6714-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 1, 1987.

TIME AND DATE: Following the oral argument, April 9, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the Commission will consider and act upon the following:

2. *Secretary of Labor on behalf of Bobby C. Keene v. S & M Coal Company, Inc.*, Docket No. VA 86-34-D. (Issues include consideration of a petition for discretionary review).

3. *Harlon L. Thurman v. Queen Anne Coal Company*, Docket No. SE 86-121-D. (Issues include consideration of a petition for discretionary review).

It was determined by a unanimous vote of Commissioners that these items be considered in a closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87-7696 Filed 4-3-87; 11:34 am]

BILLING CODE 6735-01-M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 2:00 p.m., Thursday, April 9, 1987.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW.

STATUS: Closed to public observation pursuant to 5 U.S.C. section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Selection of Regional Director for Region 22—Newark, New Jersey, Region 3, Buffalo, New York.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, DC 20570, Telephone: (202) 254-9430.

Dated, Washington, DC, 1 April 1987.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 87-7768 Filed 4-3-87; 3:07 pm]

BILLING CODE 7545-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 6, 13, 20, and 27, 1987.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of April 6

Monday, April 6

2:00 p.m.
Briefing on NRC Strategic Planning (Public Meeting)

Wednesday, April 8

10:00 a.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)

Thursday, April 9

2:30 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Review of ALAB-853, In the Matter of Public Service Company of New Hampshire

Friday, April 10

10:00 a.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Clinton (Public Meeting)

3:30 p.m.
Briefing on Status of Peach Bottom (Closed—Ex. 5 & 7) (Tentative)

3:45 p.m.
Briefing on Status of Peach Bottom (Public Meeting) (Tentative)

Week of April 13—Tentative

Wednesday, April 15

10:00 a.m.
Briefing by Office of Special Projects (Public Meeting)

2:00 p.m.
Briefing by DOE on the TMI-2 Core Examination Program (Public Meeting)

Thursday, April 16

11:00 a.m.
Periodic Meeting with the Advisory Panel for the Decontamination of TMI-2 (Public Meeting)

2:30 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2, 5, 6, & 7)

4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of April 20—Tentative

Thursday, April 23

4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of April 27—Tentative

2:00 p.m.
Briefing on Advanced Boiling Water Reactor Review (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634–1410.

Robert B. McOsker,

Office of the Secretary.

April 2, 1987.

[FR Doc. 87–7781 Filed 4–3–87; 3:52 pm]

BILLING CODE 7590-01-M

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

TIME AND DATE: 8:00 a.m., April 13, 1987.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799.

STATUS: Open—under "Government in the Sunshine Act" [5 U.S.C. 552b(e)(3)].

MATTERS TO BE CONSIDERED:

8:00 Meeting—Board of Receipts

(1) Approval of Minutes—January 12, 1987; (2) Sunshine Act Report; (3) Faculty Matters: (a) Faculty Appointments, (b) Appointment of Chairperson, Department of Biochemistry, (c) Appointment of Acting Vice President, (d) Appointment of Adviser, Board of Regents; (4) Report—Admissions; (5) Report—Associate Dean for Operations; (6) Report—President, USUHS: (a) University Awards, (b) Certification of Medical Students, (c) Certification of Graduate Students, (d) Department of Defense/Veterans Administration Cooperative Medical Research Program, (e) Foreign Physicians Certification, (f) Militarily Unique Graduate Medical Education Curriculum, (g) Information Items; (7) Comments—Members, Board of Regents; (8) Comments—Chairman, Board of Regents

New Business

SCHEDULED MEETING: July 20, 1987.

CONTACT PERSON FOR MORE INFORMATION: Donald L. Hagengruber, Executive Secretary of the Board of Regents, 202/295–3028.

Particia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 3, 1987.

[FR Doc. 87–7787 Filed 4–7–87; 4:01 pm]

BILLING CODE 3810-01-M

federal register

Tuesday
April 7, 1987

Part II

Department of Education

Educational Media Research, Production, Distribution, and Training and Technology, Educational Media, and Materials; Notice of Proposed Annual Funding Priorities

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Educational Media Research, Production, Distribution, and Traininig and Technology, Educational Media, and Materials; Proposed Annual Funding Priorities

AGENCY: Department of Education.

ACTION: Notice of proposed annual funding priorities.

SUMMARY: The Secretary proposes to establish annual funding priorities for the Educational Media Research, Production, Distribution, and Traininig program and the Technology, Educational Media, and Materials program to ensure effective use of program funds and to direct funds to areas of identified need during fiscal year 1987.

DATE: Comments must be received on or before May 7, 1987.

ADDRESS: Comments should be addressed to the contact person listed in each individual proposed priority.

FOR FURTHER INFORMATION CONTACT: The person listed in each individual proposed priority.

SUPPLEMENTARY INFORMATION: Awards under the Educational Media Research, Production, Distribution, and Training program are authorized under Part F of the Education of the Handicapped Act. The purpose of this program is to promote the educational advancement of handicapped persons by providing assistance for research on the use of educational media for handicapped persons; producing and distributing educational media for handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of handicapped persons; and training persons in the use of educational media for the instruction of handicapped persons. Awards under the Technology, Educational Media, and Materials program are authorized under Part G of the Education of the Handicapped Act which was established by section 317 of the Education of the Handicapped Act Amendments of 1986. The purpose of this program is to advance the use of new technology, media, and materials in the education of the handicapped.

Proposed Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference under the Educational Media Research, Production, Distribution, and Training program in fiscal year 1987 to applications that respond to priorities 1, 2, and 3, described below. The Secretary also proposes to give an absoslute preference under the new Technology, Educational Media, and Materials program in fiscal year 1987 to applications that respond to priorities 4, 5, and 6 described below. An absolute preference is one under which the Secretary selects only those applications that meet the described priorities. In addition, for fiscal year 1987 the Secretary proposes to use the selection criteria for the Educational Media Research, Production, Distribution, and Training program at 34 CFR 332.32 to evaluate applications submitted under the Technology, Educational Media, and Materials program which will be funded under new Part G of the Act.

Priority 1—Closed-Captioned Real-Time News

This proposed priority would support one cooperative agreement for closed-captioned national real-time news and public information programming. This would provide hearing-impaired Americans with national up-to-date evening news, morning news, and weekend news as well as access to current events and other public information that affects the lives of all citizens. This priority is covered under section 651(a)(2) of the Act (Part F).

For Further Information Contact: Dr. Malcolm J. Norwood, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. Telephone: (202) 732–1177.

Priority 2—Closed-Captioned National Television Programming

This proposed priority would support a cooperative agreement to close-caption syndicated programs. Closed-captioning of syndicated programs increases access to programming available to the general population. This priority is covered under section 651(a)(2) of the Act (Part F).

For Further Information Contact: Dr. Malcolm J. Norwood, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. Telephone: (202) 732–1177.

Priority 3—Closed-Captioned Local News Projects

This proposed priority would support new projects for the closed-captioning of local news programs. Projects would be incrementally funded over a 3-year period to encourage closed captioning of local news. At the end of the third year the applicants are expected to continue the project without additional Federal support. This priority is covered under section 651(a)(2) of the Act (Part F).

For Further Information Contact: Dr. Malcolm J. Norwood, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094—M/S 2313), Washington DC 20202. Telephone: (202) 732–1177.

Priority 4—Compensatory Technology Applications

This proposed priority would support innovative adaptations of hardware and software technology and the field-test evaluation of those innovative adaptations. The technology adaptations must compensate for physical, sensory, or cognitive learning impediments in order to: (a) Alleviate the need to modify instructional materials and/or (b) increase the overall accessability to educational opportunities for handicapped learners. These projects must capitalize on advances in such areas as peripherals, memory, display, networking, and reproduction. Projects must develop prototypes which serve as models of transfer applications of existing technology for use in the education of handicapped children. Following the development phase, appropriate evaluation and field-testing of the adapted technology device must occur. In addition, a plan for national marketing and distribution including a rationale supporting the modifications based on the field-test results must be submitted as a final report. This priority is covered under section 661 of the Act (Part G).

For Further Information Contact: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. Telephone: (202) 732–1099.

Priority 5—Improving Technolgoy Software

This proposed priority would support the investigation, synthesis, and transfer of research information related to designing, creating, and field-testing an

advanced computer-assisted instruction (CAI) program that demonstrates superior computerization of teaching/learning processes. This may include the collection of data for use in the design and development phase.

The resulting product from each project must be a CAI personal computer program designed for use in the education of handicapped children. The CAI program must be on a specific topic in one of these basic subjects: language arts, mathematics, or science. The CAI program must involve the handicapped student in an interactive, individualized way by including instructional options such as: student control of the entry point in lessons; student reponse to questions asked; branching of instruction or direction based on performance analysis as presented on the computer screen; and/or student manipulation via response devices other than the keyboard (e.g., graphics entry pad, light pen, touch screen, mouse, voice, or other non-keyboard input devices). Computer simulations of science experiments, and situations involving math and language arts skills are encouraged. This advanced programming must result in state-of-the-art software and demonstrate the benefits of student involvement and student control in CAI. This priority is covered under section 661 of the Act (Part G).

For Further Information Contact: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. Telephone: (202) 732-1099.

Priority 6—Instructional Technology Research

This priority would support studies of the various secondary impacts of using technology in the education of handicapped children to enhance the effective use of technology in special education. For example, even with the growing number of microcomputers available in schools today this media technology is not being used to its fullest potential as an integral part of instruction. Research must be conducted on: (1) The effects of computer-developed versus noncomputer-developed individualized education programs (IEP's) on the administrators, teachers, and parents involved in developing and implementing IEP's; (2) the effects of cultural differences related to the use and outcomes of technology-based instruction; (3) the social impact on children from using technology as part of their instruction; (4) the organizational impact and change associated with the implementation of technology; or (5) the effects of computer-managed versus noncomputer-managed instruction. The results of this research are to be reported in a series of research monographs. This priority is covered under section 661 of the Act (Part G).

For Further Information Contact: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. Telephone: (202) 732-1099.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document provides early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priorities, and the proposed use of the current selection criteria at 34 CFR 332.32 to evaluate applications submitted under the new Technology, Educational Media, and Materials program. Written comments and recommendations may be sent to the address listed under each individual proposed priority. Written comments on the use of the selection criteria at 34 CFR 332.22 for applications under the Technology, Educational Media, and Materials program may be sent to Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. All comments received on or before the 30th day after publication of this document will be considered before the Secretary issues the final priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Rooms 4092 (Priorities 1, 2, and 3) and 3522 (Priorities 4, 5, and 6); and the use of the selection criteria at 34 CFR 332.32), Switzer Building, 330 C Street, SW., Washington, DC 20202 between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1451(a)(2), 1452(b)(5), and section 317 of the Education of the Handicapped Act Amendments of 1986 (Part G, Section 661))

(Catalog of Federal Domestic Assistance No. 84.026; Educational Media Research, Production, Distribution, and Training)

Dated: February 19, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87-7627 Filed 4-6-87; 8:45 am]

BILLING CODE 4000-01-M

federal register

Tuesday
April 7, 1987

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Species; Cave Crayfish, Marshall's, Curtus', Judge Tait's, and the Penitent Mussels, and Scrub Lupine; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Status for Marshall's Mussel (Pleurobema marshalli), Curtus' Mussel (Pleurobema curtum), Judge Tait's Mussel (Pleurobema taitianum), the Stirrup Shell (Quadrual stapes), and the Penitent Mussel (Epioblasma (=Dysnomia) penita)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service has determined Marshall's mussel (*Pleurobema marshalli* Frierson), Curtus' mussel (*Pleurobema curtum* (Lea)), Judge Tait's Mussel (*Pleurobema taitianum* (Lea)), the stirrup shell (*Quadrula stapes* (Lea)), and the penitent mussel (*Epioblasma* (=*Dysnomia*) *penita* (Conrad)) to be endangered species under the Endangered Species Act (Act) of 1973, as amended. These five freshwater clams are restricted to areas in the Tombigbee River system that represent remnants of their historic ranges. They have been found in moderate-to-large rivers with moderate-to-swift current. Their preferred habitats are riffle or shoal areas with stable substrates ranging from sandy gravel to gravel-cobble. Much of the historic habitat has been modified by reservoir and barge canal construction. The remaining populations are in a bendway or meander of the Tombigbee River that was bypassed by the Tennessee-Tombigbee Waterway (TTW) and in a few tributaries of the Tombigbee River. They are away from and not affected by present operation of the completed TTW. The remaining habitat is threatened by siltation from a variety of sources and by gravel dredging. The U.S. Army Corps of Engineers is currently undertaking conservation efforts for these species through reconstruction and management of gravel bar habitat as well as ecological studies. The construction of impoundments adversely impacted these five species by physical destruction during dredging, increasing siltation, reducing water flow, suffocating juveniles with sediment, and possibly disturbing host fish movements. This determination implements the protection of the Endangered Species Act of 1973, as amended, for these five freshwater clams.

DATE: The effective date of this rule is May 7, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan, Endangered Species Field Supervisor, at the above address (601/965–4900 or FTS 490/4900).

SUPPLEMENTARY INFORMATION:

Background

Marshall's mussel was described as *Pleurobema marshalli* by Frierson in 1927 from specimens collected by A.A. Hinkley from the Tombigbee River in Greene County, Alabama (Stansbery 1983b). Marshall's mussel is a bivalve mollusk about 60 mm long, 50 mm high, and 30 mm wide. The shell has a shallow umbonal cavity, a rounded sub-ovate or obliquely elliptical outline, nearly terminal beaks, and very low pustules or welts on the postventral surface. This mussel was historically known from the main stem of the Tombigbee River from just above Tibbee Creek near Columbus, Mississippi, down to Epes, Alabama (Stansbery 1983b). Studies of clams of the Gulf Coast rivers from the Escambia River to the Suwannee River by Clench and Turner (1956) and of Mississippi streams by Grantham (1969), did not reveal Marshall's mussel in those areas. Extensive surveys of the Cahaba River by van der Schalie (1938) and Baldwin (1973) and of the Coosa River by Hurd (1974) did not find Marshall's mussel (Stansbery 1983b). This complete lack of specimens from anywhere except the Tombigbee River from Tibbee Creek to Epes, Alabama, suggests that the historical range of this species was restricted to this river reach. An extensive survey of the Tombigbee River in 1971–1976 by Williams (Stansbery 1983b) recorded Marshall's mussel in the lowermost half of the river from Tibbee Creek downstream to just above the mouth of the Noxubee River. Yokley (1978) did not find Marshall's mussel in his survey of the Buttahatchie River. The only remaining viable habitat for this species in the Tombigbee River is a gravel bar in a bendway in Sumter County, Alabama.

Curtus' mussel was originally described as *Unio curtus* by Lea in 1859. The Service recognizes the following name combinations (based on Stansbery 1983d) as equivalent to *Pleurobema curtum* (Lea, 1859):

Unio curtus Lea, 1859:113.
Margaron (*Unio*) *curtus* (Lea).—Lea 1870:40.
Pleurobema curta (Lea).—Simpson 1900:754.
Pleurobema curtum (Lea).—Simpson 1914:762.
Obovaria (*Pseudoon*) *curta* (Lea).—Frierson 1927:91.

Curtus' mussel is a bivalve mollusk 50 mm long, 35 mm high, and 30 mm wide. The shell varies from green in young shells to a dark greenish-brown in older shells. The shell is subtriangular, is inflated in front, and has a bluish-white, iridescent, thin nacre (Simpson 1914). Curtus' mussel was historically found in the main stem of the Tombigbee River. The Service considers the single record of this species from the Big Black River in Mississippi (Hinkley 1906:54) to be erroneous. The species has been collected from only five locations, and only two living specimens are known to have been collected. The single remaining viable habitat is in the East

Fork Tombigbee River, Mississippi. Grantham (1969) did not record Curtus' mussel from the Big Black River, nor have more recent surveys found it there (P. D. Hartfield, Mississippi Museum of Natural Science, pers. comm.).

Judge Tait's mussel was described as *Unio taitianus* by Lea in 1834, with the type locality identified as the Alabama River (Stansbery 1983a). The Service recognizes the following abbreviated synonymy (based on Stansbery 1983a) for *Pleurobema taitianum* (Lea, 1834):

Unio taitianus (Lea) 1834:39.
Margarita taitianus (Lea).—Lea 1836:21.
Margaron taitianus (Lea).—Lea 1852:25.
Pleurobema taitiana (Lea).—Simpson 1900:754.
Pleurobema taitianum (Lea).—Simpson 1914:764.
Pleurobema tombigbeanum Frierson 1908:27.

Judge Tait's mussel is a bivalve mollusk about 50 mm long, 45 mm high, and 30 mm wide. The shell is brown to brownish-black, obliquely triangular, and inflated, with narrowly pointed beaks directed forward, a very shallow but distinct furrow, pink-tinted nacre, and shallow beak cavities (Stansbery 1983a, Simpson 1914). Judge Tait's mussel was historically found in the Tombigbee River from the mouth of Tibbee Creek near Columbus, Mississippi, to Demopolis, Alabama; the Alabama River at Claiborne and Selma, Alabama; the lower Cahaba River, Alabama; and possibly the Coosa River, Alabama (Stansbery 1983a, Williams 1982). Several shells from recently dead specimens were found at one location on the Buttahatchie River, a tributary of the Tombigbee, in Mississippi (Schultz 1981). This species has also been reported from the East Fork Tombigbee River (Schultz 1981) and from the Sipsey River, Alabama. Only four sites with suitable habitat remain: these consist of localities in a bendway of the Tombigbee River, Sumter County, Alabama; the East Fork Tombigbee River, Mississippi; the Buttahatchie River, Mississippi; and the Sipsey River, Pickens and Greene Counties, Alabama.

The stirrup shell was originally described from the Alabama River as *Unio stapes* by Lea in 1831. The Service recognizes the following name combinations (based on Stansbery 1981) as equivalent to *Quadrula stapes* (Lea, 1831):

Unio stapes Lea, 1831:77.
Margarita (Unio) stapes (Lea).—Lea 1836:15.
Margaron (Unio) stapes (Lea).—Lea 1852b:22.
Quadrula stapes (Lea).—Simpson 1900:775.
Orthonymus stapes (Lea).—Haas 1969:310.

The stirrup shell is a bivalve mollusk about 55 mm long, 50 mm high, and 30 mm wide. The shell is yellowish-green, with the green, zigzag markings of young individuals becoming brown with age. It is irregularly quadrate, with a sharp posterior ridge, truncated posterior, tubercles, and a silvery white nacre that is thinner and iridescent behind (Simpson 1914). The stirrup shell was found historically in the Tombigbee River from the mouth of Tibbee Creek near Columbus, Mississippi, downstream to Epes, Alabama; The Black Warrior River in Alabama; and in the Alabama River (Stansbery 1981, Williams 1982). One specimen was found recently in the Sipsey River, Pickens and Greene Counties, Alabama, by Dr. Paul Yokley. Only two small areas of viable habitat remain: one in the Sipsey River and the other in a bendway of the Tombigbee River in Sumter County, Alabama.

The penitent mussel was described as *Unio penitus* by Conrad in 1834. The type locality is the Alabama River near Claiborne, Alabama (Stansbery 1983c). The Service recognizes the following name combinations (based on Stansbery 1983c) as equivalent to *Epioblasma penita* (Conrad, 1834):

Unio penitus Conrad, 1834:33.
Margarita (Unio) penitus (Conrad).—Lea 1836:19.
Margaron (Unio) penitus (Conrad).—Lea 1852a:24.
Truncilla penita (Conrad).—Simpson 1900.
Dysnomia penita (Conrad).—Frierson 1927:93.
Epioblasma penita (Conrad).—Stansbery 1976:48.
Plagiola (Plagiola) penita (Conrad) [in part].—Johnson 1978:254.

The penitent mussel is a bivalve mollusk about 55 mm long, 40 mm high, and 34 mm wide. The shell is yellowish, greenish-yellow, or tawny, sometimes with darker dots; is rhomboid with irregular growth lines and a radially sculptured posterior; and has white or straw-colored nacre (Simpson 1914). The females have a large radially-grooved swelling projecting behind the shell. This species was historically known from the Tombigbee River from Bull Mountain Creek above Amory, Mississippi, downstream to Epes, Alabama; the Alabama River at Claiborne and Selma; the Cahaba River below Centreville, Alabama; and the Coosa River in Alabama and Georgia (Stansbery 1983c, Williams 1982). Live specimens were found recently in the Buttahatchie River in Alabama (Yokley 1978, Schultz 1981). The only remaining viable habitats are in the Buttahatchie River, Alabama, the East Fork Tombigbee River, and a single locality in a bendway of the Tombigbee River, Sumter County, Alabama.

These five species have historically been found in moderate-to-large rivers with moderate-to-swift current. Their preferred habitats are riffle-run or shoal areas with stable substrates ranging from sandy gravel to gravel-cobble (Stansbery 1976, 1980, 1981, 1983a, 1983b, 1983c, 1983d). These clams have been taken in water up to 0.7 meters deep (Williams 1982).

Land ownership in the portions of the Tombigbee and Alabama River systems where these species have been collected includes Federal, State, corporate, and individual. Governmental regulation of alterations of these habitats is primarily the responsibility of the U.S. Army Corps of Engineers (COE).

The status of each of these clams has declined owing to habitat alteration. The modification of the free-flowing Tombigbee River into a series of impoundments to form a barge canal has adversely impacted these species through physical destruction during dredging, increased siltation, reduction of water flow, and possible disturbance of host fish movements. Remaining populations are in a bendway and tributaries that are outside of the navigation channel of the Tennessee-Tombigbee Waterway (TTW). The COE has authorized channelization and snagging projects in portions of the Buttahatchie, Sipsey, Tombigbee, East Fork, and Cahaba Rivers where these species have been found.

On April 11, 1980, the Service published a notice in the **Federal Register** (45 FR 24904), that a status review was being conducted for these five clam species. In comments received in response to that notice, former Congressman David Bowen of Mississippi opposed the notice and possible listing based on his concern that Service employees opposed the construction of the TTW. The Service responds that it has based the notice, proposed rule, and final rule to list these five clams solely on the most current biological data available, as required by the Endangered Species Act. Former Governors Fob James of Alabama and William F. Winter of Mississippi commented that the classification and life histories of these five species required clarification, and that the species were not threatened by the TTW. Both governors cited van der Schalie (1980) in support of their comments. The Service responds that it

has examined the reports by Drs. van der Schalie and Stansbery and all relevant scientific literature and museum collections and believes that the taxonomic characterizations presented in the previous paragraphs represent the soundest and most current interpretation of available data. The Service also notes that the TTW populations survive only at sites that are outside of the navigation channel, which is now completed, and conservation efforts for these species are likely to be expended on habitats that have not been altered by the waterway.

The COE submitted documents describing studies of these species and suggesting possible conservation and management procedures for remaining populations. The Service has incorporated the distributional data from these studies with data from other sources in the process of making final determinations of endangered status. As stated above, the Service has considered taxonomic questions raised in these and other studies and believes that the taxonomy employed here is most consistent with all available information.

Three conservation groups and two individuals, including a professional malacologist, presented or cited data in support of a proposal of protective status under the Endangered Species Act for these species. The proposed rule was published in the **Federal Register** (51 FR 11761) on April 7, 1986.

Summary of Comments and Recommendations

In the April 7, 1986, proposed rule (51 FR 11761) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices that invited general public comment were published in the *Columbus Commercial Dispatch* on April 27, 1986, the *Jackson Clarion Ledger* on April 25, 1986, the *Jackson Daily News* on April 25, 1986, the *Tupelo Journal* on April 22, 1986, the *Birmingham News* on April 26, 1986, the *Birmingham Post Herald* on April 26, 1986, and the *Tuscaloosa News* on April 22, 1986. A public hearing was requested by the Tenn-Tom Waterway Authority. The hearing was held in Columbus, Mississippi, on July 10, 1986, and the comment period was reopened until July 20, 1986, to accommodate the public hearing. Comments, either written or presented orally at the public hearing, were received from eight parties.

Three parties supported the proposal; these included the Mississippi Department of Wildlife Conservation, the U.S. Army Corps of Engineers, and a professional malacologist. One individual expressed concern over the listing of a short river reach at Columbus as habitat for the mussels but did not otherwise comment on the listing. One professional malacologist expressed taxonomic concerns about Marshall's mussel. One agency requested the designation of critical habitat if these species were listed but did not express a position on the listing.

The two statements obtained at the public hearing were opposed to listing until further data were collected. All comments and statements of similar content are grouped in a number of general issues. These issues and the Service's response to each are discussed below.

Issue 1: The data do not support the continued existence of these species since none of them were collected alive during the status surveys in the 1970's upon which much of the proposed rule is based. The collections were made before the TTW construction extirpated the species. Response—The available data support the continued existence of all five species. Marshall's mussel was collected alive in 1972 in Sumter County, Alabama by Stansbery and in Pickens County, Alabama by Williams. The Sumter County gravel bar is still viable habitat in a bendway that is assured a continous water flow. The Pickens County collection site has heavy sedimentation and is not considered viable habitat. Curtus' mussel was collected alive in 1972 and 1974 by Williams in Pickens County, Alabama. Shells of recently dead (less than two years) individuals were collected by Williams from the East Fork in 1974. The Pickens County site has heavy sedimentation. The East Fork continues to provide excellent habitat for this species, and the Service finds no basis for doubting that it continues to exist there. The lack of live specimens is due to the scarcity of the species and the lack of collecting effort during the past decade. Judge Tait's mussel was collected alive by Stansbery in 1972 in Sumter County, Alabama. Shells of recently dead individuals were collected by Service biologists in 1984 from the Sipsey and Buttahatchie Rivers. The stirrup shell was collected alive in 1972 by Stansbery in Sumter County, Alabama, and by Williams in Pickens County, Alabama. Service biologists collected the shell of a recently dead individual in 1984 from the Sipsey River. The Sumter County and Sipsey River sites continue to provide viable habitat for this species. The penitent mussel was collected alive in 1972 by Stansbery in Sumter County, Alabama; in 1974 by Williams, and in 1977 by Yokley in the Buttahatchie River. In 1984, the shell of a recently dead individual was collected by Service biologists in the Buttahatchie River. The Sumter County and Buttahatchie River sites continue to provide viable habitat. The collection of shells of recently dead individuals in 1984 indicates that the TTW has not completely extirpated these species. The lack of records of live individuals since surveys of the 1970's is due to the difficulties in censusing low-density populations in rivers that represent the remaining habitat.

Issue 2: The taxonomy of *Pleurobema* is questionable and should be clarified before listing. Response—One commenter questioned the validity of Marshall's mussel based upon a review of the type specimen and one shell. The Service views this as an inadequate sample on which to base a taxonomic decision, and has based its recognition of the species' validity on the examination of more than 300 shells. The appropriate use of the specific epithet *taitianum* for Judge Tait's mussel was questioned by a commenter who suggested that an earlier name "may" exist. The commenter did not suggest what that earlier name might be. If an earlier, valid name for Judge Tait's mussel is discovered and generally accepted by the scientific community, the Service will recognize that name as applying to this species. The peril of the species remains, regardless of its formal scientific name. Curtus' mussel was not specifically addressed by any commenters. The species within the genus *Pleurobema* remain a subject of discussion by many malcologists. The current scientific literature supports the Service's position. Should future research, published in the scientific literature, support a generally accepted view that is significantly different, the Service will reassess the status of these species.

Issue 3. The COE and other agencies will be required to continuously monitor (look for mussels) their activities during the operation and maintenance of the TTW and associated channel and port facilities. Response—The service does not believe that any of these species currently exist in the TTW. The current operation and maintenance procedures of the TTW do not affect any of the five species. Unless the operation and maintenance of the TTW is significantly

changed, the COE will not be required to monitor these activities within the TTW. Any channel or port facilities proposed for construction outside the TTW may be required to conduct a biological assessment prior to construction. If none of the species are found in the project area or the area impacted by the project, the Service does not anticipate a need for continuously monitoring project activities. Should the activities change from those included in the biological assessment, a new assessment may be required.

Issue 4: Critical habitat should be designated so that areas outside of critical habitat would be free of the restrictions that listing may invoke. Response—The designation of critical habitat does not remove the mandates of the Endanger Species Act in areas where a listed species occurs outside of critical habitat. The Service's reasons for not designating critical habitat are presented in the Critical Habitat section of this rule.

Issue 5: The fish hosts of these clams should be identified. Response—The Service expects this to be accomplished as part of its effort to recover these species.

Issue 6: Surveys should be conducted to determine whether these species are common in other locations. Response—Surveys have been and are continuing to be conducted on other streams. Since impoundment of the Coosa River, none of these species have been found outside the Tombigbee River system. Should any of the five species be found in other systems, the Service will reassess the status of these species and take appropriate action. The Service sees little likelihood that these species exist elsewhere in numbers that would abrogate the need for protection under the Act.

Issue 7: Laws Bar in the Colombus bendway should not be included in the listing. Response—Specific areas of habitat are not designated except when critical habitat is determined. A survey of Laws Bar in 1985 found a thick layer of sediment and no mussels, which generally prefer sand and gravel substrates. The Service no longer considers Laws Bar to be viable habitat for any of the five species.

Issue 8: Mussels in bendways should be relocated to suitable habitat before the bendways receive enough sediment to kill the mussels. Response—The only remaining bendway where these species still are known to occur is in Sumter County, Alabama, and it appears to remain clear of sediment.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that these five species of mussels should be classified as endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to Marshall's mussel (*Pleurobema marshalli*), Curtus' mussel (*P. curtum*), Judge Tait's mussel (*P. taitianum*), the stirrup shell (*Quadrula stapes*), and the penitent mussel (*Epioblasma penita*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of their habitat or range.* All five of the subject species have greatly declined in range and/or numbers in the Tombigbee River owing to alteration of their habitat from a free-flowing riverine system to an impounded system by the construction of the Tennessee-Tombigbee Waterway (TTW). The modification of the free-flowing Tombigbee River into a series of impoundments adversely impacted these clams by physical destruction druing dredging, increasing siltation, reducing water flow, and suffocating juveniles with sediment (Stansbery 1980, 1983b; Stein 1971, Williams 1982) These species survive in the Tombigbee River proper only in meander or bendway that was bypassed by the TTW. The situation of this population away from the navigation channel allowed it to escape the full force of the threats that extirpated these species elsewhere in the Tombigbee River. Dredging and snagging for channel maintenance and flood control threaten populations in tributaries of the Tombigbee River.

Marshall's mussel has been collected from only the Tombigbee River in a reach from just above the confluence with Tibbee Creek downstream to Epes, Alabama. Construction of the TTW effectively eliminated, by impoundment, the historic habitat of Marshall's mussel except for gravel bars in one river bendway bypassed by the TTW. The gravel bars are receiving some sedimentation. In addition, the river flows are significantly reduced by backwater from impoundments. This flow reduction impacts clams by increasing siltation and changing the fishery habitat This latter impact may result in the loss of the fish host for glochidial development. Since Marshall's mussel has only been found in large river systems, the fish host may be a large-river species that has been adversely impacted by impoundments.

The known historic range of Curtus' mussel is the main stem Tombigbee River, but it is now limited to the East Fork. The East Fork is the principal extension of the Tombigbee River proper upstream from the confluence of the East Fork and Town Creek. The East Fork site remains similar to historic habitat but continues to face threats. The COE has approved a final supplement to the environmental impact statement to conduct dredging and snagging activities in a 53-mile reach of the East Fork in the area where the last known collection of a live Curtus' mussel was made. The East Fork water flows have been affected by construction of the TTW canal, which has diverted the flow of Bull Mountain Creek. Bull Mountain Creek provides nearly half the flow of the East Fork (U.S. Army Corps of Engineers 1984). Even with flow now restored to the East Fork, the water quality is undoubtedly altered. Bull Mountain Creek is a cool water stream that is likely warmed to some degree when it is routed through the TTW canal.

Judge Tait's mussel is known historically from the Tombigbee River in a reach from Bull Mountain Creek above Amory, Mississippi, downstream to Demopolis, Alabama; the Alabama River at Claiborne and Selma, Alabama; the lower Cahaba River, Alabama; and the Coosa River, Alabama (Stansbery 1983a, Williams 1982). Shells of recently dead Judge Tait's mussel were found recently on the Buttahatchie River (Schultz 1981) and the Sipsey River. Judge Tait's mussel has not been collected from the Alabama and Cahaba Rivers since the 1800's (Stansbery 1983a) or the Coosa River since 1974, which was prior to impoundment of its habitat there (Williams 1982). Judge Tait's mussel was last collected from the mainstem Tombigbee River in 1972 (Stansbery 1983a). Habitat remaining there is marginal and remaining clams must cope with the continuing impacts of siltation, reduced water flows, water quality degradation, and possible loss of their fish host. Judge Tait's mussel is surviving in the Buttahatchie River (Schultz 1981), East Fork Tombigbee River, and Sipsey River. The species is threatened in these three Tombigbee River tributaries by a 59-mile channel improvement project in the Buttahatchie, a 53-mile clearing and snagging project in the East Fork (U.S. Army Corps of Engineers 1983), and an 84.5-mile

channel improvement project in the Sipsey River (U.S. Army Corps of Engineers 1981). The COE has the authority to spend up to $100,000 per year per stream for the removal of snags, clearing, and straightening for flood control purposes. Such a project has been carried out on the East Fork upstream of Mill Creek (U.S. Army Corps of Engineers 1984). The East Fork population is also impacted by water diversion. Bull Mountain Creek is a cool water stream that contributes nearly half the flow of the East Fork. During construction of the canal, the entire blow of Bull Mountain Creek was diverted. The cool inflow from Bull Mountain Creek will undoubtedly be warmed as it mixes with the canal water, resulting in warming of the East Fork. Changes in water temperatures can be physiologically stressful to clams, alter their food supply, and impact their fish hosts.

The stirrup shell is known historically from the Alabama River and the Tombigbee River. Museum records indicate the stirrup shell was restricted historically to the lowermost part of the Alabama River (Stansbery 1981). The lack of fresh shells or living specimens from the Alabama River for several decades indicates the likely extirpation of the stirrup shell from this portion of the historic range. This species has been collected from a reach of the Tombigbee River from near Epes, Alabama, upstream to just above the confluence of Tibbee Creek. One specimen was recently collected by Yokley in the lower Sipsey River, and a recent survey by Fish and Wildlife Service biologists found a fresh stirrup shell at the same site. The present known distribution of this clam is limited to a single Tombigbee River bendway and the Sipsey River. This limited distribution continues to be threatened by habitat modification. Impoundment of the Tombigbee River has altered water flows and increased siltation on the gravel bars. This alteration suffocated mussels with silt and may have modified habitat so as to eliminate the fish host, if the host is a riverine species that is intolerant of impoundments. The COE has a channel improvement project for 84.5 miles of the Sipsey River that includes 32 miles of clearing and snagging (U.S. Army Corps of Engineers 1981). Channel modifications adversely impact clams by alteration of the substrate, increased siltations, altered water flows, and direct mortality of mussels from dredging and snagging activities.

The penitent mussel is known historically from the Tombigbee River from the confluence of the East Fork and Bull Mountain Creek above Amory, Mississippi, downstream to Epes, Alabama; the Alabama River at Claiborne and Selma; the Cahaba River below Centreville, Alabama; and the Coosa River in Alabama and Georgia (Stansbery 1983c, Willimas 1982). Live specimens were found recently on the Buttahatchie River (Yokley 1978, Schultz 1981). The penitent mussel has not been collected from the Alabama and Cahaba Rivers since the 1800's (Stansbery 1983c) or the Coosa River since 1974, prior to impoundment of its habitat there (Williams 1982). The penitent mussel was last collected from the mainsteam Tombigbee River in 1972 (Stansbery 1983c). Remaining habitat in the Tombigbee River is in the bendway in Sumter County, Alabama. This habitat is marginal and is subject to siltation, reduced water flows, water quality degradation, and possible loss of habitat of the fish host. The penitent mussel is surviving in the Buttahatchie River (Yokley 1978, Schultz 1981) and the East Fork Tombigbee River. The species is threatened in these two Tombigbee River tributaries by a 59-mile channel improvement project in the Buttahatchie (U.S. Army Corps of Engineers 1981) and a 53-mile clearing and snagging project in the East Fork (U.S. Army Corps of Engineers 1983). The COE has the authority to spend up to $100,000 per year per stream for the removal of snags, clearing, and channel straightening for flood control purposes. Such a project has been conducted on the East Fork upstream of Mill Creek (U.S. Army Corps of Engineers 1984). The East Fork population is also impacted by water diversion. Bull Mountain Creek is a cool water stream that contributes nearly half the flow of the East Fork. During construction of the canal, the entire flow of Bull Mountain Creek was diverted. The cool inflow from Bull Mountain Creek will be warmed as it mixes with the canal water, resulting in warmer water temperatures in the East Fork. Changes in water temperatures can physiologically stress clams, alter their food supply, and impact their fish hosts.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* These rare species occur in such low numbers that collection for private collections and scientific purposes poses an additional threat. Considering the historic rarity of these species and their loss of historic habitat by construction of the TTW, collection of live specimens could result in the loss of a significant proportion of surviving individuals.

C. *Disease or predation.* There is no evidence of threats from disease or predation.

D. *The inadequacy of existing regulatory mechanisms.* These species occur in Mississippi and Alabama. Both States have regulations that require a permit to take clams. Enforcement of this regulation is very difficult and limited. Limited enforcement results from several factors, including limited enforcement resources, enforcement priorities, and the difficulty of apprehending violators. In addition, these regulations do not affect habitat degradation, the major threat to these species.

E. *Other natural or manmade factors affecting their continued existence.* Marshall's mussel is restricted to the lower half of the Tombigbee River and is found in free-flowing riffle areas (Stansbery 1983b). Construction of the TTW effectively eliminated this entire reach of free-flowing river except for the site discussed earlier The isolation of the remaining population, along with very low population size, increases vulnerability to any single adverse event. Reproduction becomes increasingly difficult at low population densities owing to the decreased concentration of gametes in the water column.

Curtus' mussel is also limited to the Tombigbee River system. The population in Pickens County Alabama, has likely been extirpated by the TTW, which leaves the East Fork Tombigbee River as the only remaining occupied habitat. The historic low numbers and difficulties in successful reproduction for such a rare species increase the likelihood of a further decline.

Judge Tait's mussel is threatened by limited range and low numbers. The four remaining populations are isolated from each other by the TTW. This effectively isolates these small gene pools and leaves them susceptible to the loss of genetic variation, and thereby limits their adaptability to changing conditions. Isolation of populations and individuals also decreases the likelihood of successful reproduction because this species depends upon water currents to transport gametes from one individual to another.

The stirrup is restricted to the Sipsey River and one site in the Tombigbee River. The Sipsey River, Tombigbee River, and the bendway in Sumter County, Alabama, support the only viable populations, and these populations are threatened by low numbers and the associated difficulties of successful reproduction.

The penitent mussel is threatened by limited range and low numbers. The remaining populations are isolated from each other by the TTW. This effectively creates isolated gene pools of small size that are therefore subject to loss of genetic variability. Isolation of populations and low density of individuals also decreases the likelihood of successful reproduction, since this species also depends upon water currents to transport gametes from one individual to another

All five species are affected by runoff of fertilizers and pesticides. Runoff of fertilizers into small streams can exceed the assimilation ability of the stream and result in algal blooms and excesses of other aquatic vegetation. This condition can produce stream eutrophication and result in the death of the native fauna. Herbicides, insecticides, fungicides, and other pesticides are easily washed from fields into streams, along with silt particles to which these substances adhere. While being transported downstream, these particles may be ingested by filter feeders, which include these native clams. Pesticide laden silt particles eventually settle to and become a part of the substrate. This increases the concentrations of pesticides in the clams' habitat.

All five species may also be adversely affected by loss of their fish hosts. Although the host fish for these particular species have not been identified, the hosts of clams from riffle habitats tend to be riffle-dwelling species (Fuller 1974) and are likely to decline or become extirpated as this habitat is modified.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these five species of clams in determining to make this rule final. Based on this evaluation, the preferred action is to list Marshall's mussel, Curtus' mussel, Judge Tait's mussel, the stirrup shell, and the penitent mussel is endangered. Endangered status is appropriate because of the loss of historic habitat in the Tombigbee River by construction of the TTW and the reduction in quality of the remaining habitat owing to reduced water velocity and resulting sedimentation. Tributary populations also face threats. Threatened status would not be appropriate because these species are restricted to very limited areas, are reduced to low numbers, and remain vulnerable to a single catastrophic event. The Tombigbee River populations are close to extinction. Critical habitat is not proposed for these species for reasons given in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for these five mussels at this time owing to lack of benefit from such designation. The COE is the Federal agency most involved and is already aware of the location of the remaining populations of these five species. The COE has conducted numerous studies of the Tombigbee River system fauna and is very knowledgeable of the fauna and of project impacts. No additional benefits would accrue from a critical habitat designation that do not already accrue from the listing In addition, these species are so rare that taking for scientific purposes and private collections is a threat. The publication of critical habitat maps and other publicity accompanying critical habitat designation would increase that threat. The locations of populations of these species have consequently been described only in general terms in this rule. Precise locality data are available to appropriate Federal agencies through the Service office described in the **ADDRESSES** section.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include COE projects for flood control and navigation and Soil Conservation Service watershed projects on Tombigbee River tributary streams. The COE will conduct annual maintenance dredging for navigation on the TTW and will manage a number of the bendways for recreation and other beneficial values. This will require the maintenance of some river flow and of boat access from one or both ends of these bendways. Structural management will be required at 12 bendways. Structural management actions include blockage structures, using dredged material, at the upstream end of seven bendways to prevent sedimentation. The downstream ends of the bendways would remain open for access. The upstream ends of five bendways would be dredged initially and maintained to pre-TTW channel dimensions, plus sediment basins designed to contain the projected annual sediment deposition would be dredged and maintained (U.S. Army Corps of Engineers 1984). This management action would maintain water flows and boat access, but would require periodic dredging to remove sediment. The remaining 22 bendways will be monitored to determine the need for further structural management measures. Other COE projects that occur in rivers where these species have been found are: 84.5 miles of channel improvements and 32 miles of clearing and snagging in the Sipsey River (U.S. Army Corps of Engineers 1981); 53 miles of clearing and snagging in the East Fork (U.S. Army Corps of Engineers 1983); and 70 miles of clearing, snagging, enlargement, channels, and cutoffs in 18 streams for flood control on the Tombigbee River (U.S. Army Corps of Engineers 1983). The Soil Conservation Service has eight watersheds in operation, one in the planning stage, and one application for planning in the western tributaries of the Tombigbee River in Mississippi (U.S. Department of Agriculture 1983). Channelization activities associated with watershed projects could increase siltation and adversely affect potential habitat.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions

that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, delivery, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Authors

The primary authors of this proposed rule are James H. Stewart and John J. Pulliam, III (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subcapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following, in alphabetical order under CLAMS, to the list of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS							
Mussel, Curtis'	*Pleurobema curtum*	U.S.A. (AL, MS)	NA	E	262	NA	NA
Mussel, Judge Tait's	*Pleurobema taitianum*	U.S.A. (AL, MS)	NA	E	262	NA	NA
Mussel, Marshall's	*Pleurobema marshalli*	U.S.A. (AL, MS)	NA	E	262	NA	NA
Mussel, penitent	*Epioblasma (=Dysomia) penita*	U.S.A. (AL, MS)	NA	E	262	NA	NA
*	*	*	*	*	*	*	*
Stirrup shell	*Quadrula stapes*	U.S.A. (AL, MS)	NA	E	262	NA	NA
*	*	*	*	*	*	*	*

Dated: March 24, 1987.

Susan Recce,

Acting Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–7650 Filed 4–6–87; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Cambarus Zophonastes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a cave crayfish, *Cambarus zophonastes*, to be an endangered species under the authority contained in the Endangered Species Act of 1973, as amended. This obligate cave dweller has been found only in one cave in Stone County, Arkansas. The species does not have an accepted common name. Groundwater contamination, collecting, and low population levels represent major potential threats to *Cambarus zophonastes*. Groundwater contamination is especially important because most of the stream channels in the cave's recharge area are sinking streams, which can readily introduce pollutants or contaminants into the cave system. This determination implements the protection of the Endangered Species Act of 1973, as amended, for this cave crayfish.

DATE: The effective date of this rule is May 7, 1987.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT:

Mr. Dennis B. Jordan at the above address (601/965–4900 or FTS 490–4900).

SUPPLEMENTARY INFORMATION:

Background

Cambarus zophonastes is an albinistic cave crayfish endemic to the White River Basin in north-central Arkansas (Smith 1984). This obligate cave crayfish was first collected in 1961 and described in 1964 from five specimens taken from the type locality (Hobbs and Bedinger 1964). *Cambarus zophonastes* lacks pigment in the body and eyes, which are reduced, and the overall body length reaches about 65 mm (2.5 inches). It can be distinguished from related species by the following features of its carapace: the rostrum has strongly convergent margins bearing spines, and the areola is more than 29 times longer than wide. The species is known from only the type locality, and only eight specimens are known to exist in zoological collections. A search of over 170 additional caves in north-central Arkansas failed to locate any additional populations of *Cambarus zophonastes*. A survey of 436 caves and ten springs in Missouri revealed two closely related species (*Cambarus hubrichti* and *Cambarus setosus*), but failed to reveal *Cambarus zophonastes* (Smith 1984).

The type locality is situated in the Ozark Mountains, where the cave is formed in the Plattin Limestone (Hobbs and Bedinger 1964). This cave is a solution channel, most of which is wet year-round. It contains much mud, and many of its passages are flooded during storms and wet seasons. About 150 feet (45 meters) inside the cave entrance is a pool that ranges from 1 to at least 20 feet (0.3–6 meters) in depth. A narrow, shallow stream from the cave's interior enters the pool. This stream flows through 1400 feet (425 meters) of cave passage (Smith 1984). Water exits the cave through three springs that emerge about 150 feet (45 meters) from the cave entrance. The crayfish has been found only in the cave pool. The Arkansas Natural Heritage Commission and the Nature Conservancy recently purchased a 160-acre (65-hectare) tract that includes the cave's entrance. The cave's primary recharge area covers 3.51 square miles (9 square kilometers) (Aley and Aley 1985) and is largely privately owned. Population trends for *Cambarus zophonastes* have not been documented. The largest number of individuals sighted during a single trip was 15 crayfish recorded by a scuba diver in 1983. The total population is estimated at fewer than 50 individuals (Smith 1984).

The Service published a proposed rule to list this species as endangered in the **Federal Register** (51 FR 16569) on May 5, 1986.

Summary of Comments and Recommendations

In the May 5, 1986, proposed rule (51 FR 16569) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices that invited public comment were published in the *Arkansas Gazette* on May 25, 1986, and the *Arkansas Democrat* on May 24, 1986. Comments were received from two State agencies, one conservation organization, and one individual. All four comments supported the proposed listing.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Cambarus zophonastes* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cambarus zophonastes* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Groundwater contamination represents a major threat to *Cambarus zophonastes*. The only known population is in a geographic area characterized by sinking streams. A sinking stream is a surface watercourse that loses significant quantities of water into the subsurface in very localized areas. Sinking streams are of extreme importance in supplying water and nutrients to caves. This rapid flow of water into caves also allows the easy introduction of pollutants. A hydrological study of the area (Aley and Aley 1985) has identified several threats to the habitat of *Cambarus zophonastes*. An electrical transmission line crosses the recharge area for this cave. The use of herbicides to clear the right-of-way for this line could contaminate the cave.

A State highway borders the recharge area for the cave and is a potential source for accidental spills of materials hazardous to water quality. A 4,000 gallon (15,140 liter) spill of gasoline occurred in March 1985. There are three industrial operations within the cave recharge area that threaten the water quality. All three operations store petroleum products that could spill or leak into the cave. One of the operations, a concrete plant, contributes silt to the cave when its sediment ponds overflow (Aley and Aley 1985). The City of Mountain View has grown rapidly and will likely expand into the topographic basin, within which some subdivision roads have already been built. Continuing development presents a major threat to water quality in the cave from the use of septic tanks to dispose of wastewater.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Obligate cave species

characteristically live longer and have considerably lower reproductive abilities than their surface relatives. Cooper (1975), in his study of crayfish in Shelta Cave, Alabama, found that female *Orconectes australis* carried only 10 to 60 attached ova, while surface species of *Orconectes* carry up to 574 attached ova. *Cambarus zophonastes* probably also has low reproductive capabilities. The removal of adults from a limited population with a likely low reproductive potential would seriously endanger the existence of the population. With a maximum of 15 individuals of *Cambarus zophonastes* ever observed and with a total population estimate of 50 individuals, the removal of any reproducing females would dramatically impact and could eliminate a year's recruitment. The limited habitat and population size make the species vulnerable to vandalism and taking.

C. *Disease or predation.* Disease and predation have not been documented for this species.

D. *The inadequacy of existing regulatory mechanisms.* This species is not recognized or protected as a rare species by any existing Federal or State regulation. Arkansas requires a scientific collecting permit for collecting any species, except taking for fish bait under other State regulations. This affords very limited protection owing to the difficulty of apprehending violators and limited resources for law enforcement.

E. *Other natural or manmade factors affecting its continued existence.* Obligate cave species apparently have very low reproductive rates, as evidenced by the limited information available on other cave species (Poulson 1961). The low fecundity is partially due to the limited energy availability in caves. The cave occupied *Cambarus zophonastes* likely served as a maternity roost site for gray bats (*Myotis grisescens*), a species listed as endangered, at one time in the past (Harvey *et al.* 1981). The abandonment of this roost site represents a loss of energy input, in the form of guano, to the cave's aquatic community. This loss of energy reduces the available food supply and may have limited or reduced the population size of *Cambarus zophonastes*. Reproduction of *Cambarus zophonastes* is further impacted by low numbers of mature individuals, which reduces genetic diversity and the likelihood of successful mating encounters. Low reproductive capabilities and the small, single population naturally limit this species' ability to recover from any adversity.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Cambarus zophonastes* as endangered. Endangered status was chosen because this species is known from only one cave system with an estimated population of 50 individuals. The species is especially vulnerable to water quality degradation at this site. It therefore requires the greatest possible protection available under the Act. The reason critical habitat is not being designated is discussed in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extend prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factor B in the "Summary of Factors Affecting the Species," *Cambarus zophonastes* is endangered by taking, an activity difficult to prevent. Publication of critical habitat descriptions would make this species even more vulnerable and increase enforcement problems. All involved parties and landowners will be notified of the location and importance or protecting the species' habitat. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard (see below). Therefore, it would not be prudent to determine critical habitat for *Cambarus zophonastes* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Federal involvement with this species is expected to be minimal. The continuing development of this region could lead to sub-surface water degradation which may involve the Environmental Protection Agency or other agencies with jurisdiction over the groundwater. The Federal Housing Administration may be required to consult with the Service on Federal loans for housing development within the cave's recharge area.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National

Environmental Policy Act, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Aley, T., and C. Aley. 1985. Water Quality Protection Studies. Hell Creek Cave, Arkansas. A contract report for the Arkansas Natural Heritage Commission.

Cooper, J.E. 1975. Ecological and Behavioral Studies in Shelta Cave, Arkansas, with Emphasis on Decapod Crustaceans. Ph.D Dissertation, University of Kentucky.

Harvey, M.J., J.J. Cassidy, and G.G. O'Hagan. 1981. Endangered Bats of Arkansas: Distribution, Status, Ecology, and Management. A report to Arkansas Game and Fish Commission, Little Rock.

Hobbs, H.H., Jr., and M.S. Bedinger. 1964. A New Troglobitic Crayfish of the Genus *Cambarus* (Decapoda, Astacidae) from Arkansas with a Note on the Range of *Cambarus cryptodytes* Hobbs. Proceedings of the Biological Society of Washington, 77:9–15.

Poulson, T.L. 1961. Cave Adaptation in Amblyopsid Fishes. Ph.D Dissertation, University of Michigan.

Smith, K.L. 1984. The Status of *Cambarus zophonastes* Hobbs and Bedinger, An Endemic Cave Crayfish from Arkansas. A status survey report for the U.S. Fish and Wildlife Service.

Author

The primary author of this final rule is James Stewart (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following, in alphabetical order under CRUSTACEANS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CRUSTACEANS							
Crayfish (no common name)	Cambarus zophonastes	U.S.A. (AR)	NA	E	263	NA	NA

Dated: March 24, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–7651 Filed 4–6–87; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Status for Lupinus Aridorum (Scrub Lupine)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant in the pea family, *Lupinus aridorum* (scrub lupine), to be an endangered species pursuant to the Endangered Species Act of 1973 (Act), as amended. This plant has been found at only 16 sites in Orange and Polk Counties, Florida; fewer than 350 individual plants are known to exist. All sites are on privately owned property, and are highly desirable for residential and commercial development. Populations have already suffered losses from home building, road construction, off-road vehicle use, and/or land clearing for pastures and other purposes.

This rule will implement the Federal protection and recovery provisions afforded by the Act for *Lupinus aridorum.*

DATES: The effective date of this rule is May 7, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jacksonville Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley, Endangered Species Field Supervisor, at the above address, or telephone 904/791–2580 or FTS/946–2580.

SUPPLEMENTARY INFORMATION:

Background

Lupinus aridorum, a member of the pea family (Fabaceae), was first collected by Meislahn in 1900 in Orange County, Florida. It was not collected again until McFarlin found it in Polk County in 1928 and 1937. Renewed efforts by Beckner in the early 1970's, and again in the early 1980's by Beckner and Wunderlin, greatly expanded knowledge of the distribution of the species in both Orange and Polk Counties. Beckner recognized and named the species as distinct in 1982. Prior to that, the plants were variously misidentified by workers as *Lupinus diffusus* and *Lupinus westianus.* Since the plant was described as a full species by Beckner, there have been no alternative taxonomic treatments.

Lupinus aridorum is a biennial or short-lived perennial growing from a soft woody base; the stems are up to one meter (3 feet) tall. Its leaves are obovate-elliptic in shape, 4–7 centimeters (1.5–2.8 inches) long, and 2–4 centimeters (0.8–1.5 inches) wide. The ends of the leaves are rounded with sharp pointed tips and the bases are rounded; the upper and lower surfaces are covered with silvery hairs. The petioles are 2–4.5 centimeters (0.8–1.8 inches) long; the stipules are very small. The inflorescences are racemose with stalks 4–13 centimeters (1.5–5.2 inches) long, and the flowering portion 4–15 centimeters (1.5–5.8 inches) long. The petals are pale flesh-pink except for the standard, which has a black center surrounded by a maroon-red area. The standard is about 1.5 centimeters (0.5 inch) long, the wing petals about 1.4 centimeters (0.5 inch) long, and the keel petals slightly shorter. The fruit is 2–2.5 centimeters (0.8–1.0 inch) long, woody, and elliptic in shape, tapering to a sharp apex.

Lupinus aridorum is distinctive in the field, being the only upright pink-flowered lupine in Florida. It is further distinguished from the only other pink-flowered lupine, the prostrate *Lupinus villosus,* by the lack of long, shaggy hairs on stems and leaves, and vestigial

(rather than large and conspicuous) stipules. It is most closely related to *Lupinus westianus* of the Florida panhandle, but differs in flower color, *Lupinus westianus* having blue flowers.

Lupinus aridorum is endemic to central Florida. It is known from Orange County, between the city of Orlando and Walt Disney World, and from Polk County, between Winter Haven and Auburndale. Recently N.J. Bissett, a Winter Haven horticulturist, (pers. comm. 1986) reported that there is also a "fairly sparse population" visible from State road 64, west of the Avon Park Bombing Range in Polk County. The scrub lupine is a sand pine scrub species that grows primarily in well drained sandy soils of the Lakewood or St. Lucie series. The sands are white or occasionally yellow where the turkey oak woods have invaded the sand pine scrub. The tree layer may be a mixture of *Pinus clausa* (sand pine), *Pinus elliotii* (slash pine), and *Quercus laevis* (turkey oak) (Wunderlin 1982). The scrub layer is usually sparse which many be the result of disturbance at many of the sites where the lupine occurs. The most frequent shrubs include *Ceratiola ericoides* (rosemary), *Quercus geminata* (scrub live oak), *Lyonia ferruginea* (rusty lyonia), *Palafoxia feayi*, *Ximenia americana* (tallowwood), and scattered *Sabal palmetto* (cabbage palm). The herbaceous layer is dominated by *Aristida stricta* (wiregrass) intermixed with *Pityopsis graminifolia*, *Helianthemum nashii*, *Rhynchospora megalocarpa*, *Bonamia grandiflora*, *Polygonella myriophylla*, and *Opuntia humifusa* (prickly-pear cactus). In the open areas, *Selaginella arenicola* (sand spikemoss) is often common. All currently known populations of *Lupinus aridorum* are on privately owned land. They are in danger of extirpation because they occur in two of the most rapidly growing areas of Florida.

On December 15, 1980, the Service published in the **Federal Register** (45 FR 82480) its Review of Plant Taxa for Listing as Endangered or Threatened. On November 28, 1983 (48 FR 53640), the Service published a supplement to this review. *Lupinus aridorum*, which had not been named when the 1980 review was published, was listed in the 1983 supplement as a category 2 species (those candidate species for which the Service needs additional information before proceeding with a proposal). The 1985 updated version of the review (September 27, 1985; 50 FR 39526) included *Lupinus aridorum* as a category 1 species (those candidate species for which the Service possesses information indicating listing is appropriate).

All plant taxa included in the 1980 review, 1983 supplement, and 1985 review, are treated as being under petition. Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Service to make findings on pending petitions within 12 months of their receipt. On October 12, 1984, and again on October 11, 1985, the Service made its 12-month finding that listing of *Lupinus aridorum* was warranted, and that although proposal of other higher priority species had precluded its proposal, expeditious progress was being made to add other species to the list. Biological data, supplied by Wunderlin in 1984, fully supported a proposed rule listing *Lupinus aridorum* as endangered, and on April 24, 1986, the Service published the proposed rule which constituted the next 12-month finding for this species.

Summary of Comments and Recommendations

In the April 24, 1986, proposed rule (51 FR 15514) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices that invited general public comment were published in the *Orlando Sentinel* and the *Winter Haven News Chief*. The following six comments were received concerning the proposal.

The Florida Department of Agricultural and Consumer Services, and the Bok Tower Gardens, Lake Wales, Florida, fully supported the listing of *Lupinus aridorum* as endangered. The Florida Department of Environmental Regulation determined that the proposed listing was consistent with the Florida Coastal Management Program. The Florida State Clearing House, in compliance with Presidential Executive Order #12372 and the Governor's Executive Order 85–150, noted that the action was in accord with State plans, programs, procedures, and objectives. The International Union for Conservation of Nature and Natural Resources wrote that it had no additional data on the status of *Lupinus aridorum*, but appreciated receiving the detailed considerations published in the proposal. Nancy J. Bissett, a Winter Haven horticulturist, supported the listing, and reported a new site for the species on State road 64, west of the Avon Park Bombing Range in Polk County.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Lupinus aridorum* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Lupinus aridorum* McFarlin ex Beckner (scrub lupine) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Lupinus aridorum* is known from only 16 sites (Wunderlin 1984, Bissett 1986 pers. comm.). Ten of these are in Orange County between the city of Orlando and Walt Disney World. Orlando has been, and continues to be, one of the most rapidly growing cities in Florida. The sites on which scrub lupines are growing are prime property for development. Six sites for *Lupinus aridorum* are in Polk County, near the towns of Winter Haven, Auburndale, and Avon Park. These are also rapidly expanding communities whose growth threatens the continued existence of the species.

Altogether, fewer than 350 plants of *Lupinus aridorum* are thought to exist, most of which occur in habitats that have already been highly modified, or are threatened by housing developments, road construction and maintenance, conversion to pastureland, and pedestrian, horse, and off-road vehicular traffic. One site occurs on highway right-of-way lands; all other sites are privately owned and subject to development or modification by the landowners at any time.

B. *Overutilzation for commercial, recreational, scientific, or educational purposes.* Although the scrub lupine has not been in commercial trade, it is a large and attractive plant when in bloom and has the potential to be used as a decorative landscape addition. The attractive nature of the scub lupine, and its potential for landscaping use, is emphasized by the fact that at one site, where a single large plant, seven feet in diameter, was growing, the landowner actually divided a fence he was building in order to avoid destroying it (Wunderlin 1984). The scrub lupine is only sporadically collected for scientific purposes.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms. Lupinus aridorum* is listed as endangered under the Preservation of the Native Flora of Florida Law (Section 581.185 of the Florida Statutes). This Florida law regulates taking and the intrastate sale of plants, but it does not provide habitat protection.

E. *Other natural or manmade factors affecting its continued existence.* The scrub lupine is restricted in distribution and occurs in relatively small numbers (largest site has fewer than 100 plants). Such rarity increases the species' vulnerability to disturbance and natural disasters.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Lupinus aridorum* as endangered. It occurs in three small disjunct population centers (Orlando area, Winter Haven area, and Avon Park area), and is known from only 16 sites. Human population pressures in all three areas are increasing annually. Currently, all 16 known populations are on private lands and their continued existence is not secure. Critical habitat is not determined for the scrub lupine for reasons discussed in the "Critical Habitat" section below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Lupinus aridorum* at this time. This species is a large plant which bears attractive pink flowers. There are indications that it might be a desirable species for landscaping purposes. In addition, it occurs very near areas of high human concentration where it could readily be located and vandalized. The identification of the precise sites where populations occur, through publication of critical habitat descriptions and maps in the **Federal Register**, might increase the threats to the species. It would be difficult to safeguard it from curiosity seekers or vandals. In addition, critical habitat benefits apply only when Federal activities and/or Federal lands are involved. The scrub lupine occurs only on privately owned lands where no Federal involvements are known at present. Therefore, there would be no benefits to this species by a designation of critical habitat. Because of these factors, the Service finds that a designation of critical habitat for *Lupinus aridorum* is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Since all presently known sites for *Lupinus aridorum* are on privately owned land, there will be no effect from the above requirement unless a private activity requires some Federal action, such as funding or issuance of permits.

Section 9 of the Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export endangered plants, transport such in interstate or foreign commerce in the course of a commercial activity, sell or offer them for sale in interstate or foreign commerce, or remove them from areas under Federal jurisdiction and reduce them to possession. Certain exceptions can apply to agents or the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. With respect to *Lupinus aridorum*, it is anticipated that few trade permits will ever be sought or issued since the species is not known to be in cultivation and is scarce in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Beckner, J. 1982. *Lupinus aridorum* J.B. McFarlin ex Beckner (Fabaceae), a new species from central Florida. Phytologia 50:209–211.

Wunderlin, R.P. 1982. Guide to the vascular plants of central Florida. University Presses of Florida, 472 pp.

Wunderlin, R.P. 1984. Endangered and threatened plant status survey, *Lupinus aridorum* McFarlin ex Beckner. Unpublished report prepared under contract with U.S. Fish and Wildlife Service.

Author

The primary author of this final rule is John L. Paradiso, U.S. Fish and Wildlife Service, Endangered Species Field Station, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580 or FTS 946–2580).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
FABACEAE—PEA FAMILY						
Lupinus aridorum	Scrub lupine	U.S.A. (FL)	E	264	N/A	N/A

Dated: March 24, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Areas; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AMA-40]

Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates Airport Radar Service Areas (ARSA) at Barksdale Air Force Base, LA; Boise Air Terminal, ID; Flint Bishop Airport, MI; Fort Wayne Municipal Airport, IN; Lansing Capital City Airport, MI; Madison Dane County Regional Airport-Truax Field, WI; and Shreveport Regional Airport, LA. The locations designated are public or military airports at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of these ARSA's will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 UTC, May 7, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9245.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 75 ARSA's as published in the **Federal Register** in the implementation of this NAR recommendation.

On October 1, 1986, the FAA proposed to designate ARSA's at Barksdale Air Force Base, LA; Boise Air Terminal, ID; Flint Bishop Airport, MI; Fort Wayne Municipal Airport, IN; Lansing Capital City Airport, MI; Madison Dane County Regional Airport-Truax Field, WI; and Shreveport Regional Airport, LA, (51 FR 35140). This rule designates ARSA's at these airports. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held informal airspace meetings for each of these proposed airports.

Discussion of Comments

The FAA has received comments on the basic ARSA program as well as comments directed toward the proposed individual designation. Additionally, several of the comments on individual designation are common or speak to the basic program itself. Discussion of the comments is divided into two sections. The first addresses common and ARSA program comments, the second addresses comments on the proposal at each of the specific airports.

ARSA Program Comments

Aircraft Owners and Pilots Association (AOPA) and others commented that, notwithstanding the statement by the FAA in the Regulatory Evaluation contained in the notice, increased air traffic controller personnel and equipment would be needed to handle the increased traffic expected due to the mandatory provisions of the ARSA. FAA's experience with the current ARSA's has been that while there is an increase in the amount of traffic being handled by controllers, this increase is significantly offset by the reduction in the amount of control instructions that must be issued under ARSA procedures as compared to TRSA procedures. However, the FAA recognizes that the potential exists for a need to establish additional controller positions at some facilities due to increased workload should the expected efficiency improvements in handling traffic not fully offset the increased number of aircraft handled. Further, FAA does not expect to incur additional equipment costs in implementing the ARSA program. In some instances, previously adopted plans to replace or modify older existing equipment may be rescheduled to accommodate the ARSA program. However, no new equipment is expected to be required as a result of the ARSA program.

Several commenters, including AOPA, disagreed with the FAA's conclusion that the additional air traffic could be accommodated with existing manpower at locations where TRSA participation was low. FAA's conclusion for the total program was in part based upon the fact that participation in the existing TRSA's was quite high and, therefore, an increase for the present levels to 100% would not be a significant change. The commenters, while not agreeing with this conclusion, claimed that the FAA's rationale did not apply where participation was low and thus additional manpower would be needed at these locations if TRSA was designated. The FAA recognizes that participation in the ARSA program is relatively low at some of the candidate locations. However, this is in large part due to the controllers' walkout of 1981 and the subsequent reduction in fully qualified controllers which led to the discontinuance of TRSA services. A sufficient number of controllers is assigned at the facilities to which the commenters refer and those facilities are ready to provide the service to the increased number of pilots. This factor was considered by the FAA in its initial evaluation of the ARSA program.

The Soaring Society of America (SSA) objected to the ARSA program because it does not provide the same level of safety and service to all classes of aviation. As with other regulations, this rule affects different operators in different ways depending on their respective need to operate in controlled airspace or near the airports involved. The FAA does not agree that this variation in impact is reason not to adopt a rule which benefits the majority of users.

AOPA and others claim the FAA is changing the criteria that an operating control tower is the only requirement for an airport to be eligible for an ARSA. The FAA has not departed from the NAR criteria which would replace TRSA with ARSA at airports with an operating

control tower served by a Level III, IV, or V radar approach control facility.

The SSA claimed that the ARSA rule should state that the ultimate responsibility for separation from other aircraft operating in visual flight rule (VFR) conditions rests with the pilot. While the FAA agrees that such is the case, the agency does not agree that the ARSA rule must so state. Unless a new or amending provision to the Federal Aviation Regulations (FAR) specifically deletes, amends, or supersedes existing sections, the existing regulations still apply. The ARSA rule (50 FR 9252, 9257, March 6, 1985) did not alter the sections of the FAR that establish that level of responsibility.

AOPA faulted the FAA's implementation of the ARSA program. The FAA stated in the proposal that the benefits of standardization and simplicity were nonquantifiable, and that the safety benefits anticipated by the FAA were not attributable to any given candidate but were based upon implementation of the program on a national basis. According to AOPA this evidenced the need to further evaluate the program at the current locations so that benefits could be individually assessed and each candidate evaluated accordingly. The FAA does not agree. The benefits of standardization and simplicity would always be nonquantifiable regardless of the amount of evaluation, yet they received considered emphasis by the NAR Task Group. Overall national midair collision accident rates are relatively low, and accident rates within individual categories of airspace are lower still. Additionally, accidents at specific locations are random occurrences. Therefore, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Additionally, the FAA does not believe that these considerations should be cause for delaying a program that was recommended by a majority of the members of the National Airspace Review, and which has already produced positive results at most of the designated locations.

Numerous commenters also objected to the proposals based upon their belief that the volume of air traffic in several of the proposed locations was too great for the ARSA program. The FAA believes that such a point argues strongly for the establishment of an ARSA rather than the converse.

Some commenters, including AOPA, predicted that user costs incurred due to delays will be greater than expected by the FAA, and that these costs will be experienced more at some sites than at others. In the NPRM, FAA acknowledged that initial delay problems would vary from site to site, that at some facilities the transition process is expected to go very smoothly, and that at other sites delay problems will dominate the initial adjustment period. Any delay that may result is expected to be transitory in nature in that actual delays will be reduced as pilots and controllers become experienced with ARSA procedures. This has been the experience at those locations where ARSA's have been in effect for the longest period of time, and is the trend at most of the locations that have been more recently designated.

Several comments claimed that some aircraft would have to purchase two-way radios in order to enter the ARSA and land at or depart from airports within the ARSA. The FAA does not agree. Each primary airport receiving ARSA designation has an airport traffic area requiring two-way radio communications at present. Therefore, no additional cost will be incurred for purchase of radios for aircraft landing at or departing from primary airports receiving ARSA designation.

Further, some commenters, including AOPA, expressed concern that older 360 channel transceivers would not be adequate to operate within an ARSA. Frequencies compatible with 360 channel transceivers are available at all ARSA locations. Therefore, operators of 360 channel equipment will not need to install new radios to operate within an ARSA.

AOPA and other commenters stated that the proposed ARSA's would derogate rather than improve safety, as a result of increased frequency congestion, pilots concentrating on their instruments and placing too much reliance upon ATC rather than "see and avoid," and the compression of air traffic into narrow corridors as pilots elect to circumnavigate an ARSA rather than receive ARSA services. In addition to increasing the risk of aircraft collision, the commenters claimed that compression would increase the impact of aircraft noise on underlying communities and cause aircraft to be flown closer to obstructions.

As indicated above, while an increased number of aircraft will be using radio frequencies, the amount of "frequency time" needed for each aircraft is reduced in an ARSA compared to the current TRSA. This has been the experience of the FAA at the current ARSA facilities.

AOPA claims that since the communications and readback procedures in ARSA's do not differ from those utilized in TRSA's there would be no reduction in "frequency time" needed for each pilot to acknowledge instructions or information, and thus, the partial offset indicated by the FAA was not justified. The offset is based upon fewer as well as shorter transmissions for each pilot, thus the FAA does not agree with this claim.

The FAA evaluated the flow of air traffic around the Austin, TX, and Columbus, OH, ARSA's during the confirmation period to determine if compression was occurring. This evaluation was performed by observing the radar at Austin, TX, and by both radar observations and the use of extracted computer data at Columbus, OH. Following the designation of an ARSA at Baltimore-Washington International Airport (BWI), the FAA evaluated the flow of air traffic there for a period of 90 days by observing the radar and extracting computer data to determine if compression was occurring. Additionally, the FAA has continually monitored for the possibility of compression at all recently designated locations. Compression has not been detected at any of these locations. However, compression of air traffic is a site-specific effect that could occur at a particular location regardless of its absence elsewhere. Thus, although the FAA does not believe compression of traffic will occur at any of the proposed airports, the agency will continue to monitor each designated ARSA and make adjustments if necessary.

AOPA, and other commenters claimed that the FAA provided no demonstrable evidence that the ARSA program would improve aviation safety. The FAA continues to believe the implementation of the ARSA program will enhance aviation safety. The program requires two-way radio communication between ATC and all pilots within the designated areas. Air traffic controllers will thus be in a much improved position to issue complete traffic information to the pilots involved, and thus, safety will be improved.

AOPA, and several other commenters, requested that VFR corridors be established at several of the subject locations along routes that are currently contained within an airport traffic area (ATA). The NAR Task Group noted in their evaluation of the TRSA program that under FAR § 91.87 pilots operating under VFR to or from a satellite airport within an ATA are excluded from the two-way radio communications requirement. The Task Group noted that this was acceptable until the volume of air traffic at the primary airport dictated the installation of a radar approach

control. The Task Group recommended, and the FAA adopted, the ARSA program as a safety improvement addressing this problem. Thus, the FAA does not believe provisions for VFR corridors that penetrate an ATA in most cases are warranted or in keeping with that recommendation.

One commenter claimed that the grouping of ARSA's such as that adopted in the Sacramento Valley area would create "squeezing" of traffic in the corridors between the blocks of ARSA airspace. One area in question, between Sacramento and Beale Air Force Base (AFB), is approximately 20 miles wide. The FAA does not agree that "squeezing" will occur in this area. Additionally, other user organizations have requested VFR corridors between adjacent or grouped ARSA's and these ARSA's have been modified to accommodate this request.

AOPA and others commented that several of the proposals will require pilots to violate FAR § 91.79 (14 CFR 91.79) regarding minimum safe altitudes. The section states in part, "Except when necessary for takeoff or landing, no person may operate an aircraft below . . . an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft [when over any congested area of a city, town, or settlement, or over any open air assembly of persons]." The commenters claim that the 1,200-foot base altitude of the 5- to 10-mile portion of the ARSA will force pilots to violate FAR § 91.79 where obstacles extend more than 200 feet above the ground. There are two alternatives available to pilots in such a situation which permit compliance with the regulation. Namely, pilots may participate in ARSA services and thus not be limited to the 1,200-foot base, and secondly, a pilot may deviate 2,000 feet horizontally from the obstacle.

Furthermore, AOPA claims that the above response does not adequately respond to the issue. They claim that deviations of 2,000 feet horizontally would increase workload and reduce the efficiency of see-and-avoid, and thus, potentially reduce safety. The FAA does not encourage deviation but encourages participation which will not require deviation and will result in controllers providing radar assistance for see-and-avoid.

Several commenters noted that the proposal did not contain an environmental assessment. Under existing environmental regulations the proposed establishment of a Terminal Control Area (TCA) or a TRSA does not require an environmental assessment. The agency environmental regulations have not been amended to reflect ARSA procedures. However, because the potential environmental impact and regulatory effects of ARSA designation fall between those of the TCA and TRSA designations, the FAA finds that no environmental assessment is required for an ARSA designation.

AOPA, the Experimental Aircraft Association (EAA), and other commenters indicated that the FAA had failed to demonstrate a need for the ARSA program itself, as well as a need for several of the individual proposed locations. Additionally, comments were received that faulted some of the features of the ARSA. Most of these comments went beyond the scope of the subject proposal and were addressed when the FAA adopted the recommendation of National Airspace Review (NAR) Task Group 1–2.2 (50 FR 9252, March 6, 1985). However, the FAA believes the need for the ARSA program was adequately demonstrated by the task group that reviewed the TRSA program and recommended the ARSA as the former's replacement. The task group faulted the TRSA program in several of its aspects and through consensus agreement determined the preferred features of the ARSA prior to making their recommendation to the FAA. Justification for the ARSA program has been the subject of previous FAA rulemaking, and the program was adopted after consideration of public comment. Response to comments on ARSA's at particular locations is made below.

AOPA, EAA, and others commented that several of the proposed ARSA's failed to meet the critria for designation. The criteria for this airport was recommended by the NAR Task Group and adopted by the FAA. Namely, ". . . excluding TCA locations, all airports with an operational airport traffic control tower and currently contained within a TRSA serviced by a level III, IV, or V radar approach control facility shall have [an ARSA] designated; unless a study indicates that such designation is inappropriate for a particular location." (49 FR 47184, November 30, 1984).

Several commenters suggested the top of the ARSA be lowered from 4,000 feet above field elevation. Absent strong justification for lowering this altitude, the FAA has not adopted these recommendations. The agency's rationale for nonadoption is set forth immediately above.

Several commenters, including AOPA and EAA, indicated that at several of the proposed ARSA's the TRSA was working quite well and that there was no need to change something that was working. The FAA acknowledges that TRSA's are functional and beneficial, to a point. However, the NAR Task Group did not fault individual TRSA locations but the TRSA program itself and recommended its replacement. The FAA concurred with that assessment and has determined that the ARSA program is an improvement over the TRSA program from the standpoints of both safety and service. Thus, the quality of service being provided at TRSA locations should not constitute a roadblock to improvement.

Several commenters claimed the reduced separation standards of the ARSA program would derogate rather than enhance safety. The elimination of the Stage III separation requirements was recommended by users, all of whom are vitally interested in aviation safety, and adopted by the FAA. This aspect of the ARSA program received considerable FAA attention during the confirmation period at Austin, TX, and Columbus, OH. The FAA agrees with the task group that the Stage III separation standards are not needed for safety in a mandatory participation area.

Several commenters requested that the ARSA be described in statute rather than nautical miles. Numerous user organizations and the NAR itself have recommended that the FAA adopt nautical-mile descriptions rather than statute. It is the intention of the FAA to establish all new descriptions according to that recommendation.

Several commenters objected to proposals where the ARSA was in proximity to other airports. According to these commenters pilots would not know whether they should be in contact with the ARSA approach control facility or in contact with the control tower at the secondary airport, or on unicom. The FAA does not view this situation as different from that existing at many of these locations today. Through pilot education programs and experience with ARSA procedures this situation will improve. Also, as at present, when a pilot contacts the wrong FAA facility the controllers will give appropriate instructions.

AOPA, and other commenters objected to several of the proposed ARSA's based upon the claim that the FAA had failed to evaluate the cumulative effect of the proposed ARSA's and other regulatory airspace. The evaluation for each ARSA included all factors known to the FAA, including the proximity of other regulatory airspace.

Underlying a great many of the comments received was the idea that some provision should be made so that

pilots could continue their current practices without contacting the responsible ATC facility. While the FAA has made modifications from the standard ARSA in cases where circumstances warrant, the basic thrust of the ARSA program is to require two-way communication with the responsible approach control facility, and not to make modifications in the program to provide for nonparticipation.

Information on ARSA's following the establishment of a new site will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and, therefore, will not involve additional costs strictly as a result of the ARSA program.

SSA faulted the FAA for using the aviation safety seminars for pilot education on ARSA's. They claim these seminars do not reach many pilots and the seminars are reserved during this year for the FAA "Back to Basics" program. The FAA does not agree. The aviation safety seminars are for all pilots and for education on all aspects of aviation which would include the ARSA program.

Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

SSA commented that the FAA should take into consideration the unique operating characteristics of gliders in defining the ARSA airspace at some locations. The FAA has modified the configurations of the ARSA at locations where glider operations would be adversely affected by a standard configuration.

Numerous commenters objected to the ARSA designations claiming they would simply provide the FAA with the basis for additional regulatory restrictions. The FAA does not believe this to be a valid objection. While the agency has no current plans for further regulatory action which imposes additional restrictions, such action if it should ever become a reality would be the subject of additional rulemaking and would of necessity be judged on its own merits, as should these proposals.

The Air Line Pilots Association (ALPA) concurred with the proposal as an improvement in operational efficiency and a significant contribution to a reduction of midair collision potential.

The Air Transport Association (ATA) endorsed the proposed designations as an improvement in safety with specific comments indicated below.

The General Aviation Manufacturers Association endorsed the ARSA's as an improvement in safety and concurred with the FAA's philosophy regarding some deviation from the standard model.

Comments were received which were supportive of each of the ARSA's addressed here as an improvement in aviation safety, and stating that participation by all pilots was only equitable and that normal safety concerns dictated mandatory two-way communications. The FAA agrees.

Comments on Specific Locations

Boise Air Terminal, ID

Several commenters claimed that the proposed ARSA would have an adverse effect on glider operations from Nampa Airport, particularly when towing east from Nampa due to the winds. The FAA believes that Nampa Airport, which is 11.8 nautical miles west of Boise Air Terminal, is a sufficient distance outside the ARSA that normal towing operations will not be restricted by the ARSA. The only requirement to operate in the ARSA is that the pilot of the tow plane establish two-way radio communications with the approach control facility prior to entering the ARSA. As stated below, local agreements between the aircraft operators and the FAA facility can also be developed to allow operations of this type.

Several commenters claimed that the ARSA would restrict soaring along the mountains north and northeast of Boise. The area over the mountains in the northeast quadrant, which appears to be the area referred to by the commenters, has been deleted from the ARSA due to the high terrain. This should allow gliders to operate in this area much as before.

SSA requested that the FAA continue to work with local and cross country glider operations to provide service through local agreements, if necessary.

The Idaho Department of Transportation and the ATA responded in support for the ARSA as proposed.

Flint Bishop Airport, MI

A commenter claimed that the floor of the 5- to 10-mile area is too low to allow flight above the antenna east of the airport in accordance with FAR § 91.79. The FAA believes that the floor of the ARSA is established in accordance with the rule. As stated above, the FAA continues to believe that sufficient alternatives remain which allow pilots to either participate in the ARSA or circumnavigate the antenna.

SSA commented that they are not aware of any glider operators in close proximity to the proposed ARSA. However, they request that the FAA continue to work closely with glider operators to ensure safety for all concerned.

ATA commented in full support of the ARSA at Flint, MI.

Fort Wayne Municipal Airport, IN

One commenter claimed that some airports were omitted from the graphic depicting the proposed ARSA. The airports which were inadvertently omitted are outside ARSA airspace and will not be affected by the ARSA.

One commenter requested a 3-mile cutout around Smith Field. The floor of the ARSA above that portion of Smith Field which is within 10 miles of Fort Wayne Airport is established at 2,000 feet MSL, which is approximately 1,200 feet above field elevation and 300 to 500 feet above the normal VFR traffic pattern. For these stated reasons, the FAA does not agree that a cutout for Smith Field is appropriate.

One commenter claimed that the ARSA will cause arrivals to Fort Wayne Airport to be lower than at present. The FAA does not agree. The ARSA airspace will not cause a change in normal arrival routes and altitudes.

SSA commented that they are not aware of any glider operators in close proximity to the proposed ARSA. However, they request that the FAA continue to work closely with glider operators to ensure safety for all concerned.

Lansing Capital City Airport, MI

One commenter claimed that the number of student pilot certificate applications is reported to have declined by about 50 percent in the past year and claimed that the ARSA and other airspace actions by the FAA have contributed to that decline. The FAA can find no evidence that relates the decline of student pilot applications to the ARSA or any other FAA airspace action or program.

Several commenters claimed that the proposed ARSA will have a detrimental effect on glider operations at Ionia Airport, which is 23 miles northwest of Lansing Capital City Airport. SSA claimed that they are aware of no glider operations in close proximity to the proposed Lansing ARSA but request that the FAA continue to cooperate with

the glider pilots to assure safety for all and allow cross country operations to continue to operate from Ionia Airport. The FAA has cooperated with glider operators on cross country flights and will continue to do so in the future with gliders from Ionia Airport.

Several commenters claimed that the ARSA will adversely affect operations to and from Davis Airport which is 4.3 miles east of Capital City Airport. The FAA agrees that aircraft should have access to this airport and have established a 2-mile wide corridor to this airport from the east.

Other commenters claimed that the ARSA will force a practice area to move from its present location 5 miles north of Capital City Airport. The FAA believes that, although some flight training activities may move, flight training can still be accomplished between 5 and 10 miles from the airport en route to the northern portion of the existing practice area, either by remaining below the ARSA floor, or by establishing radio communication with ATC within the ARSA. Furthermore, there are areas which may be used for practice and training which are outside the ARSA and are no further away from training bases than the current practice area. A greater measure of safety can be afforded to all aircraft in this area by either communicating with ATC in the ARSA, by segregating aircraft in this flight training area from other aircraft in the ARSA, or by arriving at a local agreement for use of this practice area.

ATA supported implementation of the ARSA as soon as possible.

Madison Dane County Regional Airport-Traux Field, WI

Several commenters claimed that the proposed ARSA would adversely affect east operations at Waunakee Airport which is 5.4 miles northwest of Madison. The FAA agrees and will exclude the airspace below 2,300 feet MSL within a 1-mile radius of the Waunakee Airport from the surface area of the ARSA. This should allow aircraft to remain clear of the ARSA and reach prescribed altitudes prior to turning north after an east departure from Waunakee Airport.

One commenter claimed that amphibious operations would be severely restricted or prohibited from a lake within 5 miles of Madison Dane County Airport. The FAA does not agree. The rules for operations at a satellite airport in an ARSA will apply in this case. The only requirement for this operation remains two-way radio communications or prior approval from the appropriate facility, if the aircraft is NORDO.

Several commenters claimed that glider operations in the vicinity of Morey Airport, which is 8.5 miles from Madison Dane County Airport, would be adversely affected by the ARSA. The FAA does not agree. The proximity of Morey Airport to the edge of ARSA airspace should not affect any towing or arrival operations. The base of the ARSA in this area is 2,300 feet MSL which is 1,400 feet above Morey Airport. Additionally, as stated above, local agreements can be made to allow glider operations to be conducted much as in the past.

ATA responded in support of the Madison, WI, ARSA.

Shreveport Regional Airport, LA, and Barksdale AFB, LA

Several commenters, including the Southwest Region Office of the Air Transport Association and the Shreveport Airport Authority, requested terminating the Barksdale AFB 5-mile inner core west of the Red River to allow a VFR access route below 1,600 feet MSL from the south to Shreveport Downtown Airport between the Shreveport and Barksdale ARSA's. Although this area would be eliminated from ARSA rules and no communication with the approach control facility would be required, the communication requirements of an airport traffic area (ATA) would remain in effect. The FAA does not agree that removing this area from the ARSA would accomplish the stated purpose. As stated in the enabling rule, the ARSA airspace takes precedence over the ATA but the use of this overlapping airspace can be agreed to among the facilities concerned. Additionally, the purpose of an ARSA is to provide a service to all participants rather than to provide an area for general nonparticipation. The FAA believes that a safer air traffic environment can be maintained by not allowing this modification.

Several commenters claimed that a cutout was needed around Shreveport Downtown Airport to allow easier access to this airport. The FAA agrees and is providing a cutout of one and one-half miles below 1,600 feet MSL. This will also allow access to Downtown Airport when the control tower is not operating, normally during periods of darkness.

Several commenters requested a cutout for glider operations and training activities for Strong Airport, which is 6.2 miles south of Shreveport Regional Airport. The FAA does not agree. This area is in close proximity to the base leg and final approach course for the primary runway at Shreveport Regional Airport. The FAA believes a safer environment for all concerned will be maintained by keeping the ARSA intact in this area. As stated, local agreements can be reached to provide for the glider and training acitivites which should alleviate any claimed adverse economic impacts.

The Louisiana Department of Transportation and Development and the United States Air Force responded in full support of the ARSA's at Shreveport Regional Airport and Barksdale Air Force Base.

Other Comments

A number of other comments were received addressing matters beyond the scope of these proposals such as charting, the number of frequencies depicted on a chart, the general design features of an ARSA, etc. The FAA will give consideration to all of the points raised in these comments but will not address them as a part of this rulemaking.

Regulatory Evaluation

Those comments that addressed information presented in the Regulatory Evaluation of the notice have been discussed above. The Regulatory Evaluation of the notice, as clarified by the "Discussion of Comments" contained in the preamble to the final rule, constitutes the Regulatory Evaluation of the final rule. Both documents have been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of *both* the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate

that delay problems will dominate the initial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the ARSA site established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without any additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of ths ARSA site will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA sites established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM. Some of the small entities which could be potentially affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within five miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding some satellite airports located within the five-mile ring to avoid adversely impacting their operations, and in other cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similary, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as, soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates Airport Radar Service Areas (ARSA) at Barksdale Air Force Base, LA; Boise Air Terminal, ID; Flint Bishop Airport, MI; Fort Wayne Municipal Airport, IN; Lansing Capital City Airport, MI; Madison Dane County Regional Airport-Traux Field, WI; and Shreveport Regional Airport, LA. Each location designated is a public or military airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of these ARSA's will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a) and 1354(a); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Barksdale AFB, LA [New]

That airspace extending upward from the surface to and including 4,300 feet MSL within a 5-mile radius of Barksdale AFB (lat. 32°30'06"N., long. 93°39'45"W.) excluding that airspace within a 1½-mile radius of the Shreveport Downtown Airport (lat. 32°32'33"N., long. 93°44'40"W.); and excluding that airspace within the 5-mile surface area of Shreveport Regional Airport, LA, Airport Radar Service Area; and that airspace extending upward from 1,600 feet MSL to and including 4,300 feet MSL within a 10-mile radius of Barksdale AFB excluding that airspace within the Shreveport Regional Airport ARSA west of the points where the 10-mile radius from Barksdale AFB intersects the 10-mile radius from Shreveport Regional Airport.

Boise Air Terminal, ID [New]

That airspace extending upward from the surface to an including 6,900 feet MSL within a 5-mile radius of the Boise Air Terminal (lat. 43°33'54"N., long. 116°13'27"W.); and that airspace within a 10-mile radius of the Boise Air Terminal extending upward from 4,600 feet MSL to and including 6,900 feet MSL from the 098° bearing from the airport clockwise to the 183° bearing from the airport and from 4,200 feet MSL to and including 6,900 feet MSL from the 183° bearing from the airport clockwise to the 348° bearing from the airport; and from 5,200 feet MSL to and including 6,900 feet MSL from the 348° bearing from the airport clockwise to the 008° bearing from the airport.

Flint Bishop Airport, MI [New]

That airspace extending upward from the surface to and including 4,800 feet MSL within a 5-mile radius of the Bishop Airport (lat. 42°57'56"N., long. 83°44'37"W.); and that airspace extending upward from 2,100 feet MSL to and including 4,800 feet MSL within a 10-mile radius of the Bishop Airport.

Fort Wayne Municipal Airport, IN [New]

That airspace extending upward from the surface to and including 4,800 feet MSL within a 5-mile radius of the Fort Wayne Municipal Airport (lat. 40°58'42"N., long. 85°11'28"W.); and that airspace extending upward from 2,000 feet MSL to and including 4,800 feet MSL within a 10-mile radius of the Fort Wayne Municipal Airport.

Lansing Capital City Airport, MI [New]

That airspace extending upward from the surface to and including 4,900 feet MSL within a 5-mile radius of the Capital City Airport (lat. 42°46'43"N., long. 84°35'14"W.), excluding that airspace within a 1-mile radius of the Davis Airport (lat. 42°46'25"N., long. 84°29'20"W.) and excluding that airspace 1 mile either side of the 090° bearing from Davis Airport to the 5-mile radius from Capital City Airport; and that airspace extending upward from 2,100 feet MSL to and including 4,900 feet MSL within a 10-mile radius of the Capital City Airport.

Madison Dane County Regional Airport-Truax Field, WI [New]

That airspace extending upward from the surface to and including 4,900 feet MSL

within a 5-mile radius of the Dane County Regional Airport-Truax Field (lat. 43°08'22"N., long. 89°20'13"W.) excluding that airspace within a 1½-mile radius of the Waunakee Airport (lat. 43°11'00"N., long. 89°27'00"W.); and that airspace extending upward from 2,300 feet MSL to and including 4,900 feet MSL within a 10-mile radius of the airport.

Shreveport Regional Airport, LA [New]

That airspace extending upward from the surface to and including 4,300 feet MSL within a 5-mile radius of the Shreveport Regional Airport (lat. 32°26'48"N., long. 93°49'30"W.), and that airspace extending upward from 1,600 feet MSL to and including 4,300 feet MSL within a 10-mile radius of the airport, excluding that airspace designated as the Barksdale AFB, LA, Airport Radar Service Area east of the points where the 10-mile radius from Shreveport Regional Airport intersects the 10-mile radius from Barksdale AFB.

Issued in Washington, D.C., on April 2, 1987.

Harold H. Downey,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-7772 Filed 4-6-87; 8:45 am]

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H.R. 2/Pub. L. 100-17

Surface Transportation and Uniform Relocation Assistance Act of 1987. (Apr. 2, 1987; 101 Stat. 132; 130 pages) Price: $3.75

S. 632/Pub. L. 100-18

To amend the Legislative Branch Appropriations Act, 1979, as reenacted, to extend the duration of the Office of Classified National Security Information within the Office of the Secretary of the Senate, and for other purposes. (Apr. 3, 1987; 101 Stat. 262; 1 page) Price: $1.00