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Friday
May 8, 1987

Briefings on How To Use the Federal Register—
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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: June 9, at 9 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Gertrude E. Belton, 202-523-5237

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Separate Parts In This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831, 870, and 890

Civil Service Retirement, Federal Employees Group Life Insurance, and Federal Employees Health Benefits Coverage for DC Government Employees

AGENCY: Office of Personnel Management.

ACTION: Interim regulations.

SUMMARY: The Office of Personnel Management (OPM) is publishing interim regulations to reflect the exclusion of the District of Columbia (DC) Government employees first hired on or after October 1, 1987, from civil service retirement coverage, Federal Employes Group Life Insurance coverage and Federal Employees Health Benefits Program coverage. The Federal Employees' Retirement System Act of 1986 (Pub. L. 99-335) excluded these employees from these and other benefits normally accruing to Federal employees. These regulations will update OPM's regulations and make them conform with the law as recently amended.

DATES: Interim regulations effective June 8, 1987.

Comments must be received on or before July 7, 1987.

ADDRESSES: Written comments may be sent to Reginald M. Jones, Jr., Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, Room 4351, 1900 E Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John Ray, (202) 632-4634.

SUPPLEMENTARY INFORMATION: Subsections (f), (k), and (l) of section 207 of Title II of Pub. L. 99-335, the Federal Employees' Retirement System Act of 1986, enacted on June 6, 1986, specifically excluded individuals "first employed by the government of the District of Columbia" on or after October 1, 1987, from coverage under the Civil Service Retirement System, (CSRS), the Federal Employees' Group Life Insurance (FEGLI) Program, and the Federal Employees Health Benefits (FEHB) Program, respectively. The DC government is responsible for establishing retirement, health, and life insurance programs for individuals "first employed" on or after October 1, 1987. In establishing these benefit programs, the DC government will undoubtedly define the term "first employed" for the purposes of participation. However, for the purposes of *excluding* DC government employees "first employed" on or after October 1, 1987, from the three Federal benefit programs administered by OPM we are using the term in its literal sense.

An individual who was employed with the DC government prior to October 1, 1987, in a position subject to CSRS coverage, FEGLI coverage, and FEHB coverage and who subsequently terminated such employment but plans on becoming re-employed with the DC government on or after October 1, 1987, would be covered under the three Federal benefit programs. In such a case, OPM will not consider the individual to be "first employed" upon re-employment. In addition, the type of appointment also determines entitlement; e.g., a career or probationary appointment, as opposed to a time-limited temporary or indefinite appointment, conveys coverage. An individual employed elsewhere in the Federal service and covered under CSRS, FEGLI and FEHB who accepts initial employment with the DC government on or after October 1, 1987, would *not* be eligible to continue participation in those benefit programs. Instead, the individual would become subject to the benefit programs to be developed by the DC government for its employees "first employed" on or after October 1, 1987.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of Title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. This notice is being waived because the exclusions cited in these regulations were contained in Pub. L. 99-335 that was enacted on June 6, 1986, and have been a matter of law since that time. These regulations are effective 30 days after publication so that OPM regulations will conform with the law as recently amended.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect future employees of the District of Columbia government only.

List of Subjects

5 CFR Part 831

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

5 CFR Part 870

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 890

Administrative practice and procedure, Government employees, Health insurance.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM is amending Parts 831, 870, and 890 of Title 5 of the Code of Federal Regulations as follows:

PART 831—RETIREMENT

Subpart B—Coverage

1. The authority citation for subpart B of Part 831 continues to read as follows:

Authority: 5 U.S.C. 8347.

2. In § 831.201, a new paragraph (g) is added to read as follows:

§ 831.201 Exclusions from retirement coverage.

* * * * *

(g) Individuals first employed by the government of the District of Columbia on or after October 1, 1987, are excluded from Subchapter III of Chapter 83 of Title 5, United States Code.

PART 870—BASIC LIFE INSURANCE

Subpart B—Coverage

3. The authority citation for Part 870 continues to read as follows:

Authority: 5 U.S.C. 8716.

4. In § 870.202, a new paragraph (a)(8) is added to read as follows:

§ 870.202 Exclusions.

(a) * * *

(8) An individual first employed by the government of the District of Columbia on or after October 1, 1987.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

5. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; Sec. 890.102 also issued under 5 U.S.C. 1104 and sec. 3(5) of Pub. L. 95–454, 92 Stat. 1112; Sec. 890.301 also issued under 5 U.S.C. 8905(b); Sec. 890.302 also issued under 5 U.S.C. 8901(5) and 5 U.S.C. 8901(9); Sec. 890.701 also issued under 5 U.S.C. 8902(m)(2); Subpart H also issued under Title I of Pub. L. 98–615, 98 Stat. 3195, and Title II of Pub. L. 99–251.

6. In § 890.102, a new paragraph (c)(8) is added to read as follows:

§ 890.102 Coverage.

* * * * *

(c) * * *

(8) An individual first employed by the government of the District of Columbia on or after October 1, 1987.

* * * * *

§ 890.303 [Amended]

7. In § 890.303(b), the language "unless excluded by, paragraphs (4), (5), (6), or (7) of § 890.102(c)" is revised to read "unless excluded by paragraphs (c)(4), (5), (6), (7), or (8) of § 890.102".

[FR Doc. 87–10571 Filed 5–7–87; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 560]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 560 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 355,000 cartons during the period May 10–16, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 560 (§ 910.860) is effective for the period May 10–16, 1987.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: (202) 447–5697.

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

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

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

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

This regulation is consistent with the marketing policy for 1986–87. The committee met publicly on May 5, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended by a 9 to 1 vote (with one abstention) a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market has improved.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, and Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.860 is added to read as follows:

§ 910.860 Lemon Regulation 560.

The quantity of lemons grown in California and Arizona which may be handled during the period May 10, 1987, through May 16, 1987, is established at 355,000 cartons.

Dated: May 6, 1987.

Ronald L. Cioffi,

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

[FR Doc. 87–10682 Filed 5–7–87; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 979

Melons Grown in South Texas; Amendment No. 6 to Handling Regulation; Change in Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires each lot of production area cantaloups to grade at least U.S. Commercial and tightens the existing tolerance for

serious damage. Currently, at least half of the cantaloups in each lot must grade U.S. Commercial with allowances for serious damage. For honeydew melons, the current 50 percent U.S. Commercial grade requirement and relaxed serious damage tolerance is unchanged, but a minimum sugar content requirement is added to the requirements. Current grade requirements for South Texas melons are too low to provide the quality necessary for optimum consumer satisfaction. Improving the quality of the melons will enhance consumer satisfaction, increase sales, and tend to increase grower returns. This rule was recommended by the South Texas Melon Committee. The committee works with the Department in administering the order. The changes will apply for the 1987 and subsequent seasons.

EFFECTIVE DATE: May 8, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250–1400, (202) 475–3914.

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

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

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

It is estimated that 35 handlers of melons will be subject to regulation under the South Texas Melon Marketing Order during the course of the current season. In addition, there are about 72 producers of melons in South Texas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $100,000 and agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of producers and handlers may be classified as small entities.

The primary production area for South Texas melons is the Lower Rio Grande Valley. Cantaloup shipments in 1986 totaled 5.2 million cartons with harvested acreage of 19,277 acres. Honeydew shipments from the area totaled 2.9 million cartons from 7,424 acres. Nearly all the crop is marketed fresh.

Pursuant to the requirements set forth in the RFA, the Administrator of the Agricultural Marketing Service (AMS) has considered the impact of this rule on small entities. The regulatory action in this instance is a rule to: (1) Require production area cantaloups to grade at least U.S. Commercial with no more than 8 percent serious damage including not more than 5 percent for decay; and (2) require a minimum of 8 percent sugar (soluble solids) for honeydew melons in addition to the current grade requirements. The current grade requirements for cantaloups and honeydew melons require that not more than 50 percent of the melons in any lot fail to meet the requirements of U.S. Commercial grade except that no more than 20 percent shall be allowed for serious damage, including not more than 10 percent for melons affected by soft decay. Black surface discoloration is not considered as a grade defect in scoring melons under these requirements. In addition, the individual cartons within a particular lot must contain at least 25 percent U.S. Commercial or better quality. Thus, some of the cartons of a lot of size 18 melons could contain five melons of U.S. Commercial or better grade and 13 melons of lower quality as long as the entire lot met the requirement of not less than 50 percent U.S. Commercial or better grade.

According to the committee, the current minimum requirements have allowed some melons of undesirable quality to be marketed. Some members of the trade have voiced concerns about this practice. The committee also indicated this practice depresses prices for all melons from the area and negatively impacts industry returns.

The quality requirement changes are expected to result in better quality melons in the marketplace and enhance the reputation of South Texas melons. This is expected to promote increased sales and shipments and to improve industry returns. Estimates of the quantity of melons that would be removed from the market range from one-half percent to a maximum of five percent.

Improvement in the quality of the melon pack is not expected to short the market. Preliminary indications to the South Texas Melon Committee are that plantings of both cantaloups and honeydew melons in the production area will be increased moderately compared with the 1986 season. Barring adverse weather, this season's melon crop in the area should be larger than last year. In addition, competitive melon supplies from other sources, including imports, are expected to be at least equal to those in the 1986 season.

Although this rule increases the quality requirements for cantaloups and honeydew melons shipped from the production area, exemptions to these requirements will continue in effect. For example, any handler may handle, other than for resale, up to, but not to exceed 120 pounds net weight of melons per day without regard to the requirements of the handling regulation. In addition, the regulation permits shipments for charity, relief, canning, and freezing exempt from the grade, container, and inspection requirements of the handling regulation. Safeguard provisions of the handling regulation apply to such shipments.

The actual cost to handlers for complying with these changes are expected to be minimal. On the other hand, the increased returns from better quality melons should more than offset the slight increase in the quantity of melons expected to be eliminated from the marketplace.

This final rule is being issued under the Marketing Agreement and Order No. 979 (7 CFR Part 979) regulating the handling of melons grown in South Texas. The agreement and order are effective under the Act. These actions were recommended unanimously by the South Texas Melon Committee. The committee works with the USDA in administering the marketing agreement and order program.

On February 5 the committee met and unanimously recommended changing the quality requirements for South Texas melons. Recently there have been complaints voiced by industry members that the quality requirements are too low, and as a result many low quality melons are appearing in marketing channels. The committee contends that this is detrimental to the image of production area melons and puts downward pressure on the prices for all melons.

In order to provide consumers with melons of acceptable quality and to improve growers' returns the committee recommended requiring all cantaloups to meet a minimum grade of U.S. Commercial, with a tightened tolerance for serious damage of eight percent

including not more than five percent decay. For honeydew melons, the committee recommended that the current grade requirements remain unchanged, except for the addition of a minimum of eight percent soluble solids (sugar) requirement as determined by an approved hand refractometer. An eight percent soluble solids requirement for honeydew melons is quite modest, and shippers should have no problem meeting that requirement. Since the grade standards for honeydew melons do not provide for a minimum sugar content, tightening the grade requirements would not necessarily result in a sweeter or more mature melon.

The current scoring provision with regard to black surface discoloration continues under this rule. In addition, the rule provides that individual packages may not contain more than double the specified lot tolerance.

Regulations for the South Texas melon marketing season begin May 1, and these changes are important for a successful marketing season. The committee recommended the changes at an open meeting attended by both committee members and other interested persons. The industry has been advised of the provisions of the proposal by the committee, and the local media.

Notice was given in the April 15, 1987, **Federal Register** (52 FR 12185), affording interested persons 12 days in which to submit written comments. None were submitted.

It is hereby found that the amendment, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that the shipping season is expected to begin about May 1, and to maximize benefits to producers and handlers this rule should apply to as many shipments as possible.

List of Subjects in 7 CFR Part 979

Marketing agreements and orders, Melons, Texas.

PART 979—MELONS GROWN IN SOUTH TEXAS

For the reasons set forth in the preamble, 7 CFR Part 979 is amended as follows:

1. The authority citation for 7 CFR Part 979 continues to read as follows:

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

2. Section 979.304 is amended by revising paragraph (a) to read as follows:

§ 979.304 Handling regulation.

* * * * *

(a) *Grade requirements.* (1) Cantaloups shall be U.S. Commercial grade or better, except that not more than 8 percent serious damage including not more than 5 percent decay shall be permitted.

(2) At least 50 percent of the honeydew melons in any lot shall meet the requirements of U.S. Commercial grade except that not more than 20 percent serious damage shall be allowed including not more than 10 percent for melons affected by decay. In addition, the combined juice from the edible portion of a sample of honeydew melons selected at random shall contain not less than 8 percent soluble solids as determined by an approved hand refractometer. Individual cartons shall contain not less than 25 percent U.S. Commercial or better quality.

(3) Black surface discoloration shall not be considered as a grade defect with respect to such grade.

(4) Individual packages may contain not more than double the specified lot tolerance.

* * * * *

Dated: May 5, 1987.

Ronald L. Cioffi,

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

[FR Doc. 87–10536 Filed 5–5–87; 4:09 pm]

BILLING CODE 3410–02–M

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7 CFR Part 982

Filberts/Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1986–87 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes interim and final free and restricted percentages for domestic inshell filberts/hazelnuts for the 1986–87 marketing year. The percentages are intended to stabilize the supply of domestic inshell filberts/hazelnuts, in order to meet the limited domestic demand for such filberts/hazelnuts, and provide reasonable returns to producers.

EFFECTIVE DATE: July 1, 1986, through June 30, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order12291 and Departmental Regulation No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

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

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

The Filbert/Hazelnut Marketing Board, hereinafter referred to as the "Board", reports that 12 handlers of filberts/hazelnuts under the marketing order will be subject to regulation during the current season. There are about 1,100 filbert/hazelnut producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2 (1985)) as those having average annual gross revenues for the last three years of less than $100,000, and handlers are considered small entities if gross annual revenues are less than $3.5 million. The Oregon and Washington filbert/hazelnut industry is characterized by primarily small producers and handlers. The 1984–86 three year average industry crop value was approximately $12,164,000.

The order prescribes the formulas for computing an inshell trade demand, as well as preliminary, interim, and final percentages which establish the amount of inshell filberts/hazelnuts the market can support throughout the season. Accordingly, the Board is required to meet prior to September 20 of each year to compute an inshell trade demand and preliminary free and restricted percentages, if the use of volume regulation is recommended during the season. The preliminary percentages release 80 percent of the inshell trade demand in order to protect against underestimates of the crop. The computation of the inshell trade demand and percentages are discussed in the latter part of this document. On or

before November 15, the Board must recommend to the Secretary interim and final percentages which release 100 and 115 percent, respectively, of the inshell trade demand. The additional 15 percent of the inshell trade demand is released to ensure an adequate carryover into the following season. The Board's recommendation and this rule are based on requirements specified in the order.

This rule may restrict the amount of domestic inshell filberts/hazelnuts that can be marketed in domestic markets. However, the domestic outlets for this commodity are characterized by limited demand, and the establishment of these free and restricted percentages will benefit the industry by promoting stronger marketing conditions and stabilizing prices and supplies, thus improving grower returns.

Based on available information, the Administrator of the Agricultural Marketing Service has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

The establishment of interim and final free and restricted percentages for the 1986–87 marketing year is in accordance with the provisions of Marketing Agreement and Order No. 982, as amended, regulating the handling of filberts/hazelnuts grown in Oregon and Washington. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act". The rule was unanimously approved by the Board at its November 13, 1986, meeting.

As provided in § 982.40 of the order, the Board meets prior to September 20 of each marketing year for the purpose of computing its marketing policy for that year and submitting its recommendations for regulation. The order provides formulas for computing an inshell trade demand and preliminary, interim final, and final free and restricted percentages if the Board recommends the use of volume regulation during the season. If the Board recommends volume regulation, it must compute and announce an inshell trade demand for that year, prior to September 20. The inshell trade demand equals the average of the preceding three "normal" years' trade acquisitions of inshell filberts/hazelnuts, with the provision that the Board may increase such estimate by no more than 25 percent, if market conditions warrant such an increase.

The preliminary free and restricted percentages make available portions of the filbert/hazelnut crop which may be marketed in domestic inshell markets (free) and exported, shelled, or disposed of in noncompetitive inshell outlets (restricted) early in the 1986–87 season, and are based on pre-season crop estimates. The preliminary free percentage is 80 percent of the established inshell trade demand expressed as a percentage of the total supply subject to regulation and is based on preliminary crop estimates. The reason only 80 percent of the inshell trade demand is releasable under the preliminary percentage is to guard against underestimates of the crop. The preliminary restricted percentage is 100 percent minus the free percentage. The majority of domestic inshell filberts are marketed in October, November and December. By November, the marketing season is well under way. The Board is required to meet prior to November 15 to formally review and approve its marketing policy and recommend to the Secretary for approval, the establishment of interim and final free and restricted percentages. The Board uses current crop estimates to calculate the interim and final percentages. The interim percentages are calculated the same as the preliminary percentage and releases 100 percent of the inshell trade demand previously computed by the Board for the marketing year. The final percentages release an additional 15 percent of the inshell trade demand which is used to ensure an adequate carryover into the following season. The final percentages must be effective at least 30 days prior to the end of the marketing year, or earlier, if recommended by the Board and approved by the Secretary. In addition, revisions in the marketing policy can be made until February 15 of each marketing year. However, the inshell trade demand can only be revised upward.

On August 26, 1986, the Board discussed its marketing policy and recommended the use of volume control regulations for the 1986–87 season. The Board computed and announced an estimated inshell trade demand and preliminary percentages which were calculated to release 80 percent of the inshell trade demand to the domestic inshell market.

Consistent with the order, the Board met on November 13, and formally reviewed and approved its marketing policy and recommended the establishment of interim and final free and restricted percentages of 26 and 74 percent, and 30 and 70 percent, respectively. The Board also recommended that the final percentages be effective May 1, 1987, which is 60 days prior to the end of the season. The marketing percentages are based on the industry's final production estimates.

The January 1987 estimate of the 1986 season average grower price for filberts/hazelnuts is $738 per ton which is 52 percent of the January parity price. Thus, the season average grower price is not expected to exceed the season average parity price.

In addition to complying with the provisions of the marketing order, the Board also considers the Department's 1982 Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell filberts available for sale in domestic markets. The Guidelines require this primary market to have available a quantity equal to 110 percent of recent years' sales in those outlets before secondary market allocations are approved. This is to assure plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations. In order to meet expected needs of the trade and to comply with the Guidelines, an increase of 10 percent (444) tons has been included in the calculations used in determining the inshell trade demand. The established interim and final percentages, which release 100 and 115 percent, respectively, of the inshell trade demand also release 110 and 125 percent, respectively, of prior years' sales, thus exceeding the Guideline's requirement.

The marketing percentages are based on the industry's final production estimates and the following supply and demand information for the 1986–87 marketing year:

Inshell supply	Tons
(1) Total production (USDA official forecast of orchard-run production, 1986 crop)	15,600
(2) Less substandard, farm use (disappearance)	2,029
(3) Merchantable production (the Board's adjusted crop estimate)	13,571
(4) Plus undeclared carryin as of July 1, 1986, subject to regulation	264
(5) Supply subject to regulation (Item 3 plus Item 4)	13,835
(6) Average trade acquisition based on three prior years' domestic sales	4,443
(7) Increase to encourage increased sales (10 percent)	444
(8) Less declared carryin as of July 1, 1986, not subject to regulation	1,344
(9) Inshell Trade Demand	3,543
(10) 15 percent of the average trade acquisitions based on three years' domestic sales	666
(11) Inshell Trade Demand plus 15 percent (Item 9 plus Item 10)	4,209

Percentages	Free	Restricted
(12) Interim percentages (Item 9 divided by Item 5)	26	74
(13) Final percentages (Item 11 divided by Item 5)	30	70

It is found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedures, and good cause is found for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) The relevant provisions of this part require that percentages designated herein for the 1986–87 marketing year apply to all domestic inshell filberts/hazelnuts produced in the production area and acquired by handlers from the beginning of the marketing year; (2) handlers are marketing 1986–87 crop filberts/hazelnuts and this action must be taken promptly to achieve its purpose of making the full trade demand, plus 15 percent of that amount to provide adequate carryover, available to handlers, as computed by the Board; and (3) handlers are aware of this action, which was unanimously recommended by the Board at an open meeting, and need no additional time to comply with these percentages. In fact, handlers have been conducting their operations on the basis that the full trade demand plus the additional 15 percent would be released for sale to domestic and export markets.

It is further found that after consideration of all relevant matter presented (the information and recommendations submitted to the Board, and other available information), the establishment of interim and final free and restricted percentages, as hereinafter set forth for the 1986–87 marketing year, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 982

Marketing agreements and orders, Filberts/Hazelnuts, Oregon, Washington.

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

For the reasons set forth in the preamble, 7 CFR Part 982 is amended as follows:

1. The authority citation for 7 CFR Part 982 continues to read as follows:

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

2. A new § 982.236 is added to read as follows: (The following section will not appear in the Code of Federal Regulations)

§ 982.236 Interim and final free restricted percentages—1986–87 marketing year.

(a) The interim and final free and restricted percentages for merchantable filberts/hazelnuts for the 1986–87 marketing year shall be 26 and 74 percent, and 30 and 70 percent, respectively.

Dated: May 4, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87–10479 Filed 5–7–87; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 510a

[No. 87–516]

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

Dated: April 30, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: By this action the Federal Home Loan Bank Board ("Board") establishes procedures for the use of official United States Government mail franked for Board use ("penalty mail") to assist in the location and recovery of missing children, pursuant to the authority of Pub. L. 99–87, 99 Stat. 290 (1985), *codified at*, 39 U.S.C. 3220(a)(2) (Supp. III 1985).

EFFECTIVE DATE: May 8, 1987.

FOR FURTHER INFORMATION CONTACT: Charles J. Szlenker, Attorney, Office of General Counsel, (202) 377–6550, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Public Law No. 99–87, signed into law by the President on August 9, 1985, reflects an increased government commitment to the problem of missing and exploited children. Since the passage of the Missing Children's Assistance Act, added as Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 by the Comprehensive Crime Control Act of 1984 (Pub. L. No. 98–473, *codified at*, 42 U.S.C. 5601 *et seq.*), Congress has established a federal assistance and coordination role in a national effort to assist in the location of missing and exploited children.

With the recent enactment of Pub. L. 99–87, Congress has extended this federal commitment by authorizing the use of missing children photographs and biographical data on penalty mail, in accordance with guidelines prescribed by the Department of Justice, Office of Juvenile Justice and Delinquency Prevention ("OJJDP"), published on November 8, 1985 (50 FR 46622). Newly enacted 39 U.S.C. 3220(a)(2) requires each executive department and independent establishment of the United States Government to promulgate regulations implementing the use of missing children photographs and data on mail used by said departments and independent establishments in compliance with the OJJDP guidelines.

This regulation is promulgated under the authority of 39 U.S.C. 3220(a)(2) and in conformance with the OJJDP guidelines.

Pursuant to 12 CFR 508.11 and 508.14, the Board finds that, because this amendment relates to Board procedure and practice, notice and public procedure are unnecessary, as is the 30-day delay of the effective date.

List of Subjects in 12 CFR Part 510a

Missing children, Penalty mail, Reporting and record keeping requirements.

Accordingly, the Board hereby creates a new Part 510a, Subchapter A, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER A—GENERAL

PART 510A—USE OF PENALTY MAIL IN THE LOCATION AND RECOVERY OF MISSING CHILDREN

Authority: Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Sec. 402, 48 Stat. 1256, as amended (12 U.S.C. 1725); Sec. 1, 99 Stat. 290 (39 U.S.C. 3220); Reorg. Plan No. 3 of 1947, 3 CFR, 1943–1948 Comp., p. 1071.

§ 510a.1 Purpose and scope.

The purpose of this Part is to assist in the location and recovery of missing children through the use of Board penalty mail. This Part is issued by the Federal Home Loan Bank Board pursuant to the requirements of section 1(a) of Pub. L. 99–87, 99 Stat. 290 (1985), which adds a new section 3220 to Title 39, United States Code. This Part likewise complies with the Department of Justice, Office of Juvenile Justice and

Delinquency Prevention ("OJJDP") guidelines, 50 FR 46622 (1985), promulgated under the authority of section 3220(a)(1) of Title 39, United States Code.

§ 510a.2 Contact person for missing children photographs on penalty mail.

The Board contact person for missing children photographs on penalty mail is:

Director, Administrative Services Division, Administration Office, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, Telephone No. (202) 377-6222.

§ 510a.3 Policy and implementation.

(a) The Board will support the national effort to assist in the location and recovery of missing children by utilizing photographs and biographical data of missing children in penalty mail sent out by the Federal Home Loan Bank Board.

(b) The Board will implement the use of missing children photographs and biographical data in penalty mail by the most efficient and cost effective method. This method may include (1) the printing of missing children photographs and biographical data on penalty mail envelopes at the time they are initially printed on behalf of the Board; (2) overprinting of such photographs and data on existing Board franked penalty mail envelopes; (3) manual or automated insertion of such photographs and data into Board franked penalty mail envelopes prior to mailing; or (4) affixing of stickers containing such photographs and data to Board franked penalty mail prior to mailing.

(c) The use of missing children photographs and biographical data in accordance with paragraph 510a.3(a) shall be restricted to the following types of envelopes when franked for Board use as penalty mail:

(1) Standard letter-size envelopes (4¼" x 9½").

(2) Document-size envelopes (9½" x 12, 9½" x 12½", 10" x 13").

(3) Other sizes of envelopes if franked for Board use and normally used as penalty mail.

(d) (1) Missing children photographs and biographical data affixed by whatever method described herein on standard letter-size envelopes as referred to in § 510a.3(c)(1) above shall be positioned in accordance with the illustration in Appendix A of the OJJDP guidelines published on November 8, 1985, in the **Federal Register** (50 FR 46622, 46625). (2) Missing children photographs and biographical data affixed by whatever method described herein on document-size or other sizes of envelopes referred to in § 510a.3(c) (2) and (3) shall be positioned in such a manner as to comport with the illustration in Appendix A of the OJJDP guidelines to the extent possible.

(e) The Board will obtain missing children photographs and biographical data exclusively from the National Center for Missing and Exploited Children ("National Center") and will utilize such photographs and data in accordance with the Federal Schedule for Photographs promulgated by the National Center.

(f) The Board will discontinue the use of any particular child's photograph or biographical data within three months after receiving written notification from the National Center that the photograph and biographical data should be withdrawn from penalty mail dissemination.

§ 510a.4 Responsibility of Board administrative unit for implementation and procedure governing use of penalty mail in location of missing children.

(a) The Administrative Services Division ("ASD"), Administration Office, will be the Board's administrative unit responsible for the implementation of this Part and will act as the liaison between the Board and the National Center regarding the use of missing children photographs and biographical data. ASD shall:

(1) Develop any necessary plans or guidelines, and implement and monitor the use of missing children photographs and biographical data on penalty mail. Said plans or guidelines shall comply with OJJDP guidelines (50 FR at 46624), and seek to maximize the opportunities for the use of penalty mail to aid in the recovery of missing children.

(2) Procure all appropriate photographs and data from the National Center in accordance with said Center's protocol for the printing, overprinting on, insertion into, or affixing to penalty mail pursuant to this Part.

(3) Remove any photograph or data from circulation through Board penalty mail whenever notified by the National Center.

(4) Collect, consolidate, and analyze cost, mail volume, and other data related to implementation of this Part and submit a report on behalf of the Board to OJJDP by June 30, 1987, concerning he Board's experience in implementation, estimated total cost of implementation, and recommendations.

(5) Provide guidance, assistance, and any logistical support to any Board administrative unit in order to successfully implement the Board's use of missing children photographs and biographical data on penalty mail.

(b) Board administrative unit managers, particulary Office Directors and Division Directors, shall be responsible for ensuring maximum appropriate use, by their administrative units, of penalty mail containing missing children photographs and biographical data.

§ 510a.5 Exceptions to use of missing children photographs and biographical data on penalty mail.

The Director of the Board's Administration Office is empowered to make a determination, consistent with the policy underlying section 320(a)(2), Title 39, United States Code, and OJJDP guidelines, that any particular Board envelope or publication sent by penalty mail is inappropriate for association with missing children photographs and biographical data, based on the contents or context of said envelope or publication.

§ 510a.6 Expiration date.

This Part is effective May 8, 1987, and shall cease to be effective upon the close of the Board's business on February 9, 1988, in accordance with 39 U.S.C. 3220 n. "Termination Date" (Supp. III 1985).

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10577 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 87-AWP-14]

Alteration of Restricted Areas R-2304 and R-2305, Gila Bend, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the times of use for Restricted Areas R-2304 and R-2305 located near Gila Bend, AZ, indicating more accurately when the area are being utilized. This action slightly modifies the times of use the restricted areas are in effect.

EFFECTIVE DATE: 0901 U.T.C., July 30, 1987.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace 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:

The Rule

This amendment to Part 73 of the Federal Aviation Regulations slightly changes the notification for Restricted Areas R-2304 and R-2305 located near Gila Bend, AZ. Because this would only affect the notification procedures for the Notice to Airmen to provide notification to the public of the actual times of use the restricted areas are in effect, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.23 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

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as amended (52 FR 4894), is further amended, as follows:

PART 73—[AMENDED]

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.

2. Section 73.23 is amended as follows:

R-2304 Gila Bend, AZ [Amended]

In the time of designation remove "at least 24 hours in advance".

R-2305 Gila Bend, AZ [Amended]

In the time of designation remove "at least 24 hours in advance"

Issued in Washington, DC, on April 30, 1987.

Shelomo Wugalter,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-10457 Filed 5-7-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 25255; Amdt. No. 1346]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

EFFECTIVE DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference approved by the Director of the **Federal Register** on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulation (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of

immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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. For the same reason, the FAA certifies that this amendment 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 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC, on May 1, 1987.

John S. Kern,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective July 30, 1987

Ambler, AK—Ambler, NDB RWY 36, Amdt. 1
Ely, NM—Ely Muni, VOR RWY 12, Amdt. 5
Ely, NM—Ely Muni, VOR/DME RWY 12, Amdt. 3
Ely, NM—Ely Muni, VOR RWY 30, Amdt. 5
Ely, NM—Ely Muni, VOR/DME RWY 30, Amdt. 3
Great Falls, MT—Great Falls Intl, VOR RWY 3, Amdt. 16
Great Falls, MT—Great Falls Intl, VOR RWY 21, Amdt. 9
Great Falls, MT—Great Falls Intl, NDB RWY 34, Amdt. 15
Great Falls, MT—Great Falls Intl, ILS RWY 3, Amdt. 2
Great Falls, MT—Great Falls Intl, ILS RWY 34, Amdt. 18, Cancelled
Great Falls, MT—Great Falls Intl, Radar-1, Amdt. 10
Helena, MT—Helena Regional, VOR-A, Amdt. 14
Helena, MT—Helena Regional, VOR/DME-B, Amdt. 6
Helena, MT—Helena Regional, LOC/DME BC-C, Amdt. 2
Helena, MT—Helena Regional, NDB-D, Amdt. 2
Helena, MT—Helena Regional, ILS RWY 26, Amdt. 7, Cancelled
Helena, MT—Helena Regional, ILS RWY 27, Orig.

. . . Effective July 2, 1987

San Francisco, CA—San Francisco Intl, ILS RWY 28R, Amdt. 6
Kokomo, IN—Kokomo Muni, VOR RWY 23, Amdt. 17
Kokomo, IN—Kokomo Muni, VOR RWY 32, Amdt. 17
Kokomo, IN—Kokomo Muni, ILS RWY 23, Amdt. 5
Muncie, IN—Delaware County-Johnson Field, VOR RWY 14, Amdt. 15
Muncie, IN—Delaware County-Johnson Field, VOR RWY 20, Amdt. 12
Muncie, IN—Delaware County-Johnson Field, VOR RWY 32, Amdt. 13
Muncie, IN—Delaware County-Johnson Field, NDB RWY 32, Amdt. 9
Muncie, IN—Delaware County-Johnson Field, ILS RWY 32, Amdt. 6
Richmond, IN—Richmond Muni, ILS/DME RWY 24, Orig.
Warsaw, IN—Warsaw Muni, VOR RWY 9, Amdt. 4
Warsaw, IN—Warsaw Muni, VOR RWY 27, Amdt. 4
Warsaw, IN—Warsaw Muni, SDF RWY 9, Amdt. 3
Caro, MI—Caro Muni, VOR/DME-A, Amdt. 4
Albert Lea, MN—Albert Lea Muni, VOR RWY 16, Amdt. 9
Albert Lea, MN—Albert Lea Muni, VOR/DME RWY 34, Amdt. 2
St. Cloud, MN—St. Cloud Muni, VOR/DME RWY 13, Amdt. 3
St. Cloud, MN—St. Cloud Muni, VOR RWY 31, Amdt. 6
Farmington, NM—Four Corners Regional, VOR RWY 25, Amdt. 5
Farmington, MN—Four Corners Regional, ILS RWY 25, Amdt. 1
Shawnee, OK—Shawnee Muni, NDB RWY 17, Amdt. 5, Cancelled
Shawnee, OK—Shawnee Muni, NDB RWY 17, Orig.
Latrobe, PA—Westmoreland County, NDB RWY 23, Amdt. 11
Latrobe, PA—Westmoreland County, ILS RWY 23, Amdt. 12
Burnet, TX—Burnet Muni Kate Craddock Field, NDB RWY 1, Amdt. 2
Dallas—Forth Worth, TX—Dallas/Fort Worth International, NDB RWY 35R, Amdt. 6

. . . Effective July 2, 1987

Houston, TX—Houston Intercontinental, ILS RWY 9, Orig.
Houston, TX—Houston Internatinental, ILS RWY 27, Orig.
Kingsville, TX—Kleberg County, RADAR-1, Amdt. 3
Mc Kinney, TX—Mc Kinney Muni, VOR/DME-A, Amdt. 2
Mc Kinney, TX—Mc Kinney Muni, NDB RWY 17, Amdt. 2, Cancelled
New Braunfels, TX—New Braunfels Muni, VOR/DME-A, Amdt. 6
Plano, TX—Dallas North, VOR-A, Amdt. 1
San Antonio, TX—San Antonio Intl, VOR-A, Amdt. 4
San Antonio, TX—San Antonio Intl, NDB RWY 3, Amdt. 36
San Antonio, TX—San Antonio Intl, NDB RWY 12R, Amdt. 20
San Antonio, TX—San Antonio Intl, NDB RWY 30L, Amdt. 9
San Antonio, TX—San Antonio Intl, ILS RWY 3, Amdt. 14
San Antonio, TX—San Antonio Intl, ILS RWY 12R, Amdt. 10
San Antonio, TX—San Antonio Intl, RADAR-1, Amdt. 23

. . . Effective June 4, 1987

Gunnison, CO—Gunnison County, LOC/DME RWY 6, Orig.
Gulfport, MS—Gulfport-Biloxi Regional, LOC RWY 31, Orig.
Cumberland, WI—Cumberland Muni, VOR/DME RWY 27, Orig.

. . . Effective April 29, 1987

Lanett, AL—Lanett Muni, VOR/DME-A, Amdt. 2
Baton Rouge, LA—Baton Rouge Metropolitan, Ryan Field, ILS RWY 22, Amdt. 6

. . . Effective April 17, 1987

Beverly, MA—Beverly Muni, NDB-A, Amdt. 11
Jefferson City, MO—Jefferson City Meml, LOC RWY 30, Amdt. 6

[FR Doc. 87-10458 Filed 5-7-87; 8:45 am]
BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-68]

Staff Accounting Bulletin No. 68 Regarding Accounting for Increasing Rate Preferred Stock

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This staff accounting bulletin expresses the staff's views regarding accounting for increasing rate preferred stock.

DATE: May 4, 1987.

FOR FURTHER INFORMATION CONTACT: Wayne G. Pentrack, Office of the Chief Accountant, or Howard P. Hodges, Jr., Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

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

Jonathan G. Katz,

Secretary.

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 68 to the Table found in Subpart B.

The staff hereby adds Section Q to Topic 5 of the staff accounting bulletin series. Section Q discusses the staff's views regarding accounting for increasing rate preferred stock.

Topic 5: Miscellaneous Accounting

* * * * *

Q. Increasing Rate Preferred Stock

Facts: A registrant issues Class A and Class B nonredeemable preferred stock [1] on 1/1/Xl. Class A, by its terms, will pay no dividends during the years 19Xl through 19X3. Class B, by its terms, will pay dividends at annual rates of $2, $4 and $6 per share in the years 19Xl, 19X2 and 19X3, respectively. Beginning in the year 19X4 and thereafter as long as they remain outstanding, each instrument will pay dividends at an annual rate of $8 per share. In all periods, the scheduled dividends are cumulative.

At the time of issuance, eight percent per annum was considered to be a market rate for dividend yield on Class A, given its characteristics other than scheduled cash dividend entitlements (voting rights, liquidation preference, etc.), as well as the registrant's financial condition and future economic prospects. Thus, the registrant could have expected to receive proceeds of approximately $100 per share for Class A if the dividend rate of $8 per share (the "perpetual dividend") had been in effect at date of issuance. In consideration of the dividend payment terms, however, Class A was issued for proceeds of $79⅜ per share. The difference, $20⅝, approximated the value of the absence of $8 per share dividends annually for three years, discounted at 8%.

The issuance price of Class B shares was determined by a similar approach, based on the terms and characteristics of the Class B shares.

Question 1: How should preferred stocks of this general type (referred to as "increasing rate preferred stocks") be reported in the balance sheet?

Interpretive response: As is normally the case with other types of securities, increasing rate preferred stock should be recorded initially at its fair value on date of issuance. Thereafter, the carrying amount should be increased periodically as discussed in the Interpretive Response to Question 2.

Question 2: Is it acceptable to recognize the dividend costs of increasing rate preferred stocks according to their stated dividend schedules?

Interpretive response: No. The staff believes that when consideration received for preferred stocks reflects expectations of future dividend streams, as is normally the case with cumulative preferred stocks, any discount due to an absence of dividends (as with Class A) or gradually increasing dividends (as with Class B) for an initial period represents prepaid, unstated dividend cost.[2] Recognizing the dividend cost of these instruments according to their stated dividend schedules would report Class A as being cost-free, and would report the cost of Class B at less than its effective cost, from the standpoint of common stock interests (i.e., for purposes of computing income applicable to common stock and earnings per common share) during the years 19Xl through 19X3.

Accordingly, the staff believes that discounts on increasing rate preferred stock should be amortized over the period(s) preceding commencement of the perpetual dividend, by charging imputed dividend cost against retained earnings and increasing the carrying amount of the preferred stock by a corresponding amount. The discount at time of issuance should be computed as the present value of the difference between (a) dividends that will be payable, if any, in the period(s) preceding commencement of the perpetual dividend; and (b) the perpetual dividend amount for a corresponding number of periods; discounted at a market rate for dividend yield on preferred stocks that are comparable (other than with respect to dividend payment schedules) from an investment standpoint. The amortization in each period should be the amount which, together with any stated dividend for the period (ignoring fluctuations in stated dividend amounts that might result from variable rates [3]), results in a constant rate of effective cost vis-a-vis the carrying amount of the preferred stock (the market rate that was used to compute the discount).

Simplified (ignoring quarterly calculations) application of this accounting to the Class A preferred stock described in the "Facts" section of this bulletin would produce the following results on a per share basis:

	Carrying amount of preferred stock		
	Beginning of year (BOY)	Imputed dividend (8% of carrying amount at BOY)	End of year
Year 19X1	$79.38	6.35	85.73
Year 19X2	85.73	6.86	92.59

[1] "Nonredeemable" preferred stock, as used in this bulletin, refers to preferred stocks which are not redeemable or are redeemable only at the option of the issuer.

[2] As described in the "Facts" section of this bulletin, a registrant would receive less in proceeds for a preferred stock, if the stock were to pay less than its perpetual dividend for some initial period(s), than if it were to pay the perpetual dividend from date of issuance. The staff views the discount on increasing rate preferred stock as equivalent to a prepayment of dividends by the issuer, as though the issuer had concurrently (a) issued the stock with the perpetual dividend being payable from date of issuance, and (b) returned to the investor a portion of the proceeds representing the present value of certain future dividend entitlements which the investor agreed to forgo.

[3] See Question 3 regarding variable increasing rate preferred stocks.

	Carrying amount of preferred stock		
	Beginning of year (BOY)	Imputed dividend (8% of carrying amount at BOY)	End of year
Year 19X3	92.59	7.41	100.00

During 19X4 and thereafter, the stated dividend of $8 measured against the carrying amount of $100 [4] would reflect dividend cost of 8%, the market rate at time of issuance.

The staff believes that existing authoritative literature, while not explicitly addressing increasing rate preferred stocks, implicitly calls for the accounting described in this bulletin.[5]

The pervasive, fundamental principle of accrual accounting would, in the staff's view, preclude registrants from recognizing the dividend cost on the basis of whatever cash payment schedule might be arranged. Furthermore, recognition of the effective cost of unstated rights and privileges is well-established in accounting, and is specifically called for by APB Opinion No. 21 and Topic 3.C of the staff accounting bulletin series for unstated interest costs of debt capital and unstated dividend costs of redeemable preferred stock capital, respectively. The staff believes that the requirement to recognize the effective periodic cost of capital applies also to nonredeemable preferred stocks because, for that purpose, the distinction between debt capital and preferred equity capital (whether redeemable[6] or nonredeemable) is irrelevant from the standpoint of common stock interests.

Question 3: Would the accounting for discounts on increasing rate preferred stock be affected by variable stated dividend rates?

Interpretive Response: No. If stated dividends on an increasing rate preferred stock are variable, computations of initial discount and subsequent amortization should be based on the value of the applicable index at date of issuance and should not be affected by subsequent changes in the index.

For example, assume that a preferred stock issued 1/1/X1 is scheduled to pay dividends at annual rates, applied to the stock's par value, equal to 20% of the actual (fluctuating) market yield on a particular Treasury security in 19X1 and 19X2, and 90% of that fluctuating market yield in 19X3 and thereafter. The discount would be computed as the present value of a two-year dividend stream equal to 70% (90% less 20%) of the 1/1/X1 Treasury security yield, annually, on the stock's par value. The discount would be amortized in years 19X1 and 19X2 so that, together with 20% of the 1/1/X1 Treasury yield on the stock's par value, a constant rate of cost vis-a-vis the stock's carrying amount would result. Changes in the Treasury security yield during 19X1 and 19X2 would, of course, cause the rate of total reported preferred dividend cost (amortization of discount plus cash dividends) in those years to be more or less than the rate indicated by discount amortization plus 20% of the 1/1/X1 Treasury security yield. However, the fluctuations would be due solely to the impact of changes in the index on the stated dividends for those periods.

Question 4: Will the staff expect retroactive changes by registrants to comply with the accounting described in this bulletin?

Interpretive Response: All registrants will be expected to follow the accounting described in this bulletin for increasing rate preferred stocks issued after December 4, 1986.[7] Registrants that have not followed this accounting for increasing rate preferred stocks issued before that date are encouraged to retroactively change their accounting for those preferred stocks in the financial statements next filed with the Commission. The staff will not object if registrants do not make retroactive changes for those preferred stocks, provided that all presentations of and discussions regarding income applicable to common stock and earnings per share in future filings and shareholders' reports are accompanied by equally prominent supplemental disclosures (on the face of the income statement, in presentations of selected financial data, in Management's Discussion and Analysis, etc.) of the impact of not changing their accounting and an explanation of such impact (e.g., that dividend cost has been recognized on a cash basis).

[FR Doc. 87-10493 Filed 5-7-87; 8:45 am]

BILLING CODE 8010-01-M

[4] It should be noted that the $100 per share amount used in this bulletin is for illustrative purposes, and is not intended to imply that application of this bulletin will necessarily result in the carrying amount of a nonredeemable preferred stock being accreted to its par value, stated value, voluntary redemption value or involuntary liquidation value.

[5] In Staff Accounting Bulletin No. 57 (July 1984), the staff stated its view that, in the absence of explicitly applicable authoritative literature, registrants and their independent accountants must determine the appropriate accounting "based on some pervasive, fundamental principle or an analogy to transactions with similar economic substance for which the accounting literature does provide specific guidance."

[6] Application of the interest method with respect to redeemable preferred stocks pursuant to Topic 3.C results in accounting consistent with the provisions of this bulletin irrespective of whether the redeemable preferred stocks have constant or increasing stated dividend rates. The interest method, as described in APB Opinion No. 12, produces a constant effective periodic rate of cost that is comprised of amortization of discount as well as the stated cost in each period.

[7] The staff first publicly expressed its view as to the appropriate accounting at the December 3-4, 1986 meeting of the FASB's Emerging Issues Task Force ("EITF"). Topics to be discussed by the EITF are publicly announced prior to its meetings and minutes of all EITF meetings are available to the public.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-87-1688; FR-2346]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

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

ACTION: Notice of revisions to FHA maximum mortgage limits for high cost areas.

SUMMARY: This notice adds the following localities, recently approved by the Department, to the annual HUD lists of areas (October 1, 1986, 51 FR 34961) which are eligible for high cost mortgage limits under the National Housing Act and its amendments: Isle of Wight County, Virginia; Warren County, New York; Johnston County, North Carolina; and the Wilmington, North Carolina MSA (New Hanover County).

EFFECTIVE DATE: May 8, 1987.

FOR FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, Room 9270; telephone (202) 755-6720. For manufactured homes: Robert Coyle, Director, Office of Title I Insured Loans, Room 9160; telephone (202) 755-6680; 451 Seventh Street, SW., Washington, D.C. 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1710-1749) authorizes HUD to insure mortgages for single family residences (from one- to four-family

structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high cost limits for insured mortgages in Alaska, Guam and Hawaii.

On May 22, 1984, the Department published a revised list of areas eligible for "high cost" mortgage limits, which contained several new features (see 49 FR 21520). First, there was no separate listing for condominium units, since these limits are now the same as those for other one-family residences. Second, the listing included instructions on how to compute the high cost limits for combination manufactured homes and lots and individual lots, and specified the special high cost amounts for manufactured homes, combination manufactured homes and lots and individual lots insured in Alaska, Guam and Hawaii. And, third, it made changes to the list based on a new definition of "metropolitan area".

On October 1, 1986 (51 FR 34961), the Department published its annual complete listing of areas eligible for "high cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act and their applicable limits.

This notice adds the following localities recently approved by the Department, to the annual HUD list of areas (October 1, 1986, 51 FR 34961) which are eligible for high cost mortgage limits under the National Housing Act and its amendments: Isle of Wight County, Virginia; Warren County, New York; Johnston County, North Carolina; and the Wilmington, North Carolina MSA (New Hanover County).

These amendments to the high cost areas appear in two parts. Part I explains high cost limits for mortgages insured under Title I of the National Housing Act. Part II lists changes for single family residences insured under section 203(b) or 234(c) of the National Housing Act.

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. *Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii):* To determine the high cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, Warren County, New York has a one family limit of $90,000. The combination home and lot loan limit for Warren County is $90,000 × .80, or $72,000.

B. *Section 2(b)1)(E). Lot only (excluding Alaska, Guam, and Hawaii):* To determine the high cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, Warren County, New York has a one family limit of $90,000. The lot only loan limit for Warren County is $90,000 × .20, or $18,000.

C. *Section 2(b)(2). Alaska, Guam and Hawaii limits:* The maximum dollar limits for Alaska, Guam, and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam and Hawaii are as follows:

1. For manufactured homes; $56,700. ($40,500 × 140%.

2. For combination manufactured homes and lots: $75,600. ($54,000 × 140%.)

3. For lots only: $18,900. ($13,500 × 140%.)

II. Title II: Updating of FHA 203(b), 234(c), and 214 Area Wide Mortgage Limits

REGION II.—HUD FIELD OFFICE—ALBANY, NY

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
Warren County	$90,000	$101,300	$122,650	$142,650

REGION III.—HUD FIELD OFFICE—RICHMOND, VA

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
Isle of Wight County	$78,350	$88,250	$107,250	$123,750

REGION IV.—HUD FIELD OFFICE—GREENSBORO OFFICE

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
Johnston County	$68,400	$77,000	$93,600	$108,000
Wilmington, NC MSA New Hanover County	$76,000	$85,600	$104,000	$120,000

Date: April 30, 1987.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 87-10556 Filed 5-7-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is making a number of interpretive clarifications, revisions and additions to its paroling policy guidelines contained in 28 CFR 2.20 and 2.36. These changes and additions are intended to make the guidelines more comprehensive. Additionally, the Commission is revising its practice of conducting dispositional revocation hearings in state institutions pursuant to 28 CFR 2.47, making the decision as to whether to conduct such hearings at state or local facilities as within the discretion of the appropriate Regional Commissioner.

EFFECTIVE DATE: June 15, 1987.

FOR FURTHER INFORMATION CONTACT: Alan J. Chaset, Deputy Director of Research and Program Development, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Telephone (301) 492-5980.

SUPPLEMENTARY INFORMATION:

A. The Proposed Rules and Their Purposes

On March 12, 1987, the U.S. Parole Commission published in the **Federal Register** (52 FR 7620) a set of proposed revisions to 28 CFR 2.20 and 2.36 and a revision to 28 CFR 2.47.

The proposed revisions to 28 CFR 2.20 and 2.36 fall into three categories: (a) A revision to an offense example in the Offense Behavior Severity Index of § 2.20 adding language related to the transportation of unlawful aliens; (b) a revision to an offense example in the Offense Behavior Severity Index of § 2.20 clarifying its applicability for certain criminal contempt offenses; and (c) a revision to the rescission guidelines in § 2.36 incorporating, as part of the rules, interpretative material previously included in the Commission's internal Rules and Procedures Manual.

(a) First, Offense Example 402 in Chapter 4 of the Offense Behavior Severity Index of 28 CFR 2.20 grades the

severity for the transportation of unlawful aliens as Category Three. There are situations, however, when the aliens being transported are detained by their transporters until certain fees or monies are provided. While there are other examples and provisions within the Offense Behavior Severity Index that cover kidnapping and demands for ransom, the Commission views the detention of unlawful aliens under these circumstances as a somewhat different offense. It was proposed, therefore, to sanction such detention and demand for payment as Category Five and to revise the offense example accordingly.

(b) Next, Offense Example 618 in Chapter 6, Subchapter B of the Offense Behavior Severity Index of 28 CFR 2.20 grades the severity for contempt of court offenses. As an exception, subsection (b) states that where "a criminal sentence of more than one year is imposed under 18 U.S.C. 401 for refusal to testify concerning a criminal offense," the conduct should be graded as if it were an accessory after the fact. Standing alone, this exception appears logical in the sense that it recognizes the fact that the Commission does not have jurisdiction over criminal sentences of less than one year. However, a problem may arise when an offender is sentenced to more than one year after being convicted on two separate counts and one of the counts is a criminal contempt term to be served consecutively and that term is less than one year. To address such a situation and to appropriately sanction all criminal contempt sentences for refusal to testify under 18 U.S.C. 401, the Commission proposed to delete the "of more than one year" language from section (b).

(c) Finally, 28 CFR 2.36 contains the Commission's guidelines for sanctioning criminal conduct committed in a prison facility. To make this guideline more comprehensive, the Commission proposed to incorporate, as part of the rules, interpretative material previously included as a procedure in the Commission's Rules and Procedures Manual that provided the grading of offenses (like submitting false tax returns to the IRS from a prison facility) that are not limited to the confines of the prison facility. As proposed, such offenses will be graded as new criminal behavior in the community.

The proposed revision to 28 CFR 2.47 (Warrant Placed As A Detainer and Dispositional Review) was offered as a resource saving initiative. Under current practice, when a parolee has been convicted of a new offense and is serving a new sentence in an institution, a parole violation warrant may be placed against him as a detainer. If the prisoner is serving a state or local sentence, the Regional Commissioner must after a dispositional record review, order that a revocation hearing be scheduled: (a) Upon return to a federal institution or (b) upon completion of the period in confinement required by the minimum of the applicable guideline range as tentatively assessed, but not less than twenty-four months, whichever alternative comes first.

Conducting dispositional revocation hearings in state institutions consumes a disproportionate amount of staff time. While the total number of such hearings is small, considerable support and examiner time is expended in preparing for and conducting these hearings, particularly in traveling to the many facilities in the states and cities within each region. And, because the total number of hearings is small and the locations are widely scattered, the dockets at these state or local facilities rarely contain more than one or two cases. Moreover, the overall workload of the Commission continues to increase, placing competing demands on the Commission's resources.

To address this situation, the Commission proposed to revise current practice as it relates to parolees serving new sentences in state and local facilities. The revision would provide the Regional Commissioner with the discretion to order a revocation hearing at the state or local facility. In the alternative, the Regional Commissioner could let the detainer stand and order further review at an appropriate time or withdraw the detainer and either order reinstatement of the parolee to supervision upon release from custody or close the case if the expiration date has passed.

The procedures in § 2.47 as regards parolees serving a federal sentence are not being revised.

B. Public Comment

The Parole Commission received only one comment, a letter jointly signed by a Chief and Supervising U.S. Probation Officer. Their letter addressed only the proposal regarding dispositional revocation hearings: They state that they are in total agreement with the proposed change, seeing it as cost effective while still adequately providing for individual rights.

C. Changes From the Proposed Rules

There are no changes from the rules as proposed.

These rule changes will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 2—[AMENDED]

28 CFR Part 2 is amended as follows:

1. The authority citation for 28 CFR Part 2 continues to read:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. Offense Example 402 in Chapter Four of the Offense Behavior Severity Index of 28 CFR 2.20 is revised to read as follows:

402 *Transportation of Unlawful Alien(s)*

(a) If the transportation of unlawful alien(s) involves detention and demand for payment, grade as Category Five;

(b) Otherwise, grade as Category Three.

3. Offense Example 618 in Chapter Six, Subchapter B of the Offense Behavior Severity Index of 28 CFR 2.20 is revised by amending subsection (b) to read as follows:

618 *Contempt of Court*

(a) * * *

(b) *Exception:* If a criminal sentence is imposed under 18 U.S.C. 401 for refusal to testify concerning a criminal offense, grade such conduct as if accessory after the fact.

4. Paragraph (a)(3) of the Rescission Guidelines in 28 CFR 2.36 is revised to read as follows:

§ 2.36 Rescission guidelines.

(a) * * *

(1) * * *

(2) * * *

(3) *New Criminal Behavior in the Community* (e.g., while on pass, furlough, work release, or on escape). In such cases, the guidelines applicable to reparole violators under § 2.21 shall be applied, using the new offense severity (from § 2.20) and recalculated salient factor score (such score shall be recalculated as if the prisoner had been on parole at the time of the new criminal behavior). The time required pursuant to these guidelines shall be added to the time required by the original presumptive or effective date.

Note.—Offenses committed in a prison or in a Community Treatment Center that are not limited to the confines of the prison or Community Treatment Center (e.g., mail fraud of a victim outside the prison) are graded as new criminal behavior in the community.

* * * * *

5. 28 CFR 2.47 *Warrant Placed As A Detainer and Dispositional Review* is revised to read as follows:

§ 2.47 Warrant placed as a detainer and dispositional review.

(a) When a parolee is serving a new sentence in a federal, state or local institution, a parole violation warrant may be placed against him as a detainer.

(1) If the prisoner is serving a new sentence in a federal institution, a revocation hearing shall be scheduled within 120 days of notification of placement of the detainer, or as soon thereafter as practicable, provided the prisoner is eligible for and has applied for an initial hearing on the new sentence, or is serving a new sentence of one year or less. In any other case, the detainer shall be reviewed on the record pursuant to paragraph (a)(2) of this section.

(2) If the prisoner is serving a new sentence in a state or local institution, the violation warrant shall be reviewed by the Regional Commissioner not later than 180 days following notification to the Commission of such placement. The parolee shall receive notice of the pending review, and shall be permitted to submit a written application containing information relative to the disposition of the warrant. He shall also be notified of his right to request counsel under the provisions of § 2.48(b) to assist him in completing this written application.

(b) If the prisoner is serving a new federal sentence, the Regional Commissioner, following a dispositional record review, may:

(i) Pursuant to the general policy of the Commission, let the warrant stand as a detainer and order that the revocation hearing be scheduled to coincide with the initial hearing on the new federal sentence or upon release from the new sentence, whichever comes first;

(ii) Withdraw the warrant, and either order reinstatement of the parolee to supervision upon release from confinement or close the case if the expiration date has passed.

(c) If the prisoner is serving a new state or local sentence, the Regional Commissioner, following a dispositional record review may:

(i) Withdraw the detainer and order reinstatement of the parolee to supervision upon release from custody, or close the case if the expiration date has passed.

(ii) Order a revocation hearing to be conducted by a hearing examiner or an official designated by the Regional Commissioner at the institution in which the parolee is confined.

(iii) Let the detainer stand and order further review at an appropriate time. If the warrant is not withdrawn and no revocation hearing is conducted while the prisoner is in state or local custody, an institutional revocation hearing shall be conducted after the prisoner's return to federal custody.

(d) Revocation hearings pursuant to this section shall be conducted in accordance with the provisions governing institutional revocation hearings, except that a hearing conducted at a state or local facility may be conducted by a hearing examiner, hearing examiner panel, or other official designated by the Regional Commissioner. Following a revocation hearing conducted pursuant to this section, the Commission may take any action specified in § 2.52.

(e)(1) A parole violator whose parole is revoked shall be given credit for all time in federal, state, or local confinement on a new offense for purposes of satisfaction of the reparole guidelines at §§ 2.20 and 2.21.

(2) However, it shall be the policy of the Commission that the revoked parolee's original sentence (which due to the new conviction, stopped running upon his last release from federal confinement on parole) again start to run only upon release from the confinement portion of the new sentence or the date of reparole granted pursuant of these rules, whichever comes first. This subsection does not apply to cases where, by law, the running of the original sentence is not interrupted by a new conviction (e.g., YCA; NARA; Mexican or Canadian treaty cases).

(f) If a Regional Commissioner determines that additional information is required in order to make a decision pursuant to paragraph (a)(2) of this section, he may schedule a dispositional hearing at the state or local institution where the parolee is confined to obtain such information. Such hearing may be conducted by a hearing examiner, hearing examiner panel, or other official designated by the Regional Commissioner. The parolee shall have notice of such hearing, be allowed to testify in his behalf, and have opportunity for counsel as provided in § 2.48(b).

Dated: April 23, 1987.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 87-10473 Filed 5-7-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-87-02]

Special Local Regulations; John H. Kerr Reservoir, U.S. Olympic Festival—87

May 1, 1987.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing special local regulations for the U.S. Olympic Festival 87 that will be held at the entrance to Nutbush Creek, John H. Kerr Reservoir on July 23, 24 and 25, 1987. These special local regulations are considered necessary to control spectator craft within the immediate vicinity of the race course due to the confined nature of the waterway and the expected congestion at the time of the events.

EFFECTIVE DATES: These regulations are effective from 12:30 p.m. until 6:30 p.m. local time on July 23, 24 and 25, 1987 with July 26, 1987 as an alternate date if needed.

FOR FURTHER INFORMATION CONTACT: Mr. Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804-398-6204).

SUPPLEMENTARY INFORMATION: On March 6, 1987 the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations 52 FR 6990. Interested persons were requested to submit comments. No comments were received.

Drafting Information: The drafters of this notice are Mr. Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and Commander, Robert J. Reining, project attorney, Fifth Coast Guard District Legal Office.

Economic Assessment and Certification: These regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The closure of this portion of the reservoir is not anticipated for any extended period and pleasure craft will be inconvenienced only sightly. Since the impact of these regulations is

expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Regulations

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

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

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

2. Section 100.35-0502 is added to read as follows:

§ 100.35-0502 Nutbush Creek, John H. Kerr Reservoir, North Carolina and Virginia.

(a) *Definitions.* (1) Regulated Area: An area centered at latitude 36°32'18.0" North, longitude 78°19'50.0" West with a radius of four fifths of a nautical mile. It is located between Henderson Point on the west, and Kimball Point on the east at the entrance to Nutbush Creek, John H. Kerr Reservoir.

(2) The Coast Guard Patrol Commander is a commissioned, warrant or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Fort Macon.

(b) *Special Local Regulations.* (1) Except for participants in U.S. Olympic sailboard races and vessels authorized by the Coast Guard Patrol Commander, between the hours of 12:30 p.m. and 6:30 p.m. on July 23, 24, and 25, 1987, and on July 26, 1987, if required, no vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop his vessel immediately upon being directed to do so by any Coast Guard commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any Coast Guard commissioned, warrant, or petty officer.

(3) Any spectator vessel may anchor outside of the regulated area, described in paragraph (a) of this section, but may not block any navigable channel.

EFFECTIVE DATES: These regulations are effective from 12:30 p.m. until 6:30 p.m. local time on July 23, 24 and 25, 1987 with July 26, 1987 as an alternate date if needed.

Dated: April 23, 1987.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 87-10399 Filed 5-7-87; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 10

International Surface Air Lift Service to 57 Additional Countries and Revised Rate Schedules; Delayed Effective Date

AGENCY: Postal Service.

ACTION: Final rule; delayed effective date.

SUMMARY: In FR Doc. 87-9194, published April 23, 1987 (52 FR 13442), the Postal Service announced that it intended to begin, effective May 23, 1987, International Surface Air Lift Service to certain new destinating countries at revised postal rates based on the network expansion and improved transportation and handling charges. It is now apparent that additional time is required to complete preparations for the service extension. Accordingly, the effective date is delayed until July 4, 1987.

EFFECTIVE DATE: July 4, 1987.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 268-2673.

SUPPLEMENTARY INFORMATION:

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-10364 Filed 5-7-87; 1:26 pm]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SHW-FRL-3197-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting a final exclusion from the lists of hazardous wastes contained in 40 CFR Part 261 for certain solid wastes generated by American Cyanamid, Hannibal, MO. This action responds to a delisting petition received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists.

EFFECTIVE DATE: May 8, 1987.

ADDRESSES: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for public viewing from 3:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The reference number for this docket is "F-87-ACEF-FFFFF." The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424-9346, or (202) 382-3000. For technical information, contact Myles Morse, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-4782.

SUPPLEMENTARY INFORMATION: Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous waste contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine that (1) the waste to be excluded is non-hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constitutents are present in the wastes at levels of regulatory concern.

On November 27, 1985, EPA proposed to exclude specific wastes generated by thirteen facilities (see 50 FR 48911-48967, November 27, 1985) from the lists of hazardous waste contained at 40 CFR 261.31 and 261.32. Four of these facilities were granted final exclusions in earlier notices. Eight of the proposed exclusions will be addressed in future notices. This notice addresses only the delisting petition for the American Cyanamid Company, located in Hannibal, Missouri.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting

mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be not less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[1] To date, only one State (Georgia) has received authorization for their delisting program. The final exclusion granted today, therefore, is issued under the Federal program. The States, however, can still decide whether to exclude these wastes under their State (non-RCRA) programs. Since a petitoner's waste may be regulated by a dual system (i.e., both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State Law.

Today's action grants an exclusion to American Cyanamid, Hannibal, MO for its K038 waste. This decision is effective immediately. American Cyanamid may not manage its petitioned waste as non-hazardous unless the waste exhibits any of the characteristics of hazardous waste. The exclusion remains in effect unless the waste varies from that originally described in the petition (i.e., the waste is altered as a result of changes in the manufacturing or treatment process.) Since the exclusion applies only to the process covered by the original demonstration, if the facility alters its manufacturing or treatment process, it must either file a new petition to exclude the waste from the altered process or it must treat the waste as hazardous.

I. American Cyanamid Company

A. Proposed Exclusion

American Cyanamid Company (American Cyanamid) petitioned the Agency to exclude its wastewater and wastewater treatment sludge contained within three on-site lagoons from EPA Hazardous Waste No. K038, based on the destruction of the listed constituents by its incineration and treatment process. Data submitted by American Cyanamid substantiates their claim that the listed constituents of concern are not present at levels of regulatory concern. Furthermore, additional data provided by American Cyanamid indicate that no other hazardous constituents are present in these wastes at levels of regulatory concern and that the wastes do not exhibit any of the characteristics of hazardous waste. (See 50 FR 48912–48915, November 27, 1985 for a more detailed explanation of why EPA proposed to grant American Cyanamid's petition.)

B. Agency Response to Public Comments

One commenter believes that the Agency should deny this petition since the facility did not submit groundwater monitoring data. The commenter believes that the Agency cannot evaluate adequately the potential health and environmental hazard of the waste without these data. The Agency agrees that the evaluation of groundwater monitoring data is a useful measure of a waste's degree of hazard. In general, facilities petitioning for exclusion of a waste managed on-site are expected to be in compliance with the requirements of 40 CFR Part 264 or 265 and must submit, as part of their petition, four quarters of groundwater monitoring data from a monitoring system determined to be adequate under Subpart F of those regulations. As a matter of policy, the Agency has acted on several delisting petitions without groundwater monitoring data. These include: the previous final decisions and facilities that have received a waiver from the groundwater monitoring requirements through state agencies or EPA's Regional offices (such waivers include existing consent agreements and Subpart F waivers obtained under § 265.90(c) or § 264.90(b)). American Cyanamid did not submit groundwater monitoring data in their petition because of an enforcement consent agreement that American Cyanamid and EPA Region VII entered into on October 24, 1983. This consent agreement stated that if EPA granted a delisting for certain hazardous wastes, American Cyanamid would not be required to comply with groundwater monitoring requirements. If the petition were denied, American Cyanamid would be required to install groundwater monitoring wells and pay a penalty. Under the agreement, no wells were to be installed until EPA made a decision on the delisting petition. Thus, the Agency has not required groundwater monitoring data to be submitted by American Cyanamid.

The commenter also stated that EPA should not make the proposed exclusion final until an appropriate methodology for evaluating the potential for groundwater contamination from surface impoundments is available. The VHS model currently predicts the potential behavior of wastes managed in landfills. The Agency recognizes that other models could be developed that might be more appropriate for wastes managed in surface impoundments. The Agency is developing a surface impoundment version of the VHS model. When that model is developed, it will be used to evaluate delisting petitions involving surface impoundments. The primary difference between the landfill and surface impoundment versions of the VHS is expected to be the consideration of hydraulic head and volatilization in the impoundment model. Hydraulic head tends to force leachate into the aquifer, displacing groundwater and resulting in potentially higher concentrations at the receptor well. Volatilization tends to reduce waste concentrations and is of environmental concern due to an inhalation exposure route, as well as deleterious atmospheric effects. To some extent, however, these two mechanisms counteract each other as measured by the impact on groundwater at a receptor well. Without completing the ongoing model development efforts it is difficult to predict which mechanism will dominate. In the interim, the Agency will continue to evaluate impoundments using the landfill version of the VHS model.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that American Cyanamid's wastewater and wastewater treatment sludge are non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to American Cyanamid Company for its wastewater and wastewater treatment sludge from phorate production, listed as EPA Hazardous Waste No. K038, generated at its Hannibal, Missouri facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (i.e., the waste is altered as a result of changes in the manufacturing or treatment process). In addition, generators are still obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

II. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when

[1] RCRA Regulation Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

the regulated community does not need the six month period to come into compliance. This is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioner by an effective date six months after promulgation and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that this rule should be effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

III. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This rule to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment, a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall cost of EPA's hazardous waste regulations. Accordingly, I hereby certify that this regulation will not have a significant impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: April 28, 1987.

Marcia Williams,

Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestream in alphabetical order to Table 2 to read as follows:

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
American Cyanamid.	Hannibal, Missouri.	Wastewater and sludge (EPA Hazardous Waste No. K038) generated from the washing and stripping of phorate production and contained in on-site lagoons on May 8, 1987, and such wastewater and sludge generated after May 8, 1987.

* * * * *

[FR Doc. 87–10510 Filed 5–7–87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-2-FRL-3198-2]

New Jersey; Schedule of Compliance for Modification of New Jersey's Hazardous Waste Program

AGENCY: Environmental Protection Agency, Region II.

ACTION: Notice of New Jersey's compliance schedule to adopt program modifications.

SUMMARY: On September 22, 1986 EPA promulgated amendments to the deadlines for State program modifications, and published requirements for States to be placed on a compliance schedule to adopt the necessary program modifications. EPA is today publishing a compliance schedule for New Jersey to modify its program in accordance with § 271.21(g) to adopt the Federal program modifications.

FOR FURTHER INFORMATION CONTACT: Susan L. Katz, New Jersey State Coordinator, Hazardous Waste Programs Branch, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, Room 907, New York, New York 10278. Telephone: (212) 264–3384.

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Federal hazardous program within the State is granted by EPA if the Agency finds that the State program (1) is "equivalent" to the Federal program, (2) is "consistent" with the Federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6226(b)). EPA regulations for final authorization appear at 40 CFR 271.1–271.24. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986 for a complete discussion of these procedures and deadlines.

B. New Jersey

New Jersey received final authorization of its hazardous waste program on February 21, 1985. (See 50 FR 5260, February 7, 1985). Today EPA is publishing a compliance schedule for New Jersey to obtain program revisions for the following Federal program requirements:

- Interim Status Standards Applicability (48 FR 52718–20, November 22, 1983)
- Interim Status Standards Applicability (49 FR 46095, November 21, 1984)
- Interim Status Standards for Treatment, Storage and Disposal Facilities (50 FR 16044–8, April 23, 1985)
- Definition of Solid Waste (50 FR 614–668, January 4, 1985)

The State has agreed to obtain the needed program revisions according to the following schedule:

March 16, 1987—Proposal of Interim Status Standards Applicability and Interim Status TSD Standards

June 16, 1987—Proposal of Definition of Solid Waste

August 20, 1987—Adoption of Interim Status Standards Applicability and Interim Status TSD Standards

December 21, 1987—Adoption of Definition of Solid Waste

New Jersey expects to submit the final Cluster I program revision application either: (1) 60 days after receipt of EPA comments on the draft application, or (2) 30 days after adoption of Interim Status Standards Applicability and TSD Standards, whichever date is *later*. New Jersey expects to submit an application to EPA for authorization of the Definition of Solid Waste by March 1, 1988.

Authority

This notice is issued under the authority of sections 2202(a), 3006, and 7004(b) of the Solid Waste Disposal Act,

as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926 and 6974(B).

Dated: April 24, 1987.

Christopher J. Daggett,

Regional Administrator, U.S. Environmental Protection Agency.

[FR Doc. 87-10505 Filed 5-7-87; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 230 (Sub-No. 5A)]

Petition To Exempt Rail Movement of New Trailers and Containers From Regulation

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission exempts rail transportation of new highway trailers or containers. The temporary exemption published at 48 FR 51311 on November 8, 1983, as an interim rule in 49 CFR 1039.16 is amended and made permanent. The exemption will allow railroads to quickly compete with motor carriers and other railroads for this type of traffic, thereby promoting efficiency. Rail carriers will be able to compete by offering competitive rates and flexible, responsive service.

DATES: This exemption is effective June 8, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, intermodal transportation and railroads.

We certify that this action will not have a significant adverse impact on a substantial number of small entities, since it will reduce, and not add to regulatory requirements.

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

Decided: April 30, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

Appendix

49 CFR Part 1039 is amended as follows:

PART 1039—CONTRACTS AND EXEMPTIONS

1. The authority citation for 49 CFR Part 1039 continues to read as follows:

Authority: 49 U.S.C. 10321, 10505, 10708, 10713, 10762 and 11105; and 5 U.S.C. 553.

2. Section 1039.16 is revised to read as follows:

§ 1039.16 Exemption of new highway trailers or containers.

The rail transportation of new highway trailers or containers (which is not otherwise exempt) is exempt from the provisions of 49 U.S.C. Subtitle IV, except that carriers must continue to comply with the Commission's accounting and reporting requirements. This exemption will remain in effect unless modified or revoked by subsequent order of this Commission.

[FR Doc. 87-10474 Filed 5-7-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 61220-7033]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the share of the sablefish target quota (TQ), allocated to trawl gear in the Central Regulatory Area of the Gulf of Alaska has been achieved. This share includes amounts harvested in sablefish target fisheries and as bycatches in target fisheries for other groundfish species. Retention of sablefish by trawl vessels fishing in the Central Regulatory Area after 12:00 noon on May 5, 1987, is prohibited. This action is necessary to limit the trawl harvest of sablefish in the Central Regulatory Area to the amount that is permissible under Federal regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

EFFECTIVE DATES: From 12:00 noon, Alaska Daylight Time (ADT), May 5, 1987, through December 31, 1987. Public comments are invited on this closure until May 20, 1987.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m., Monday through Friday) at the Alaska Regional Office, NMFS, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR Part 672. Section 672.2 of the regulations defines the Western, Central, and Eastern Regulatory Areas in the Gulf of Alaska. The fishery is directed at an optimum yield for all groundfish species equal to 116,000-800,000 metric tons (mt). Under the procedure set forth at § 672.20, 1987 TQs were established for each species of groundfish, which were then apportioned among the regulatory areas. One of these species is sablefish, for which the 1987 TQ in the Central Regulatory Area was established at 8,800 mt (52 FR 785, January 9, 1987). Section 672.24(b)(2) restricts the trawl take of sablefish in the Central Regulatory Area to 20 percent of the TQ, or 1,760 mt.

Under § 672.24(b)(2), the Regional Directory closed the directed sablefish fishery to vessels using trawl gear on April 11, 1987, when the trawl fishery had harvested an estimated 1,600 mt (52 FR 12183, April 15, 1987). The remainder of the 160 mt TQ available to vessels using trawl gear was set aside as bycatch to support fisheries on other target species, especially Pacific cod, flounders, and Pacific ocean perch.

The 160 mt bycatch amount has also been reached. Under § 672.24(b)(3)(ii), if the share of the sablefish TQ assigned to any type of gear for any area or district is reached, further catches of sablefish must be treated as prohibited species by persons using that type of gear for the remainder of the year.

Under § 672.20(c)(2) (ii) and (iii), the Regional Director is allowing trawl fishing in the Central Regulatory Area for other groundfish species to continue. In making this decision, the Regional Director considered: (1) The risk of biological harm to sablefish stocks; (2) the risk of socioeconomic harm to authorized users of sablefish; and (3) the impact that a continued closure might have on the socioeconomic well-being of other domestic fisheries. The Regional Director made these findings: (1) No risk of biological harm to sablefish will result if additional fish are caught incidentally as prohibited species in other groundfish fisheries, because the additional amount of sablefish that would be caught is less than the acceptable biological catch for sablefish in the Central Regulatory Area; (2) no risk of socioeconomic harm to authorized users of the sablefish resource will result, because the amount of sablefish harvested is a small part of their catch and other groundfish species, including rockfish, are still available should the authorized users pursue them; and (3) a continued closure will have no significant impact on the socioeconomic well-being of other domestic fisheries, since other species of fish, including shellfish, that are important in the domestic fisheries will not be significantly affected.

This closure will be effective when this notice is filed for public inspection with the **Federal Register** and after it has been publicized for 48 hours through procedures of the Alaska Department of Fish and Game under § 672.22(a). Public comments on this notice of closure may be submitted to the Regional Director at the address above for 15 days following its effective date. If comments are received, the necessity of this will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this closure's continued effect, modifying it, or rescinding it.

Classification

Allocation of the sablefish resource between hook-and-line and trawl gear in the Central Regulatory Area and the continued health of all components of the sablefish fishery will be jeopardized unless this closure takes effect promptly. NOAA, therefore, finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and that its effective date should not be delayed.

This action is taken under §§ 672.22 and 672.24 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 5, 1987.

William E. Evans,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-10528 Filed 5-5-87; 3:46 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 89
Friday, May 8, 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.

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No-87-517]

Bank Secrecy Act Compliance Procedures

Dated: April 30, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is proposed to amend for purposes of clarification, its recently adopted regulation which requires insured institution to establish and maintain procedures to assure and monitor compliance with the requirements of the Bank Secrecy Act (including the Currency and Foreign Transactions Reporting Act), Subchapter II of Chapter 53 of Title 31, United States Code ("BSA"). The proposed rule sets forth in greater detail the elements required to be in a BSA compliance program, in particular, the requirements of BSA compliance testing and continuing education.

DATE: Comments must be received on or before July 7, 1987.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Francis Raue, Policy Analyst, (202) 778-2517, Cynthia Graae, Manager, Operations Standards, (202) 778-2569, Office of Regulatory Policy, Oversight, and Supervision, Federal Home Loan Bank System, 900 Nineteenth Street, NW. Washington, DC 20006; C. Dawn Causey, Attorney, Office of Enforcement, (202) 653-2624, or John Downing, Attorney, Office of Enforcement, (202) 653-2604, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

A. Background of the Rule

On January 27, 1987, the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Board, and the National Credit Union Administration jointly published a regulation to implement to implement section 1359 of Subtitle H of the Anti-Drug Abuse Act of 1986, Pub. L. 99-570 ("final rule"). The Anti-Drug Abuse Act charged each agency to prescribe regulations requiring financial institutions to establish and maintain procedures reasonably designed to assure and monitor compliance with the BSA and to review such procedures during the course of their examinations of such institutions.[1]

The final rule adopted by the Board and the other agencies requires the establishment and maintainance of a program designed to assure and monitor compliance with the requirements of the BSA and the implementing regulations of the U.S. Department of the Treasury, 12 CFR Part 103 ("Treasury BSA regulations"). As set forth in the final rule, an insured institution's compliance program must, at a minimum, (1) provide for a system of internal controls to assure ongoing compliance, (2) provide for independent testing by in-house personnel of others, (3) designate individual(s) responsible for coordinating and monitoring day-to-day compliance, and (4) provide for training of personnel. While the final rule became effective January 27, 1987, insured institutions were granted a three month period in which to develop and adopt written compliance programs.

B. The Proposed Rule

The Board proposes to clarify its existing rule requiring a BSA compliance program to set forth in greater detail the requirements for testing the compliance program; to clarify that the results of the independent testing are to be attached to or otherwise incorporated in the report of the auditor to the board of directors, and that upon receipt of the report, the board is required to address the problems identified through the testing process; and to clarify that the training requirement applies to both newly hired and continuing employees whose participation in the program must be documented.

As promulgated, the final rule requires independent testing of the BSA compliance program by in-house or outside personnel. The proposed rule clarifies that the testing is to be conducted semiannually on a random schedule in order to accurately examine the insured institution's BSA compliance program. Testing may be performed by the institution's auditors or by management personnel not directly involved in the day-to-day BSA compliance process. In addition, the requirement for independent testing is clarified by setting forth in greater detail what elements are to be tested.

As proposed, the testing of BSA compliance would consist of six minimum steps: (1) A review of prior test results, if any; (2) a comparison of the institution's written operating procedures to determine whether they set forth the requirements of the Treasury BSA regulations and whether the procedures enable management and other responsible personnel to identify the currency and monetary transactions subject to the Treasury BSA regulations; (3) a check of a sampling of the institution's records that are required to be maintained by the Treasury BSA regulations[2] to ascertain whether records are maintained for the prescribed length of time, contain the required information, and include lists of exempt customers and transactions; (4) a review of sampling of the reports required to be filed pursuant to the Treasury BSA regulations[3] to ascertain

[1] 52 FR 2858 (January 27, 1987). The fundamental purpose of the BSA, which includes the Currency and Foreign Transactions Act, is to provide a paper trail of the activities of money launderers serving the interests of drug traffickers and other elements of white collar and organized crime.

[2] The Treasury BSA regulations list the records that must be kept and their period of retention. Insured institutions are required to maintain a list of each BSA exemption granted and to retain a signed statement from each customer added to its BSA exemption list. 51 FR 45108 (Dec. 17, 1986) (to be codified at 31 CFR 103.22). Insured institutions are specifically included in the definitions of financial institutions and banks for purposes of the Treasury BSA regulations.

[3] Reports required to be filed pursuant to the Treasury's BSA regulations include the following: (1) Form 4789 for currency transactions of more than $10,000 with a financial institution (§ 103.22(a)); (2) Form 4790 for currency in excess of $10,000

Continued

their accuracy and completeness; (5) a review of the institution's exemption list to verify the continuing appropriateness of the exemptions and whether the records supporting the exemptions are current and complete; and (6) submission of the results of BSA compliance testing to the institution's auditors so that they may be attached to or incorporated in the annual audit report for presentation to the institution's board of directors.

Because the board of directors will receive the results of the independent testing, the board is directed to take those steps necessary to remedy any deficiencies discovered in its BSA compliance program. Any such actions are to be reflected in the minutes of the Board of directors.

Pursuant to the proposal and the final rule, independent testing may be performed by either management personnel or outside parties. Use of an institution's outside auditors for this purpose would satisfy the proposed rule, but is not required. However, the Board has long believed that the employment of outside auditors is useful in achieving full compliance with the BSA, and thus furthers Congress' goal of preventing money laundering.[4] To this end the independent testing required does not replace or preempt the existing auditing requirements for BSA compliance, rather the results of the BSA testing are to be attached or otherwise incorporated in the audit report in accordance with the Board's existing auditing requirements.[5] The Board invites comment on the scope of review encompassed by the independent testing and the interaction, if any, between an institution's management personnel and its outside auditors.

The proposal also clarifies the existing training requirement by specifying that the BSA educational program applies to all employees, not just those newly-hired, and that documentation of participation in the training programs must be maintained. Training should be focused on all institution personnel who have duties relating to the reporting or recordkeeping requirements of the BSA, particularly those who accept deposits and otherwise handle cash. Acceptable documentation of participation in training programs would include a report of attendance at a seminar, training session, or meeting.

The Board also invites comment on the provisions of the final rule establishing the BSA compliance program. Because of the Congressionally-mandated deadline of January 27, 1987, prior notice and comment on the final rule was not possible. Therefore, commenters are urged to address the entire regulation, not just the amendments proposed herein.

Effective Date

The final rule required establishment of a BSA compliance program by April 27, 1987. Commenters are urged to address the issue of the amount of additional time needed for compliance if the final rule is amended as proposed.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives, and legal basis underlying the proposed rule.* These elements are discussed above in **SUPPLEMENTARY INFORMATION.**

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply to all institutions whose accounts are insured by the FSLIC.

3. *Impact of the proposed rule on small entities.* The proposed rule would not have a substantial impact on small insured institutions.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rule.* The above requirements for Bank Secrecy Act compliance programs establishes a minimum system for verifying and encouraging compliance with the Bank Secrecy Act in accordance with Congressional concern. Alternatively, the Board could have required an in-depth audit of insured institutions' compliance by independent auditors. The Board believes that such an alternative would have been less flexible and more restrictive for insured institutions.

List of Subjects in 12 CFR Part 563

Bank deposit insurance, Investments, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 563, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. The authority citation for Part 563 continues to read as follows:

Authority: Sec. 1, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

2. Amend § 563.17–7 by revising paragraph (c) and by adding a new paragraph (d) to read as follows:

§ 563.17–7 Procedures for monitoring Bank Secrecy Act compliance.

* * * * *

(c) *Contents of compliance program.* The compliance program shall, at a minimum:

(1) Provide for a system of internal controls to assure ongoing compliance with the Bank Secrecy Act and the regulations promulgated thereunder at 31 CFR Part 103, which include the proper filing of required reports, the granting of exemptions, and retention of records.

(2) Designate individual(s) responsible for coordinating and monitoring day-to-day compliance.

(3) Provide for independent testing for BSA compliance at least semi-annually on a random basis to be conducted either by an insured institution's auditors or by management personnel not directly involved in the area of operations being tested or responsible for coordinating and maintaining day to day compliance pursuant to paragraph (c)(2) of § 563.17–7, which shall at a minimum include the following:

(i) Review of the results of any prior testing to determine whether there are continuing deficiencies;

(ii) Review of an insured institution's written operating procedures to ascertain whether such procedures set forth the requirements of 31 CFR Part 103 and to determine whether the institution's operating policies, procedures, and practices are adequate

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transported or attempted to be transported from or to the United States, or if not filed by the customer, receipt of currency in excess of $5,000 from any place outside of the United States (§ 103.23); and (3) Form TD–F 90–22.1 for each account held in a foreign country over which the financial institution has signature authority or in which it has a financial interest (§ 103.24).

[4] *See*, Office of Regulatory Policy, Oversight, and Supervision ("ORPOS") T-Memorandum 53–7 issued May 23, 1985. ORPOS (and its predecessor, the Office of Examinations and Supervision) has regularly provided guidance to the industry on compliance with the BSA in the form of its T-memoranda Series 53.

[5] *See*, ORPOS Public Accounting Bulletin PA–7A–3 Revised (April 17, 1986).

to enable management or responsible personnel pursuant to paragraph (c)(2) of § 563.17–7 to identify the currency and monetary transactions subject to the referenced regulations;

(iii) A test check of the records an institution is required to maintain by 31 CFR Part 103 to determine whether the records (A) are maintained for the prescribed length of time, (B) contain mandated information, and (C) include lists of exempt customers and transactions;

(iv) A test check of the reports required to be submitted pursuant to 31 CFR Part 103 to determine whether they were properly completed and filed, and whether additional action is needed to correct or complete the reports;

(v) Review of the institution's exemption list for continuing appropriateness of each exemption, whether the records supporting the exemption are current and complete and include a detailed statement of reasons supporting the appropriateness of the exemption submitted by the requesting customer, the customer's personal signature along with his or her title and position, and his or her attestation as to the accuracy of the information submitted; and

(vi) The results of the testing of the compliance procedures shall be provided to the institution's auditors so that they may be attached to or incorporated in the annual audit report required by § 563.17–1(a)(2) of this chapter and shall also be available for review by persons performing examination or supervisory functions on behalf of the Board.

(4) Provide an ongoing employee education program for appropriate personnel, both newly hired and continuing, that informs employees of their individual compliance responsibilities. The program shall include training in the reporting and recordkeeping requirements. Participation in the education program shall be documented.

(d) *Review of Compliance Program Report.* Upon receipt of the report of the auditors together with the results of the independent testing of the compliance program, as required by paragraph (c)(3) of the section, the board of directors of the insured institution shall take such steps as necessary to remedy any deficiencies found in its compliance program and such actions shall be reflected in its minutes.

By the Federal Home Loan Bank Board.

[FR Doc. 87–10578 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

12 CFR Part 565

[No. 87-505]

Insurance Termination Provisions

Dated: April 27, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Home Loan Bank Board ("Board") is currently reviewing a number of issues relating to the extent to which institutions insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") that terminate their insured status in connection with transfers by operation of law must pay a final insurance premium to the FSLIC. As part of its review, the Board is soliciting public comment to ascertain whether to issue a proposal in this area.

DATE: Comments must be received on or before July 7, 1987.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: John A. Buchman, Assistant Deputy Director, (202) 377–6963; or Julie L. Williams, Deputy General Counsel for Securities and Corporate Structure, (202) 377–6459; Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

During the past twelve months, a number of FSLIC-insured institutions have proposed, and in some cases consummated, transactions in which all or a substantial portion of their assets and savings account liabilities would be transferred to a commercial bank or a savings bank insured by the Federal Deposit Insurance Corporation ("FDIC"). These types of transfers have raised significant legal and policy issues, including the initial question of whether bulk transfers of assets and liabilities by operation of law, such as in "thrift-to-bank" conversions, are subject to the application and approval requirements of the Board's regulations governing bulk transfers of assets, 12 CFR 563.22(b). In an effort to resolve uncertainty that may have existed concening the proper interpretation of its asset transfer regulations, on October 7, 1986, the Board adopted a clarifying amendment to the definition of "transfers" set forth in its statement of policy regarding mergers and transfers of assets. The revised definition made clear that "all transfers of assets or account liabilities not in the ordinary course of business from an [FSLIC-] insured institution to a different corporate entity, whether effected by conventional transfer, operation of law, or otherwise" fall within the scope of 12 CFR 563.22(b).[1]

However, as the preamble to the clarification indicates, the interpretation did not specifically address the separate issues of whether an insured institution undertaking a transfer of assets and liabilities by operation of law in which the surviving entity is not FSLIC-insured must pay a final insurance premium to the FSLIC, and if so, the amount of such payment.[2] The Board has been reviewing this so-called "exit premium" issue on an ongoing basis and as yet has made no final determination with respect to this matter. In view of the continued importance of this issue as it relates to the financial condition of the FSLIC insurance fund and the recapitalization proposals now before the Congress, the Board is hereby soliciting public comment on this subject.

Discussion

It has long been the position of the Board and its staff that when an insured institution tranfers all of its assets and liabilities by operation of law to an entity not insured by the FSLIC (*e.g.*, a commercial bank), the FSLIC-insured status of the institution is terminated.[3] In a series of legal opinions dating back to May, 1986,[4] the Office of General

[1] Board Resolution No. 86–1096, 51 FR 36528 (Oct. 10, 1986) (to be codified at 12 CFR 571.5(a)). The clarification was subsequently challenged by an insured institution contemplating a transfer by operation of law pursuant to a conversion into a state-chartered commercial bank, and in an order dated December 19, 1986, a U.S. District Court in Florida issued a preliminary injunction to prevent the Board from enforcing its interpretation to require Board approval of the institution's proposed conversion. *See United First Federal Savings and Loan Ass'n et al.* v. *Federal Home Loan Bank Board*, No. 86–661–Civ–J–16 (M.D. Fla., Dec. 19, 1986). The Board is currently pursuing an appeal from the district court's decision and has recently had published for comment a proposed rule substantially similar to the October 7, 1986 clarification. See Board Resolution No. 87–175, 52 FR 5782 (Feb. 26, 1987).

[2] *See id.* n.1.

[3] *See, e.g.*, Letter dated October 10, 1984, from Kenneth J. Scott, General Counsel, to John H. Ryder, at 2.

[4] *See, e.g.*, Letter dated May 13, 1986, from Harry W. Quillian, Acting General Counsel, to Thomas P. Vartanian.

Counsel of the Board ("OGC") has advised insured institutions contemplating transfers of assets and liabilities by operation of law pursuant to thrift-to-bank conversions that the termination of insurance occurring in connection with such transfers would be "voluntary", and that, accordingly, their proposed transactions would be subject to the final insurance payment provisions of section 407(d) of the National Housing Act, as amended ("NHA"), 12 U.S.C. 1730(d).[5] The OGC has based this conclusion on the fact that these types of transfers which result in terminations of insurance are voluntarily undertaken. The Board has recently expressed the view that OGC's characterization of such transactions as voluntary terminations for purposes of section 407 is correct, and the Board today reaffirms its concurrence with OGC's recent opinions to that effect. *See* Board Resolution No. 87-175, 52 FR 5782, 5784 n.8 (Feb. 26, 1987).

The Board does acknowledge, however, that a number of insured institutions may be unaware of the Board's current views with respect to this issue given that on certain previous occasions the Board's staff had taken the position that a termination of insurance that results from a charter conversion into an entity not eligible for FSLIC insurance is not a "voluntary" termination under section 407 and hence is not subject to the final insurance premium payment provisions of that section. *See In the Matter of First Federal Savings and Loan Association of Philadelphia*, Board Resolution No. 85-202 at 9 (Apr. 16, 1985). The Board also recognizes that its termination of insurance regulations at 12 CFR Part 565 might be interpreted as providing that no exit premium is required in situations in which the FSLIC has no continuing insurance obligation. In addition, because until recently it had not been the policy of the FSLIC to assess an exit premium in the case of transfers of assets and liabilities by operation of law in which the resulting entity is not FSLIC-insured, the Board has not previously addressed issues relating to the extent to which the FSLIC may require payment of an exit premium by the transferring institution under section 407(d) of the NHA or otherwise. In view of the foregoing, the Board is considering whether to issue a proposal in this area. Prior to making such a determination, the Board seeks the public's views regarding this matter and particularly invites comments on the following issues:

1. Whether a transfer of assets and liabilities by operation of law in connection with which the insured status of an FSLIC-insured institution is terminated is subject to the final insurance premium provisions of section 407(d) of the NHA.

a. Whether the change in insured status that accompanies such a transfer constitutes a "voluntary" termination of insured status by the institution.

b. Whether the OGC's prior opinions to the effect that such terminations are not "voluntary" continue to be valid in light of: (1) Amendments contained in the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469, that permit federal savings banks to obtain FSLIC insurance of accounts, and (2) the provisions of 12 CFR 563.29-1 that allow insured institutions converting to state-chartered savings banks to retain FSLIC insurance of accounts under certain circumstances.

c. Whether the OGC's prior opinions are consistent with the provisions of section 5(i)(3)(B)(iii) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(i)(3)(B)(iii), which indicate that the notice provisions of section 407(d) of the NHA would be applicable in the case of termination of insurance occurring in connection with a federal thrift's conversion to a state charter.

2. Assuming that a termination of insurance resulting from a transfer by operation of law is "voluntary", whether FDIC insurance coverage of the transferred savings account liabilities immediately upon consummation of the transfer obviates the requirement of a final insurance payment under section 407(d).

a. Whether the transfer of FSLIC-insured deposits to a financial institution ineligible for FSLIC insurance in connection with a FSLIC-insured institution's termination of insurance nullifies the obligation of the FSLIC to continue to insure such deposits as provided in section 407(d).

b. Whether the revisions to section 407 contained in the Federal Deposit Insurance Act of 1950, 64 Stat. 259, reverse prior court decisions and override the prior intent of Congress, as expressed in the legislative history of the National Housing Act of 1934, 48 Stat. 1260, to the effect that payment of a final insurance premium would be required even in situations where the FSLIC incurs no continuing insurance risk.

3. Whether the insurance premiums referred to in 12 CFR 565.6 and 565.7 include the final insurance premium amount specified in section 407(d).

4. Whether, for purposes of calculating the final insurance premium payment required under section 407(d), the "last annual insurance premium payable" by an insured institution includes any additional premiums assessed by the FSLIC during the four most recent quarters in accordance with the provisions of 12 U.S.C. 1727(c).

5. Whether the Board possesses the authority to assess final insurance premiums other than pursuant to section 407(d).

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10579 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[5] Section 407(d) of the NHA provides, in pertinent part, that:

[i]n the event of the termination of an institution's status as an insured institution, insurance of its accounts to the extent that they were insured on the effective date of such termination as hereinabove provided in subsection (c) of this section, less any amounts thereafter withdrawn, repurchased, or redeemed, shall continue for a period of two years, but no investments or deposits made after such date shall be insured. . . . Such insured institution shall be obligated to pay, within thirty days after the effective date of such termination, as a final insurance premium, a sum equivalent to twice the last annual insurance premium payable by it. . . . (12 U.S.C. 1730(d)).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. NM-21; Notice No. SC-87-1-NM]

Special Conditions; Fokker B.V. Model F27 MK050 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Fokker B.V. Model F27 MK050 airplane. The airplane will have novel or unusual design features associated with engine and propeller electronic controllers for which the applicable airworthiness regulations do not contain adequate or appropriate lightning protection safety standards. This notice contains the safety standards which the Administrator finds necessary, because of these design features, to establish a level of safety equivalent to that established in the regulations.

DATE: Comments must be received on or before June 22, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-21, 17900

Pacific Highway South, C-68966, Seattle, Washington 98168; or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. NM-21. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gene Vandermolen, Transport Standards Staff, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2114.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions 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 will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-21." The postcard will be date/time stamped, and returned to the commenter.

Background

On July 31, 1985, Fokker B.V., 1117 ZJ Schiphol, The Netherlands, made an application to the Federal Aviation Administration (FAA), for an amended type certificate for the Fokker F27 MK050 airplane. The MK050 is a high wing, pressurized transport category airplane with a certificated takeoff gross weight of 41,865 pounds (optional 45,900 pounds). The airplane has a maximum permissible altitude of 25,000 feet and a total occupancy of 50 persons. It will be equipped with two Pratt and Whitney of Canada Model PW-124 engines each rated at 2,400 shaft horsepower for maximum takeoff power at sea level standard day, and Dowty-Rotol 6-bladed constant speed propellers. The engines and propeller systems utilize digital electronic controllers. In addition, a digital Integrated Alerting System will be installed as part of the basic configuration. Because the current regulations address structural and fuel tank/fuel vapor ignition lightning protection but do not address lightning protection for electronic control systems, special conditions are necessary to provide an equivalent level of safety when compared to traditional designs. These special conditions specify the level of protection required based on the criticality of the function performed by the system.

Type Certification Basis

The proposed type certification basis for the Fokker F27 MK050 airplane is:

1. Part 25 of the Federal Aviation Regulations (FAR) dated February 1, 1965, as amended by Amendments 25-1 through 25-56, 25-58 and 25-59, except for the following sections which will be certified to earlier amendments as noted: § 25.109, Amendment 25-41; § 25.631 (§ 25.631 did not exist prior to Amendment 25-23); § 25.671(c)(3), Amendment 25-22; § 25.701, Amendment 25-22; and § 25.1309, Amendment 25-22.
2. The automatic flight control system will comply with § 25.1309 as amended by Amendment 25-56.
3. Part 36 of the FAR with amendments in effect at the time the amended type certificate is issued.
4. Special Federal Aviation Regulations (SFAR) 27 with amendments in effect at the time the amended type certificate is issued.
5. Equivalent safety findings for § 25.777(e) (Flap handle location), § 25.781 (Flap handle shape), and § 25.729(e)(4) (Landing gear position indicator and warning device).
6. Any special conditions issued.
7. Any exemptions issued.

Conclusion: This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions for the Fokker F27 MK050 airplane:

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub L. 97-449, January 12, 1983).

2. Each system, whose failure to function properly would prevent the continued safe flight and landing of the airplane, must be designed and installed to ensure that its operation and operational capabilities are not affected when the airplane is exposed to lightning.

3. Systems, whose failure to function properly would reduce the capability of the airplane or the ability of the flightcrew to cope with adverse operating conditions, must be designed and installed to ensure that they can perform their intended functions after the airplane is exposed to lightning.

Issued in Seattle, Washington, on April 24, 1987.

Robert E. Waiblinger,
Acting Director, Northwest Mountain Region.

[FR Doc. 87-10456 Filed 5-7-87; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 21

[Docket No. NM-22; Notice No. SC-87-2-NM]

Special Conditions; Fokker B.V. Model F28 MK0100 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Fokker B.V. Model F28 MK0100 airplane. The airplane will have novel or unusual design features associated with digital avionic systems for which the applicable airworthiness regulations do not contain adequate or appropriate lightning protection safety standards. This notice contains the safety standards which the Administrator finds necessary, because of these design features, to establish a level of safety equivalent to that established in the regulations.

DATE: Comments must be received on or before June 22, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-22, 17900 Pacific Highway South, C-68966, Seattle,

Washington 98168; or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. NM-22. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gene Vandermolen, Transport Standards Staff, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2114.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions 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 will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-22." The postcard will be date/time stamped, and returned to the commenter.

Background

On July 31, 1985, Fokker B.V., 1117 ZJ Schiphol, The Netherlands, made an application to the Federal Aviation Administration (FAA) for an amended type certificate for the Fokker F28 MK0100 airplane. This airplane will have two Rolls-Royce Tay 620-15 high by-pass ratio engines with thrust reversers. Extensive use will be made of composite materials in its construction. The fuselage length will be increased 18.83 feet with plugs forward and aft of the wing. The wing span will be increased 9.8 feet. It will have an increased wing chord and improved aerodynamics with extended leading and trailing edges. The horizontal stabilizer span will be increased 4.6 feet. It will have strengthened landing gear with new wheels and brakes. The passenger count will be increased from 85 to 107. The maximum takeoff weight will be increased from 73,000 pounds to 91,500 pounds, maximum landing weight from 69,500 pounds to 84,500 pounds, and maximum zero fuel weight from 62,000 pounds to 76,500 pounds. The fuel capacity, cruise speed and maximum operating altitude will remain the same.

Included as part of the F28 MK0100 type design will be the following digital electronic systems:

Multi-Function Display (MFDS)
Electronic Flight Instruments (EFIS)
Automatic Flight Control and Augmentation (AFCAS)
Fault Warning Computer (FWC)
Flight Management System (FMS)
Attitude Heading Reference System (AHRS)

These systems, which by their nature operate at low voltage levels, may be particularly vulnerable to transients such as the indirect effects of a lightning strike to the airplane. Because the current regulations address structural and fuel tank/fuel vapor ignition lightning protection but do not address lightning protection for electronic systems, special conditions are necessary to provide installation and safety requirements to ensure adequate protection of these systems from lightning. These special conditions specify the level of protection required based on the criticality of the function performed by the system.

Type Certification Basis

The proposed type certification basis for the Fokker F28 MK0100 airplane is:

1. Part 25 of the Federal Aviation Regulations (FAR) dated February 1, 1965, as amended by Amendments 25-1 through 25-56, 25-58 and 25-59, except for the following sections which will be certified to earlier amendments as noted: § 25.109, Amendment 25-41; § 25.631 (§ 25.631 did not exist prior to Amendment 25-23); § 25.783, Amendment 25-53; and § 25.1309, Amendment 25-22 (for unmodified systems).

2. Part 36 of the FAR in effect at the time the amended type certificate is issued.

3. Special Federal Aviation Regulations (SFAR) 27 with amendments in effect at the time the amended type certificate is issued.

4. Equivalent safety findings for § 25.777(e) (Flap handle location), § 25.781 (Flap handle shape), § 25.1103(e) (APU installation—fire proof inlet duct), and § 25.901(d) (APU installation—instruments).

5. Any special conditions issued.

6. Any exemptions issued.

Conclusion: This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA), proposes the following special conditions for the Fokker F28 MK0100 airplane:

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub L. 97-449, January 12, 1983).

2. Each system, whose failure to function properly would prevent the continued safe flight and landing of the airplane, must be designed and installed to ensure that its operation and operational capabilities are not affected when the airplane is exposed to lightning.

3. Systems, whose failure to function properly would reduce the capability of the airplane or the ability of the flightcrew to cope with adverse operating conditions, must be designed and installed to ensure that they can perform their intended functions after the airplane is exposed to lightning.

Issued in Seattle, Washington, on April 24, 1987.

Robert E. Waiblinger,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-10455 Filed 5-7-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3282

[Docket No. R-87-1312; FR-2278]

Manufactured Housing Procedural and Enforcement Regulations; Production Inspection Primary Inspection Agencies (IPIAs)

AGENCY: Office of the Assistant

Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: HUD is seeking comment on the current structure, operation and effectiveness of the inspection system established under 24 CFR Part 3282, which has been designed to ensure that manufactured homes conform to the Manufactured Home Construction and Safety Standards in 24 CFR Part 3280. The Department is also seeking alternatives to, and suggestions for improving, the current system.

DATE: Comment due date: July 7, 1987.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. Each comment should include the commenter's name and address and must refer to the docket number indicated in the heading of this rule. A copy of each comment will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mark W. Holman, Chief, Standards Branch, Manufactured Housing and Construction Standards Division, Room 9152, 451 7th Street, SW., Washington, DC 20410; telephone: (202) 755-6590. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

Background

The National Manufactured Housing Construction and Safety Standards Act of 1974 (Act), 42 U.S.C. 5401–5426, authorizes HUD to establish standards for the construction, design and performance of manufactured homes. The Act also authrizes the Secretary of HUD to "issue, amend and revoke such rules and regulations as he deems necessary" to carry out the Act (42 U.S.C. 5424). Accordingly, the Department has promulgated the Manufactured Home Procedural and Enforcement Regulations at 24 CFR Part 3282.

These regulations have established a system of production inspection of manufactured homes. Under this system, each manufacturer is required to engage the services of an independent organization known as a Production Inspection Primary Inspection Agency (IPIA) (§ 3282.204(a)). A State or private organization can be an IPIA. States can act as the exclusive IPIA for all plants within that State. Of the 16 States that function as IPIAs, two (Indiana and California) do so on a nonexclusive basis.

IPIAs perform a number of functions, including evaluating the ability of the manufacturers to follow approved quality control procedures and ensuring at the outset that manufactured home factories are capable of producing manufactured homes that comply with the Department's Standards (§ 3282.362 (a)(1)(i) and (b)(1)).

One of the most important IPIA functions is production surveillance. Under § 3282.362(c)(1), an IPIA is responsible for conducting "representative inspections" at the plant to ensure that homes comply with the Standards. An IPIA must inspect each home in at least one stage of its production. At least once a month, IPIAs must also inspect materials in storage and the test equipment used by the manufacturers (§ 3282.362(c)(1)).

If the IPIA finds that a manufactured home complies with the Standards, the manufacturer affixes a label to the home which certifies that the home complies with the Standards (§ 3282.362(c)(2)). If, however, an IPIA finds that the home does not comply with the Standards, it must ensure that the manufacturer corrects the noncompliance before the label is affixed (§ 3282.362(c)(1)).

If an IPIA finds that a manufacturer's homes repeatedly fail to conform to the Standards, or that the approved quality assurance manual is not being adhered to, the IPIA must increase the frequency of inspection until it is satisfied that the manufacturer is adhering to the quality assurance manual (§3282.362(c)(1)).

The Department, by its agent (currently the National Conference of States on Building Codes and Standards), monitors the performance of each IPIA to ensure that it is adequately performing its functions and responsibilities. The primary method of monitoring IPIAs is to conduct in-plant inspections where an IPIA operates. Particularly, under §3282.452(f), the monitoring team seeks to ensure that the manufacturing process is as stated in the certification reports, that the IPIAs are carrying out the required number of inspections, that inspections are effective, and that the IPIAs are maintaining complete label control as required under § 3282.362. Annually, the monitoring agent submits to HUD a report evaluating each IPIA's performance.

Problems With the Current IPIA System

The Department has become aware of several problems with the current IPIA system that adversely affect the quality of homes and prevent the attainment of the Department's objectives. First, some critics of the current method of inspecting each home in only one phase of its production argue that this procedure does not ensure that an incident of noncompliance—systematically introduced into each home on a production line—will be detected. A manufactured home contains hundreds of parts that require hundreds of operations to assemble properly. Most of these operations are performed manually. Noncompliances are easily introduced by haste or by failure to follow an approved design. In addition, these critics point out that often a production line may contain a variety of models during an IPIA inspection. Unless homes of the same model are close to one another on the production line, a noncompliance found in one home will, in all probability, be concealed in another unit. Moreover, IPIA inspectors generally do not halt a production line and require the dismantling of a home to determine whether it contains a noncompliance found in another home of the same model.

Second, the Department is concerned about the degree of control that manufacturers may exercise over nonexclusive IPIAs. Because manufacturers are able to hire and fire IPIAs at will, an IPIA might be reluctant to enforce rigorously the Standards for fear of losing a manufacturer as a client. This potential lack of independence could compromise the effectiveness of the IPIA program.

Finally, several manufactured home producers and industry associations have asserted to HUD that the current IPIA system is unecessary, and that it should be replaced with: (1) A system of manufacturer self-certification, or (2) HUD reliance on State agencies (regardless of prior IPIA designation) for the inspection of manufactured home production. In addition, certain firms and industry associations have recommended that if HUD retains the current IPIA regulatory structure (with minor revisions), IPIA monitoring of manufactured housing production should be focused on the post-production stage of the manufacturing process.

For further comments concerning the current IPIA system under 24 CFR Part 3282, see U.S. Congress, Office of Technology Assessment, *Technology, Trade, and the U.S. Residential Construction Industry—Special Report* (September 1986, pages 72–73).

Request for Comments

The Department wishes to address these issues. Accordingly, HUD is seeking advice from all interested parties as to whether this summary accurately describes problems in the current IPIA system, and which regulatory option would be appropriate for resolving those problems. Specifically, the Department requests comments and information on the following regulatory options and possible revisions to the current IPIA system:

1. *System of manufacturer self-certification without HUD review of the accuracy of these certifications.* (i) Has the manufactured housing industry demonstrated sufficient compliance with the Manufactured Housing Construction and Safety Standards (Standards) and administrative capacity for quality control to justify HUD reliance on a self-certification process to replace the current IPIA regulatory system in 24 CFR Part 3282?

(ii) If HUD replaces the current IPIA system with a manufacturer self-certification program, what periodic monitoring measures (if any) by HUD would be appropriate to ensure continued compliance by the industry with the Standards and continued quality control?

2. *HUD reliance on State agencies (regardless of prior IPIA designation) for the inspection of manufactured home production, in lieu of IPIA inspection under Part 3282.* (i) Have any State agencies demonstrated sufficient administrative and enforcement capacity substantially to replace HUD's current inspection system in those States? (To date, only sixteen States perform any IPIA functions—Arkansas, Arizona, California, Colorado, Florida, Georgia, Idaho, Indiana, Louisiana, Nebraska, Oregon, Tennessee, Texas, Utah, Washington and Wisconsin.)

(ii) Under this approach, what review procedures should HUD establish for its review of the adequacy of State agency compliance with the Standards in 24 CFR Part 3280?

3. *Revision of the current IPIA system.* If HUD determines that the above regulatory options are not appropriate for the implementation of the Act, the Department will consider the following revisions to the current IPIA system:

(i) *Inspection at one phase of production.* (A) Is the current approach of inspecting each manufactured home in at least one phase of its production adequate?

(B) Would a check of the individual systems within each home be more effective?

(C) What other inspection approaches should be implemented?

(ii) *Inspection at the post-production stage.* (A) Would a system of inspection exclusively at the post-production stage be more effective than the current approach of inspecting each home in at least one phase of its production?

(B) Alternatively, should 24 CFR Part 3282 be revised to include a requirement for at least one inspection at the post-production stage, in addition to the current requirement for inspecting each manufactured home in at least one phase of its production?

(iii) *Quality control systems.* (A) Should greater emphasis be placed on evaluating a manufacturer's quality control system and its ability to ensure compliance with the Standards in 24 CFR Part 3280?

(B) Should an IPIA also be evaluated on its knowledge of the manufacturer's quality control procedures?

(iv) *Employment of IPIAs.* (A) Does the present system of payment inhibit nonexclusive IPIAs in their production surveillance activities, for fear of being dismissed by manufacturers? (Nonexclusive IPIAs only operate where a State agency is not an exclusive IPIA for that State.)

(B) If the current IPIA payment system is found to inhibit nonexclusive IPIAs in their production surveillance activities, what revisions in the payment system would correct this problem?

(C) Should prior approval by the Secretary be required before an IPIA can be dismissed?

(v) *Monitoring inspections of IPIA performance.* (A) Should the number of monitoring team inspections of IPIA performance be increased for those plants with high levels of noncompliance?

(B) Should the inspections be unannounced rather than scheduled?

(C) Should manufacturers only be able to hire new IPIAs that receive high ratings from HUD?

(vi) *General effectiveness of IPIAs.* (A) How can IPIAs become more effective in carrying out HUD's objectives under the Act?

(B) How do similar third party relationships (particularly third party relationships involving inspection and compliance monitoring functions) of other State and Federally regulated industries work?

This advance notice of proposed rulemaking was listed as item number 904 in the Department's Semi-Annual Agenda of Regulations published on April 27, 1987 (52 FR 14376) under Executive Order 12291 and the Regulatory Flexibility Act.

Authority: Section 625 of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5424).

Dated: March 31, 1987.

Thomas T. Demery,

Assistant Secretary for Housing-Federal Housing Commission.

[FR Doc. 87-10557 Filed 5-7-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-87-012]

Drawbridge Operation Regulations; Kent Island Narrows, MD

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Maryland Congressional Delegation, the Governor of Maryland, and the Maryland Department of Transportation, the Coast Guard is considering a change to the regulations governing operation of the drawbridge on U.S. Route 50/301 across Kent Island Narrows near Grasonville, Maryland, to eliminate bridge openings during peak vehicular traffic periods on weekends during the summer months. This proposal is being made because summer weekend highway traffic has steadily increased over the past five years, and bridge openings during peak vehicular traffic periods result in lengthy backups, massive traffic jams, and numerous other associated problems. This action should help relieve some of the serious traffic conditions that result on summer weekends and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before July 6, 1987.

ADDRESSES: Comments should be mailed to Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, VA 23704-5004. The comments and other materials referenced in this notice will be available for inspection and copying at the above address, Room 609. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except

holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, at the above address, or telephone number (804) 398-6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

A public hearing will be held if the response to this proposal warrants it.

Drafting Information: The drafters of this notice are Ann B. Deaton, project officer, and CDR Robert J. Reining, project attorney.

Discussion of Proposed Regulations: The Maryland Congressional Delegation, the Governor of Maryland, and the Maryland Department of Transportation have petitioned the Coast Guard to amend the regulations for this drawbridge by eliminating the 9 a.m. and 12 noon openings on Saturdays and the 8 p.m. opening on Sundays during the summer months. The purpose of the requested change is to provide relief to the massive traffic congestion that develops on U.S. Route 50/301 on summer weekends during peak vehicular traffic periods.

The State has provided evidence which shows that, since 1982, the number of vehicles across the bridge on summer Saturdays and Sundays has increased by 26% and 24%, respectively, while the number of boats going through the bridge on these days has remained fairly constant. Serious traffic problems result when bridge opening occur during hours when one-way vehicular volumes exceed 2,000 vehicles per hour. The record shows that, in 1986, one-way vehicular traffic across the bridge during the hours of 9 a.m. and 12 noon on Saturdays, and 8 p.m. on Sundays, averaged 2,433, 2,301, and 2,485, respectively. Vehicular backups from the bridge in both directions as a result of bridge openings during these hours were from five to 15 miles long. The total number of vehicles crossing the bridge in both directions during these three hours in 1986 averaged 11,209, while the total number of boats using the bridge during the same hours averaged 29. This represents a vehicle to boat ratio of about 400:1.

In addition to the obvious traffic problems encountered by motorists travelling on U.S. Route 50/301, the State asserts that there are other problems associated with the massive congestion created on the highway when the drawbridge opens. Local residents have a difficult time making short-range motor trips in and about their local area. Businesses in the area lose customers because of the inaccessibility to the highway. The local people are concerned that emergency vehicles will not have an accessible route to area locations during periods of excessive congestion. Wasted fuel consumption, overheated vehicles, an increased number of automobile accidents, and the unruly and unsanitary behavior or irate motorists caught in lengthy queues have also been cited as problems directly resulting from traffic backups caused by bridge openings.

In order to evaluate this suggested change, temporary deviations from the regulations contained in 33 CFR 117.561 will be in effect on May 23, 24, and 25, 1987, May 30, 1987, June 13 and 14, 1987, and June 20, 1987. These deviations will test the effectiveness of the requested change by eliminating the 9 a.m. and 12 noon openings on May 23 and June 13, 1987, and the 8 p.m. opening on May 24 and May 25, Memorial Day, and June 14, 1987.

On May 30 and June 20, only the 9 a.m. openings will be eliminated, and the other provisions of the current schedule will remain in effect.

On May 31 and June 6, 7, 21, 27, and 28, the current schedule will be in effect.

The results of these tests will be evaluated, and the impacts on highway and marine traffic on these four weekends will weighed to determine if the requested change will result in a substantial improvement in vehicular traffic flow without unreasonably restricting marine traffic. This information will also be compared to vehicle and marine traffic counts from previous years.

During these test periods, the Maryland Department of Transportation will compile data on vehicle counts, boat counts, length of drawbridge openings, duration of openings, of vehicle backups, and reasons for the backups along U.S. Route 50/301 within fifteen miles of the bridge to determine whether the backups are, in fact, as a direct result of drawbridge openings or can be attributed to other causes.

Economic Assessment and Certification: The proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The proposed regulation will have no affect on commercial navigation or on any industries that depend on the waterborne movement of commodities or raw materials for their operation. The economic impact on marinas and other small, water-related businesses in the Kent Island area is not expected to be significant. Since the economic impact of this proposal is expected to be so minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(b).

2. Section 117.561 is amended as follows:

In § 117.561, the text of paragraph (b) is republished, the introductory text of the section, and the text of paragraphs (b)(3), (b)(4), and (c) are revised to read as follows:

§ 117.561 Kent Island Narrows

The draw of the U.S. Route 50/301 bridge, mile 1.0, at Kent Island Narrows, operates as follows:

* * * * *

(b) From May 1 through October 31.

* * * * *

(3) On Saturday, the draw shall open on signal at 6 a.m., and on the hour from 3 p.m. to 8 p.m., but need not be opened at any other time.

(4) On Sunday and holidays falling on Monday, the draw shall open on signal on the hour from 6 a.m. to 1 p.m., but need not be opened at any other time.

(c) The draw shall open on signal for public vessels on the United States, State, or local government vessels used for public safety purposes, commercial vessels, and vessels in distress.

Dated: April 27, 1987.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 87-10400 Filed 5-7-87; 8:45 am]

BILLING CODE 9910-14-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 80, 81, 82 and 83

Crime Insurance Program; Revision

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: These revisions to the Federal Crime Insurance Program are proposed to achieve the following: Redefine the definition of "burglary" under the residential policy; revise residential crime insurance rates to permit the purchase of crime insurance in increments of $1,000, up to the maximum limit of $10,000; permit a premium discount on the residential policy for the installation of an alarm system, revise the classification and alarm requirements of several commercial risks; eliminate coverage for loss from a night depository in a bank; and require the payment of an installment service charge on policies where the annual premium is not paid in full at the time of application.

DATE: All comments received on or before July 15, 1987 will be considered before final action is taken on the Proposed Rule.

ADDRESS: Persons wishing to comment should submit comments in duplicate to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Washington, DC 20472, Telephone number (202) 646-4107.

FOR FURTHER INFORMATION CONTACT: Robert J. DeHenzel, Federal Emergency Management Agency, Federal Insurance Administration, Donohoe Building, 500 C Street, SW., Room 433, Washington, DC 20472, Telephone number (202) 646-3440.

SUPPLEMENTARY INFORMATION: These amendments are the result of the experience gained in the 16 years the Federal Crime Insurance Program has been in operation and the Federal Insurance Administration's continued desire to improve service to policyholders by making the program more closely aligned to the underwriting and rating methods used by the private insurance sector.

In this regard the Administrator proposes to amend the existing regulations as follows:

Section 83.4 Residential Crime Insurance Rates is being revised to permit the purchase of residential crime insurance in increments of $1,000 up to the maximum limit of $10,000, ($1,000, $2,000, $3,000, $4,000, $5,000, $6,000, $7,000, $8,000, $9,000, $10,000). These new limits of coverage will permit applicants to purchase residential crime insurance coverage that is more closely aligned with their exposure to loss. That is, an applicant with a $4,000 maximum exposure will be able to purchase $4,000 coverage and not be required to buy $5,000 of coverage. Changes to the policy limits offered under the residential policy will be applied to all residential policies in force on the date the regulations become effective. While residential rates have not been increased, the program change under this section of the regulations reflects a reduction in premium for current policyholders with coverage limits of $1,000, $3,000, $5,000 and $7,000. Due to the administrative expense associated with the cancellation and rewrite of coverage to effect a lower rate, § 81.7a of the regulations dealing with cancellations is being revised to prohibit a cancellation and renewal of a policy when rates are reduced or increased. Policyholders will not be permitted to cancel and rewrite coverage due to any reduction in premium, however, their coverage will automatically be increased to a higher limit of coverage when these regulations are promulgated by a final rule-making process. Paragraph (b) of § 81.7a of the regulations is being removed since this paragraph deals with commissions paid to an insured's agent during a cancellation to obtain new coverage at lower rates and is no longer applicable.

Further, the commercial classification of risk schedule and alarm requirements is being revised and coverage from a bank night depository eliminated. Coverage from a night depository is being eliminate based on the number of losses sustained by the program over the past several years. One account submitted 24 losses over the past several years and 22 losses were attributed to theft from a night depository. Since 1977, this account paid premiums of $43,882 and had incurred losses of $447,888.

The commercial rating plan promulgated in 1985 permits the Administrator to adjust both the classification of risk and alarm requirement without adjusting the program's base commercial rates. An analysis was completed studying both the frequency of loss and loss experience of businesses now insured under the program and these proposed regulations will in effect raise the risk classification of twenty-four (24) businesses, lower the classification of eleven (11) and change the alarm requirement of thirteen (13) businesses. Fifty-seven (57) classes remain unchanged.

Section 82.31 Alarm Requirements and § 83.24 Classification of Commercial Risk is being revised to reflect the change in alarm system and risk classification based on the overall experience of the business. Specific changes are as follows:

Alarms

(1) Central Station (with Guard Dispatch)

Clothing Apparel
Clothing Manufacturers
Drugs-Wholesale
Gift Stores
Hobby Shops
Leather Products
Savings/Loans/Bank
Shoe Stores

(2) Central Station (without Guard Dispatch)

Antique Stores
Beauty & Health Supplies
Candy/Nut Stores
Motorbikes/Bicycles
Pet Stores/Kennels

Classification

Amusement Enterprises
Antique Stores
Art Galleries
Art Supplies
Beach Concessions
Beauty & Health Supplies
Billard/Pool Parlors
Candy/Nuts Stores
Clothing Apparel
Clothing Manufacturers
Clothing Men's
Clothing Women's
Clubs (Service Alcoholic Beverages)
Drugs (Wholesale)
Electric Appliances
Food Stuffs
Gasoline Service Stations
Gift Stores
Hobby Shops
Jewelry
Leather Products
Motorbikes/Bicycles/Mopeds
Parking Lots
Pawn Brokers
Pet Stores
Precious Metals (Storage)
Precious Metals (Retail, Wholesale, Manufacturing)
Radio/T.V. (Service Only)
Radio/T.V. (Retail, Wholesale, Manufacturing)
Record Shops

Savings & Loans/Banks
Shoe Stores
Stationery/Books
Taxi/Limousines
Tobacco Dealers (Retail)
Used Clothing/Shoe Repair
Wig Shops

In order to continue coverage for those risks that have a high propensity for loss and have sustained numerous losses under the program, the Administrator is proposing to amend § 82.5(e) of the regulation and require as a condition of renewal that higher deductibles not to exceed $3,000 for each loss occurrence be imposed. Policies with a history of loss frequency and/or severity are reviewed by the Federal Insurance Administration. The purpose of the analysis is to identify policies on which additional protective device measures should be required as a condition of renewal. Ninety (90) days prior to renewal, policies which reflect a history of frequent burglaries are reviewed based on the following criteria: Burglary losses only, same point of entry, two to one loss ratio, and two or more losses per year. Only in those instances where a policy meets the previously mentioned criteria will a higher deductible be imposed as a condition of renewal. Program experience has indicated that while an insured premises meets all of the protective devices required under the program, losses continue to occur.

Almost fifth percent (50%) of all applicants for Federal Crime Insurance elect to pay premiums on the installment plan, that is, applicants submit one half of the annual premium with the initial application or renewal bill and pay the remaining balance after receiving a six month statement. In order to offset the administrative cost of the installment billing procedure, this amendment to the regulation under § 80.4 proposes the implementation of a service fee for installment billings.

In order to permit an orderly transition of Federal Crime Insurance policyholders to the private sector when a state is no longer eligible for participation in the program, policyholders will be permitted to continue coverage until expiration and will not be terminated as currently required by § 81.1(d) upon 30 days written notice to the policyholder on the next six month anniversary date of the policy.

The definition of burglary under the residential policy form (§ 83.5) is being revised to more closely align the Federal program with the definition of burglary insurance used by the private insurance sector and to permit the program to respond to obvious losses that are denied under the current definition of burglary thus reducing need of litigation by policyholders.

FEMA has determined that an environmental impact statement is not needed for this proposed rule. A copy of the finding of no significant impact and an environmental assessment is available at the above address.

List of Subjects in 44 CFR Parts 80, 81, 82, 83

Federal Crime Insurance Program.

Accordingly, 44 CFR Parts 80, 81, 82, and 83 are amended as follows:

PART 80—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS

The authority citation for Part 80 continues to read as follows:

Authority: U.S.C. 1749bb–17 et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 80.4 [Amended]

1. In § 80.4, entitled, *Offer to pay commissions to State licensed property insurance agents and brokers for submitting applications on behalf of purchasers for Federal Crime Insurance*, paragraph (f), is revised to read as follows:

* * * * *

(f) Insureds will be billed directly by the insurer for all installments, (including any servicing fee) and renewal payments, and insureds should make payment by check or money order payable to the Federal Crime Insurance Program and mail such payment to the insurer and not to the agent or broker. But, nevertheless, in the event that an insured makes a timely installment payment of the current premium (after the initial payment submitted with the application) to any agent or broker, proof submitted by the insured, payment to the agent or the broker may be deemed by the Administrator to be proof of timely payment to the insurer so that the insured will not be penalized because of an error or omission on the part of the agent or broker in forwarding the payment to the insurer.

* * * * *

§ 80.6 [Amended]

2. Section 80.6, entitled, *Name and address of Invoicing Company*, is revised to read as follows:

The following company has been designated to act as servicing company for the Federal Crime Insurance Program, National Con-Serv, Inc. Written communications with the servicing company should be addressed to: Federal Crime Insurance, P.O. Box 6301, Rockville, MD 20850. The toll free telephone number for the servicing company is 800–638–8780 (policyholder service) and 800–526–2662 (claim inquiries). These numbers serve the continental United States, Puerto Rico and the Virgin Islands, except Maryland and the Washington Metropolitan Area. In the Washington Metropolitan Area call 251–1660. In Maryland, outside the Washington Metropolitan Area, call collect 301–251–1660.

PART 81—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

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

Authority: 12 U.S.C. 1749bbb et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

§ 81.1 [Amended]

1. In § 81.1, entitled *States Eligible for the Sale of Crime Insurance*, paragraph (d) is revised to read as follows:

* * * * *

(d) Notwithstanding the provisions of § 81.7, Federal Crime Insurance policies in-force at the time a State is determined to be no longer eligible for further participation in the program shall thereupon be terminated upon 30 days written notice to the policyholders effective on the expiration date of the policy and no further coverage for such policyholders with respect to premises located in such State shall thereafter be written unless the State again becomes eligible under the program.

§ 81.7a [Revised]

2. Section 81.7a entitled *Cancellations in Order To Renew* is revised to read as follows:

Notwithstanding the provisions of § 81.7(c), an insured shall not be permitted after the effective date of any applicable rate reduction to cancel and rewrite an existing crime insurance policy and receive a pro rata refund of unearned premium. Further, cancellation and rewrite of coverage to avoid an impending rate increase shall not be permitted, unless such cancellation was made to accomplish an increase in the amount of insurance coverage or as a result of the removal of insured to another premises.

PART 82—PROTECTIVE DEVICE REQUIREMENTS

The authority citation for Part 82 continues to read as follows:

Authority: 12 U.S.C. 1749bbb et seq.; Reorganization Plan No 3 of 1978; E.O. 12127.

Subpart A—General

1. In § 82.5 entitled *Inspection of Commercial Premises*, paragraph (e), is revised to read as follows:

§ 82.5 Inspection of Commercial Premises.

* * * * *

(e) The Administrator may in his discretion waive one or more protective device requirements with respect to any policy where he determines that compliance would be impractical and would impose a cost not reasonably commensurate with the protection derived. However, in the event of any loss contributed to in whole or in part by any such waiver, the Administrator may withdraw such waiver upon mailing to the insured thirty days written notices of withdrawal. Any loss occurring after thirty days from the day of the mailing of said notice shall not be paid unless the insured's premises shall be in compliance with the previously waived protective device requirement at the time of such loss. The Administrator may also in his or her discretion determine that the frequency and/or severity of occurrences of loss experienced under any policy issued under the provision of paragraphs (b) and (c) of this section, requires occurrences of loss experienced under any policy issued under the provision of paragraphs (b) and (c) of this section, requires that as a condition of continuation of coverage on renewal of such policy the premises insured thereunder be protected by one or more of the protective devices described in paragraphs (a), (b), (c), (d), (e), (f) (1), (2), (3), and (4) of § 82.31 for applicable points of entry for incurred losses and also may require as a condition of renewal, higher deductibles not to exceed $3,000 for each loss occurrence.

* * * * *

Subpart C—Nonresidential Properties

1. In § 82.31, paragraph (f) is revised to read as follows:

§ 82.31 Minimum standards from industrial and commercial properties.

* * * * *

(f) The following types of establishments whose inventories pose a particularly serious risk shall, as a minimum, in addition to the requirements of paragraphs (a), (b), and (d) of this section be protected by the type of alarm system indicated. If the system specified in paragraphs (f)(1) and (f)(2) of this section is not available in the community in which the premises are located, the type of system specified in paragraph (f)(3) of this section shall be permitted. In addition to, but not in place of, any central station supervised alarm system or silent alarm system required under paragraphs (f) (1), (2), and (3) of this section, an insured may also utilize a local alarm system.

(1) Central Station (with Guard dispatch) supervised service alarm system shall be required for the following businesses:

(i) Beer/Wine—Wholesale
(ii) Boutiques
(iii) Cameras/Photo Supplies/Film Processing—Wholesale/Retail/Mfg.
(iv) Clothing Apparel/Children's (12 and under)—Wholesale/Retail
(v) Clothing Manufacturers/Tailoring
(vi) Clothing/Mens' (age 12 and over)—Wholesale/Retail
(vii) Clothing/Womens' (age 12 and over)—Wholesale/Retail
(viii) Drug Stores and Druggist Sundries
(ix) Drugs—Wholesale
(x) Electrical Appliance/Apparatus/Parts—Wholesale/Retail/Mfg.
(xi) Food Stuffs—Wholesale
(xii) Gasoline Service Station/Fuel Dealers
(xiii) Gift Stores (Costume Jewelry $25.00—Wholesale limit)—Retail/Wholesale/Mfg.
(xiv) Hobby Shops/Toys/Novelty
(xv) Jewelry—Retail/Wholesale/Mfg./Storage
(xvi) Leather Products—Wholesale/Retail/Mfg.
(xvii) Liquor Sales—Retail
(xviii) Pawnbrokers
(xix) Precious Metals/Electroplating—Mfg./Wholesale/Retail
(xx) Radio/TV/Stereo/Electronic Equipment/Computer—Wholesale
(xxi) Record Shops/Video Stores
(xxii) Savings/Loans/Banks and other Financial Institutions (excluding Check Cashing)
(xxiii) Shoe Stores—Wholesale/Retail/Mfg.
(xxiv) Tobacco—Wholesale
(xxv) Used Clothing/Shoe Repair/Thrift Shops
(xxvi) Variety Stores/Department Stores

(2) Central Station (without Guard dispatch) supervised service alarm system shall be required for the following businesses:

(i) Antique Store
(ii) Art Supplies—Retail/Wholesale/Mfg.
(iii) Auto Parts (No Service)—Wholesale/Retail/Mfg.
(iv) Beauty & Health Supplies/Cosmetics—Wholesale/Retail/Mfg.
(v) Candy/Nut Stores—Retail/Wholesale
(vi) Dry Goods/Textiles/Serving Material—Wholesale/Retail/Mfg.
(vii) Furniture/Home Furnishing/Floor Covering/Upholstery—Wholesale/Retail/Mfg.
(viii) Furriers—Wholesale/Retail/Mfg./Storage
(ix) Grocery Stores/Delicatessen/Health Food Stores
(x) Guns/Ammunition—Wholesale/Retail/Mfg.
(xi) Hardware/Houseware—Wholesale/Retail/Mfg.
(xii) Liquor—Wholesale
(xiii) Meat/Poultry/Fish Dealers
(xiv) Music Stores/Instruments/Supplies—Wholesale/Retail/Mfg.
(xv) Motorbikes/Bicycles/Moped
(xvi) Pet Stores/Kennels—Supplies
(xvii) Precious Metals/Electroplating—Wholesale/Retail/Mfg.
(xviii) Sport Goods (General)—Wholesale/Retail/Mfg.
(xix) Tobacco Dealers—Retail
(xx) Wig Shops

(3) Silent alarm system shall be required for the following businesses:

(i) All Risks Not Otherwise Classified
(ii) Amusement Enterprises
(iii) Art Gallery
(iv) Beach Concession Stands/Supplies
(v) Billiard/Pool Parlors
(vi) Building Contractors—Material—Retail/Wholesale
(vii) Coin/Stamp Shop
(viii) Distributors—Variety/Non-Alcoholic Beverages
(ix) Dry Cleaners
(x) Fine Arts (Porcelain, Ivory, Oriental Rugs, Paintings, etc.)
(xi) Florist—Wholesale/Retail
(xii) Garages/Auto Repair/Body Shops
(xiii) Hotel/Motel/Rooming House/Apartments
(xiv) Industrial Material/Iron & Metal Work—Wholesale/Retail/Mfg.
(xv) Laundries
(xvi) Marine/Aircraft Materials—Sales/Service—Retail/Wholesale/Mfg.
(xvii) Medical (Doctors/Dentist, etc.) Supplies—Retail/Wholesale/Mfg.
(xviii) Office Supplies/Business Machines//Equipment—Retail/Wholesale/Mfg.
(xix) Restaurants
(xx) Schools (Profit) Day Care Centers/Studios
(xxi) Specialized Clothing (Sportwear/Lingerie/Accessories/etc.)—Wholesale/Retail/Mfg.
(xxii) Stationery/Books/Printing/Engraving/Paper/Plastic Products—Wholesale/Retail/Mfg.
(xxiii) Tavern/Bar/Lounge

(4) Local alarm system shall be required for the following businesses:

(i) Auto Parts (Sales/Service)—Wholesale/Retail/Mfg.
(ii) Beauty/Barber Shops

(iii) Check Cashing Agency/Money Exchange—Collectors
(iv) Disco/Dance Halls/Pavilions
(v) Donut/Pastry/Coffee/Ice Cream (Seated Service)
(vi) Fast Food/Bakery/Ice Cream (Carry Out)
(vii) Flea Markets/Auction Houses
(viii) Fruit/Vegetable/Newspaper Stands
(ix) Funeral Homes
(x) Golf and Other Sports Professionals
(xi) Health Clubs/Spas/Massage Parlors
(xii) Nursing Homes/Convalescent
(xiii) Parking Lots/Rental Cars/Carwash/Taxi Office
(xiv) Photographers Studio
(xv) Professional/Specialized Service (Lawyers/Accountants/Couriers/Housekeepings, etc.)
(xvi) Radio/TV/Stereo/Electronic Equipment/Computers (Service Only)
(xvii) Realty/Insurance/Travel/Employment (Agencies)
(xviii) Security/Locksmiths/Alarms—Retail/Wholesale/Mfg.
(xix) Vending Machines (Sales)—Retail/Wholesale/Mfg.

* * * * *

PART 83—COVERAGES RATES AND PRESCRIBED POLICY FORMS

The authority citation for Part 83 continues to read as follows:

Authority: 12 U.S.C. 1749bbb et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

Subpart A—Residential Crime Insurance Coverage

§ 83.4 [Revised]

1. Section 83.4, *Residential Crime Insurance Rates* is revised to read as follows:

The specific limits of coverage and applicable annual premiums for residential crime insurance coverage are revised to read as follows:

Policy limits	Annual premium	Policy limits	Annual premium
$1,000	$30.00	$6,000	$80.00
2,000	40.00	7,000	90.00
3,000	50.00	8,000	100.00
4,000	60.00	9,000	110.00
5,000	70.00	10,000	120.00

Note: If the premises are protected by an acceptable residential burglary alarm system multiply the above applicable premiums by .95. Minimum premiums credit $2.00.

§ 83.5 [Amended]

2. Section 83.5 entitled *Required Residential Policy Form*, is amended in the following respects.

a. Under the heading of "Conditions" of the Residential Crime Insurance Policy, Section 1, described as "Definitions", the paragraph entitled (c) Burglary, "Burglary" or "burglary and larceny incident thereto" is redefined to read as follows:

c. Burglary. "Burglary or" and "burglary and larceny incident thereto" mean the felonious abstraction of insured property from within the premises by a person making felonious entry.

Subpart B—Commercial Crime Insurance Coverage

§ 83.21 [Amended]

In § 83.21 entitled *Description of Commercial Coverage*, paragraphs (a) and (b) are revised to read as follows:

(a) The purpose of this § 83.21 is descriptive only, and it shall be subject to the express terms and conditions of the policy form prescribed in § 83.26.

(b) The initial policy issued by the insurer for commercial properties shall be known as the Commercial Crime Insurance Policy. Subject to its terms, the policy reimburses an insured for loss from robbery inside the premises, robbery outside the premises (up to a limit of $5,000 unless an armed guard accompanies the insured's messenger), the wrongful taking of insured property by compelling an insured to admit a person into the premises, safe burglary and larceny incident thereto (up to a limit of $5,000 unless the insured property is in a Class E safe anchored to the floor), theft observed by the insured, burglary and larcency incident thereto, robbery of a watchman (not to exceed $50 for any one article of jewelry), and damage to the premises (of which the insured is owner or for which the insured is liable) as a result of any of the foregoing. The policy is subject to the exclusions set forth therein.

* * * * *

§ 83.24 [Amended]

4. In § 83.24 entitled *Classification of Commercial Risks*, paragraph (d) is revised to read as follows:

* * * * *

(d) The following business classifications shall be applicable to the Commercial Crime Insurance Policy:

CLASSIFICATION/ALARM LISTING

Premium		Description	Alarm type
Code	Class		
A1	3	All risks not otherwise classified	3
02	2	Amusement Enterprise	3
B1	3	Antique Store	2
C1	3	Art Gallery	3
33	4	Art Supplies (Retail, Wholesale, Mfg.)	2
D1	2	Auto Parts—No Service (Retail, Wholesale, Mfg.)	2
03	2	Auto Parts—Sales/Service (Retail, Wholesale, Mfg.)	4
47	3	Beach Concession Stands/Supplies	3
32	2	Beauty/Barber Shops	4
41	3	Beauty & Health Supplies/Cosmetic (Retail, Wholesale, Mfg.)	2
C6	4	Beer/Wine with Food (Retail)	2
F1	6	Beer/Wine (Wholesale)	1
04	3	Billiard/Pool Parlors	3
70	6	Boutiques	1
05	2	Bowling Lanes or Centers/Skating Rinks	0
34	2	Building Contractors/Materials (Retail, Wholesale, Mfg.)	3
06	4	Cameras/Photo Supplies/Film Processing (Retail, Wholesale, Mfg.)	1
43	3	Candy/Nuts Stores (Retail, Wholesale)	2
G1	4	Checka Cashing Agency/Money Exchange/Collectors	4
J1	1	Churches/Charities/Nonprofit Org/Public Property	0
36	5	Clothing Apparel/Children 12 & Under (Retail, Wholesale)	1
I1	6	Clothing Manufacturer/Tailoring	1
22	6	Clothing/Men's (Age 12 & Over) (Retail, Wholesale)	1
30	6	Clothing/Women's (Age 12 & Over) (Retail, Wholesale)	1
07	3	Clubs (Serving Alcoholic Beverages)	3
K1	3	Coin/Stamp Shop	3
08	2	Discos/Dance Halls/Pavilions	4
50	2	Distributors—Variety/Non-Alcoholic Beverages	3
C5	3	Donut/Pastry/Coffee/Ice Cream Shop (Seated Service)	4

Premium		Description	Alarm type
Code	Class		
09	4	Drug Stores/Druggist's Sundries	1
L1	4	Drugs (Wholesale)	1
10	4	Dry Cleaners	3
38	3	Dry Goods—Textile/Sewing Material (Retail, Wholesale, Mfg.)	2
11	4	Electrical Appliances/Apparatus/Parts (Retail, Wholesale, Mfg.)	1
E1	2	Fast Food/Bakery/Donut/Ice Cream (Carryout Only)	4
39	2	Fine Arts—Porcelain/Ivory/Oriental Rugs/Paintings/Etc	3
78	2	Flea Markets/Auction Houses	4
40	2	Florist (Retail/Wholesale)	3
M1	3	Food Stuffs (Wholesale)	1
N1	2	Fruit/Vegetable/Newspaper Stands	4
45	2	Funeral Homes	4
42	2	Furniture/Home Furnishings/Floor Coverings/Upholstery New or Used (Retail, Wholesale, Mfg.)	2
12	4	Furriers (Retail, Wholesale, Mfg., Storage)	2
13	3	Garages/Auto Repair/Body Shops	3
14	4	Gasoline Service Station/Fuel Dealers	1
44	3	Gift Store/Costume Jewelry $25.00 Wholesale Limit (Retail, Wholesale, Mfg.)	1
15	2	Golf & Other Professional Sports Shops	4
16	4	Grocery Stores/Delicatessens/Health Food Stores	2
17	6	Guns/Ammunition (Retail, Wholesale, Mfg.)	2
46	3	Hardware/Housewares (Retail, Wholesale, Mfg.)	2
C2	2	Health Clubs/Spas/Massage Parlors	4
80	3	Hobby Shops/Toys/Novelty (Retail, Wholesale, Mfg.)	1
48	2	Hotel/Motel/Rooming House/Apartments	3
01	2	Industrial Materials/Iron & Metal Work (Retail, Wholesale, Mfg.)	3
18	6	Jewelry (Retail, Wholesale, Mfg., Storage)	1
19	2	Laundries	3
52	3	Leather Products (Retail, Wholesale, Mfg.)	1
20	5	Liquor Sales (Retail)	1
P1	5	Liquor (Wholesale)	2
37	3	Marine/Aircraft Materials—Sales/Service (Retail, Wholesale, Mfg.)	3
21	2	Meat/Poultry/Fish Dealers	2
54	2	Medical Supplies (Doctors, Dentists, etc.) (Retail, Wholesale, Mfg.)	3
Q1	3	Motorbikes/Bicycles/Mopeds	2
56	3	Music Stores/Instruments/Supplies (Retail, Wholesale, Mfg.)	2
35	2	Nursing/Convalescent Homes	4
C3	2	Office Supplies/Business Machines/Equipment (Retail, Wholesale, Mfg.)	3
58	2	Parking Lots/Rental Cars/Carwash/Taxi Offices	4
23	5	Pawn Brokers	1
76	3	Pet Stores/Kennels/Supplies	2
R1	2	Photographers Studios	4
S1	6	Precious Metals/Electroplating (Storage)	2
C8	5	Precious Metals/Electroplating (Retail, Wholesale, Mfg.)	1
74	2	Professional/Specialized Services (Lawyers, Accountants, Couriers, Housekeeping, etc.)	4
24	6	Radio/TV/Stereo/Electronic Equipment/Computers (Retail, Wholesale, Mfg.)	1
C4	2	Radio/TV/Stereo/Electronic Equipment/Computers (Service Only)	4
62	2	Realty/Insurance/Travel/Employment Agencies	4
T1	4	Record Shop/Video Stores	1
25	3	Restaurant/Caterer	3
26	5	Savings & Loans/Banks & Other Financial Institutions (Excluding Check Cashing)	1
66	2	Schools (Profit)/Day Care Centers/Studios	3
64	2	Security/Locksmiths/Alarms (Retail, Wholesale, Mfg.)	4
68	6	Shoe Stores (Retail, Wholesale, Mfg.)	1
H1	5	Specialized Clothing—Sportswear/Lingerie/Accessories/Etc/ (Retail, Wholesale, Mfg.)	3
U1	5	Sport Goods/General (Retail, Wholesale, Mfg.)	2
60	3	Stationery/Books/Printing/Engraving/Paper or Plastic Products (Retail, Wholesale, Mfg.)	3
27	4	Tavern/Bar/Lounge	3
V1	2	Taxi/Limousines (Robbery Only)	0
28	2	Theaters	0
29	4	Tobacco Dealers (Retail)	2
C9	3	Tobacco Dealers (Wholesale)	1
72	4	Used Clothing/Shoe Repair/Thrift Shops	1
W1	6	Variety Stores/Department Stores	1
X1	2	Vending Machines (Sales/Rentals/Mfg.)	4
Y1	5	Wig Shops	2

5. Section 83.26, paragraph (b) entitled *Commerical Crime Insurance Policy Form*, is amended in the following respects:

§ 83.26 Required commercial policy form.

* * * * *

Insuring Agreements

1. In Option 2 (Robbery Only), Insuring Agreement VI, the first paragraph is revised.

VI. Robbery, Including Observed Theft, Outside of the premises.

To pay for loss by robbery or observed theft of money, securities and merchandise, including the wallet or bag containing such property while such property is in conveyance by the insured or his messenger outside the named premises, but no payment shall be made for any loss in excess of $5,000 except when the insured or his messenger is accompanied by a guard armed with a firearm. The person carrying the insured property and the armed guard cannot be same person.

* * * * *

2. In Option 3 (Robbery and Burglary in Uniform and Varying Amounts) Insurance Agreement II the first paragraph is revised.

II. Robbery including observed theft outside of the premises.

To pay for loss by robbery or observed theft of money, securities and merchandise, including the wallet or bag containing such property while such property is in conveyance by the insured or his messenger outside the named premises, but no payment shall be made for any loss in excess of $5,000 except when the insured or his messenger is accompanied by a guard armed with a firearm. The person carrying the insured property and the armed guard cannot be same person.

* * * * *

3. The paragraph entitled *Exclusions* is amended by adding paragraph (1) to read as follows:

* * * * *

(1) To loss from a night depository.

Conditions

Under the section entitled "Conditions", paragraph (6) entitled "Insured's duties when loss occurs" is revised as follows:

* * * * *

(6) Upon knowledge of loss of an occurrence which may give rise to a claim for loss, the insured shall (a) give notice thereof as soon as practicable to law enforcement authorities and to the Insurer through its authorized agent and (b) file detailed proof of loss duly sworn to, with the insurer through its authorized agent within sixty (60) days after the discovery of loss unless such time is extended by the Federal Insurance Administrator in writing. The Administrator may, in his or her discretion, waive the requirement that the proof of loss be sworn to. Upon the insurer's request, the insured and every claimant hereunder shall submit to examination by the insurer, subscribe the same under penalty of 18 U.S.C. 1001 pertaining to fraud and false representation, and produce all pertinent records, all at such reasonable times and places as shall be designated, and shall cooperate with the insurer in all matters pertaining to loss or claims with respect thereto. The insured shall as a condition of continued coverage take reasonable action immediately following the discovery of a loss to protect the permises from further loss."

* * * * *

These amendments issued under 12 U.S.C. 1749bbb–17.

Harold T. Duryee,

Federal Insurance Administrator, Federal Insurance Administration.

[FR Doc. 87–10478 Filed 5–7–87; 8:45 am]

BILLING CODE 6718–03–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1160 and 1165

[Ex Parte No. MC–142 (Sub-No. 4)]

Revision of Licensing Procedures to Include Applications for Removal of Restrictions From Authorities of Motor Carriers of Property and Passengers

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to eliminate the regulations at 49 CFR Part 1165 governing restriction removal applications for motor carriers of property and passengers because in recent years they have been used infrequently. The small number of such requests does not warrant maintaining separate regulatory provisions, since they can be handled under existing application procedures with the minor modifications proposed here. Proposed Subpart G to 49 CFR Part 1160 will allow property and passenger carriers to continue to remove operating restrictions from their authorities to broaden their operations consistent with 49 U.S.C. 10922(i).

DATES: Comments are due June 22, 1987.

ADDRESS: Send an original and, if possible, 10 copies of comments referring to Ex Parte No. MC–142 (Sub-No. 4) to: Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Suzanne Higgins, (202) 275–7181,

or

Mark Shaffer, (202) 275–7805.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. Copies are available from the Office of the Secretary, Room 2215, Interstate Commerce Commission Building, Washington, DC 20423, (202) 275–7428.

Environmental and Energy Considerations

This proposal does not appear to affect significantly the quality of the human environment or the conservation of energy resources.

Initial Regulatory Flexibility Analysis

The Commission certifies that the proposed revised restriction removal procedures will not have a significant economic impact on a substantial number of small entities because they are not required to act in any manner. The action only streamlines administrative procedures that allow small carriers to expand service within the expedited time periods required by law. The proposed rule revisions will not change the licensing and restriction removal options presently available and will continue to provide small entities opportunities to benefit from expanded service.

List of Subjects in 49 CFR Parts 1160 and 1165

Administrative practice and procedure, Buses, and Motor carriers.

Decided: April 22, 1987.

By the Commission, Chariman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee

Secretary.

Accordingly under the authority in 49 U.S.C. 10101, 10305, 10321, 10921, 10922, 10923, 10924, and 11102, and 5 U.S.C. 553 and 559, the Commission proposes to amend Title 49 of the CFR as follows:

PART 1165—REMOVAL OF RESTRICTIONS FROM AUTHORITIES OF MOTOR CARRIERS OF PROPERTY, MOTOR CARRIERS OF PASSENGERS AND FREIGHT FORWARDERS—[REMOVED]

1. Part 1165 of the code of Federal Regulations, Title 49, is proposed to be removed.

PART 1160—HOW TO APPLY FOR OPERATING AUTHORITY

2. The authority citation for 49 CFR Part 1160 continues to read as follows:

Authority: 49 U.S.C. 10101, 10305, 10321, 10921, 10922, 10923, 10924, and 11102; 5 U.S.C. 553 and 559; and 16 U.S.C. 1456.

3. Part 1160 of the Code of Federal Regulations, Title, 49, is proposed to be amended by adding a new subpart G as follows:

Subpart G—Rules for Removing Restrictions from Operating Authority—Motor Carriers of Property and Passengers

Subpart G—Rules for Removing Restrictions From Operating Authority—Motor Carriers of Property and Passengers

§ 1160.107 Requests for restriction removal.

Form OP–1 (an original and 10 copies) is to be filed by:

(a) Motor carriers of property seeking to remove operating restrictions from their certificates or permits in accordance with 49 U.S.C. 10922(i)(1); and (b) motor carriers of passengers seeking to remove operating restrictions from their certificates in order to authorize interstate transportation or service to intermediate points on any

authorized route in accordance with 49 U.S.C. 10922(i)(4).

§ 1160.108 Procedural guidelines.

(a) Carriers seeking to relieve their existing authorities of operating restrictions as provided above should distinguish their application froms by including at the top of page one the designation "Restriction Removal Application."

(b) The Commission will assign applications identified in this manner an "X" suffix on the docket number. Applications so designated will be processed within the expedited statutory time limitations provided at 49 U.S.C. 10922(i).

§ 1160.109 Information which shall accompany the application.

In addition to the pertinent information requested in the body of Form OP-1, restriction removal applicants shall submit the following information (an original and 10 copies) in the order set forth below:

(a) A copy of the certificate or permit from which applicant seeks to have restrictions removed or which it proposes be broadened.

(b) A proposed draft of the certificate or permit (commodity and territorial descriptions) with the restrictions removed or the authority broadened as proposed, together with sufficient information for the Commission to determine readily the precise portions of the existing authority to be modified. The redrafted certificate or permit shall be in the same format as the original so that, if the application is granted, it can be issued promptly without further redrafting by the Commission.

(c) A caption summary (an original and 10 copies) of the modifications proposed, suitable for publication in the *ICC Register*. The caption summary shall include an accurate summary of the restrictions applicant seeks removed, the authority applicant seeks broadened under these rules, or the authority applicant would hold if its application were granted. It shall also include the authority (including specific sub-numbers) which would be superseeded by a grant of the application.

(d) Where the applicant is a motor carrier of property,

(1) A brief statement affirmatively indicating that it is fit, will, and able to perform the broader service to be authorized; and

(2) A statement describing the effect of the proposal upon one or more of the following factors:

(i) The consumption of energy resources;

(ii) Potential cost savings and improved efficiency;

(iii) The provisions of the transportation policy set forth in 49 U.S.C. 10101(a); or

(iv) The provision and maintenance of service to small and rural communities and small shippers.

§ 1160.110 Participation of interested persons.

Comments (an original and 10 copies) shall be filed with the Commission within 25 days of the date of publication in the *ICC Register*. The envelope containing the comments and the comments shall be clearly marked *"Restriction Removal Comments."*

(a) Comments on applications filed by motor carriers of property. Any interested persons may comment on the applicant's proposal. Comments may address either or both:

(1) The merits of the particular proposal, including the reasonableness of the sought commodity expansion, and applicant's fitness, willingness, and ability to perform operations under the broadened authority, or

(2) Whether the proposal properly should be considered under these rules.

(b) Comments on applications filed by motor carriers of passengers. No common carrier of passengers may protest an application to remove an operating restriction under 49 U.S.C. 10922(i)(4) unless:

(1) (i) It possesses authority to handle, in whole or in part, the traffic for which authority is applied;

(ii) It is willing and able to provide service that meets the reasonable needs of the traveling public; and

(iii) It has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited traffic within the scope of the application during such period;

(2) It has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

(3) The Commission granted leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

(c) Protests for motor carriers of passengers must address:

(1) Whether the proposed interstate transportation directly competes with a commuter bus operation; and

(2) Whether the resulting interstate transportation would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

(3) Protests also may address whether the proposal should properly be considered under these rules.

§ 1160.111 Notice.

Notice to the public of the filing of an application under these rules will be given by the Commission through publication of a caption summary in the *ICC Register*. Applicant shall comply with the requirements at 49 CFR 1160.9 (property carriers) or § 1160.77 (passenger carriers) concerning filing copies of the application or caption summary with the Commission and State regulatory bodies.

§ 1160.112 Furnishing a copy of the application package to interested persons.

Applicant's representative is required to furnish a copy of the application package to interested persons in accordance with the regulations at 49 CFR 1160.13(a) (property carriers) or 1160.81 (passenger carriers).

§ 1160.113 Disposition of the application.

(a) *Basis for determining the application.* Except in extraordinary circumstances, applications will be determined solely on the basis of the application itself and any comments that are received. There will be neither oral hearings nor the opportunity for the submission of evidence under modified procedure.

(b) *The Commission's decision.* Applications will be published in the *ICC Register* in the form of tentative decisions granting the authority requested. If no comments are filed, the application will stand granted at the conclusion of the 25-day comment period, unless the Commission, prior to that time, stays the effectiveness of the tentative decision.

(c) *Administrative finality and appeals.* A decision disposing of an application subject to these rules is a final action of the Commission. Review of such an action on appeal is discretionary and is governed by the Commission's appeal regulations at 49 CFR Part 1115. Any party seeking review should specify the "extraordinary circumstances" involved in the proceeding to enable the Commission to extend the deadline for final Commission action an additional 90 days.

§ 1160.114 Compliance.

A reformed certificate or permit will be issued upon a grant of an application. Prior to beginning operations under the newly issued authority, compliance must be made as described at 49 CFR

1160.19 (property carriers) or § 1160.86 (passenger carriers).

[FR Doc. 87-10629 Filed 5-7-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 70481-7081]

Coastal Migratory Pelagic Resources (Mackerels)

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

ACTION: Notice of extension of comment period.

SUMMARY: NOAA issues this notice to extend the period during which the public may comment on Amendment 2 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources (Mackerels) (FMP). Copies of the amendment may be obtained from the addresses below.

DATE: Comments on the amendment should be submitted on or before May 15, 1987.

ADDRESSES: All comments should be sent to Craig R. O'Connor, Acting Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Copies of the FMP, the amendment, and supporting documentation are available upon request from the South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407-4699; and the Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 W. Kennedy Boulevard, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: William N. Lindall (Regional Plan Coordinator), 813-893-3721.

SUPPLEMENTARY INFORMATION: The proposed rule to implement Amendment 2 was published in the **Federal Register** on April 29, 1987 (52 FR 15519). The Magnuson Fishery Conservation and Management Act, as amended by Pub. L. 99-659 requires accelerated review by the Secretary of Commerce of a previously disapproved FMP or amendment resubmitted by a regional fishery management council. The schedule for this resubmitted rule specified a comment period until May 5, 1987. Fisherman have indicated that the comment period was insufficient. An additional ten days is granted by this notice for response by the public. The Secretary will consider the public comments in determining whether to approve the FMP or amendment.

(16 U.S.C. 1801 *et seq.*)

Dated: May 6, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-10693 Filed 5-6-87; 4:47 pm]

BILLING CODE 3510-22-M

50 CFR Parts 684, 681, 680, and 685

Bottomfish and Seamount Groundfish Fisheries, Western Pacific Spiny Lobster Fisheries, Precious Corals, and Pelagic Fisheries; Public Hearings.

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

ACTION: Notice of public hearings.

SUMMARY: The Western Pacific Fishery Management Council will hold public hearings on amendments to several fishery management plans in American Samoa, Guam, and Hawaii.

DATES: The hearings are scheduled as follows:

1. May 11, 1987, 4:30 p.m., American Samoa
2. May 14, 1987, 7:00 p.m., Guam
3. May 18, 1987, 7:00 p.m., Hawaii

ADDRESSES: The hearings will be held at the following locations:

1. Pago Pago, American Samoa—Office of Marine and Wildlife Resources, Government of American Samoa.
2. Agana, Guam—Guam Legislative Session Hall, 165 Chalan Santo Papa, Juan Pablo Des (John Paul II Street).
3. Honolulu, Hawaii—NMFS, Kewalo Basin Facility, 1125B Ala Moana Boulevard.

FOR FURTHER INFORMATION CONTACT: Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, Hawaii 96813, 808-523-1368 (FTS) 546-8923. Other telephone inquiries will be answered at the following numbers: In American Samoa, 684-633-4456; in Guam, 671-472-8472; and in Hawaii, 523-4110, or 531-5613.

SUPPLEMENTARY INFORMATION: the agenda for the three hearings will consist of the following:

Bottomfish and Seamount Groundfish Fisheries

1. Authorize examination of limited access measures for controlling fishing for bottomfish in the exclusive economic zone (EEZ) surrounding American Samoa/Guam. (This is on the agenda at the hearings in American Samoa/Guam).
2. Extend the due date of the Annual Report for the Bottomfish Fisheries from March 31 to June 30 of each year.
3. Allow private vessels to be chartered to conduct scientific research on bottomfish in the EEZ under a charter agreement with NMFS.
4. Discuss two-tier systems for limiting access into the fishery for bottomfish in the Northwestern Hawaiian Islands (NWHI). (This is on the agenda for the hearing in Hawaii.)

At the hearings in American Samoa and Guam, information will be solicited from the public on the fisheries of American Samoa/Guam.

The hearing in Hawaii has added the following to its agenda:

Lobster

1. Establish a minimum legal size for slipper lobster in the NWHI.
2. Require all lobster traps used in the NWHI lobster fishery to be equipped with escape vent panels.
3. Discuss limited entry as a possible management measure.

Pelagics

1. Domestic Gillnet Permit Application.

Precious Corals

1. Increase the Hawaii "exploratory area" quota from 1,000 kg to 5,000 kg.

Dated: May 4, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-10482 Filed 5-7-87; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 89
Friday, May 8, 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

Office of the Secretary

[Doc. No. 4184S]

Privacy Act; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revision of Privacy Act system of records.

SUMMARY: Notice is hereby given that the United States Department of Agriculture (USDA) is revising one of its Systems of Records maintained by the Federal Crop Insurance Corporation (FCIC), titled "USDA/FCIC-8—List of Ineligible Producers USDA/FCIC." This action is necessary following a review of the scope and effect of the notice of revision published in the **Federal Register** at 52 FR 6030 (February 27, 1987). This notice is intended to clarify the bases for a determination by FCIC of ineligibility for Federal Crop Insurance by amending the appropriate sections of the system notice.

DATE: This notice will be adopted without further publication in the **Federal Register** on June 8, 1987, unless modified by a subsequent notice to incorporate comments received from the public. Comments must be received by the contact person listed below on or before June 8, 1987, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Ralph F. Satterfield, Federal Crop Insurance Corporation, Room 4606, South Building, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 382-9714.

SUPPLEMENTARY INFORMATION: The purpose of this revision is to: (1) Amend the categories of individuals covered by the system by clarifying the criteria FCIC uses to determine ineligibility; (2) amend the categories of records in the system by adding the last known address of producers and voluntarily provided social security and tax identification numbers; (3) identify new categories of records by which information is indexed: Last known address, voluntarily provided social security and tax identification numbers; and prior policy numbers, if any, for a specific state and county; (4) indicate retention and disposal periods; (5) identify a new individual from whom to request information; (6) add new record source categories of FCIC policyholder records and various "equivalent records maintained by reinsured companies and reported to FCIC"; and (7) amend two routine uses added to FCIC-8, published at 52 FR 6030 (February 27, 1987).

The routine uses provide for referral of information regarding policyholder ineligibility to private insurance companies under Reinsurance Agreements and Agency Sales and Service Contracts The amendments clarify the criteria FCIC uses to determine ineligibility.

Accordingly, notice is hereby given that USDA amends its System of Records maintained by the Federal Crop Insurance Corporation (FCIC) titled "USDA/FCIC-8—List of Ineligible Producers USDA/FCIC", to read as set forth below.

Signed at Washington, DC, on April 28, 1987.

Peter C. Myers,
Acting Secretary, Department of Agriculture.

USDA/FCIC-8

SYSTEM NAME:

List of Ineligible Producers, USDA/FCIC

SYSTEM LOCATION:

Kansas City Operations Office, Federal Crop Insurance Corporation, 9435 Holmes, Kansas City, Missouri 64131; Field Underwriting Offices; Field Operations Offices; and each service office of the Federal Crop Insurance Corporation. Addresses of each such field office may be obtained from the Director, Field Operations Division, FCIC, Washington, DC 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been determined as not eligible for Federal Crop Insurance due to excessive losses or questionable farming practices not typical to their area, non-payment of premium or other indebtedness arising under the terms of the crop insurance contract, or who have contracts voided due to fraud or other contract violations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record contains only lists of names and last known addresses of producers, including township and range where applicable, Social Security and Tax Identification numbers when voluntarily provided, and prior policy numbers, if any, for a specific state and county.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1501-1520; 7 CFR 2.73.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto.

(2) Referral to the Department of Justice when (a) the agency, or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

(3) Disclosure in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when (a) the agency, or any component

thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the court is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

(4) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(5) Referral of information regarding policyholder ineligibility to private insurance companies under an Agency Sales and Service Contract with respect to those policyholders determined by FCIC to be ineligible for Federal Crop Insurance due to excessive losses or questionable farming practices not typical to their area, non-payment of premium or other indebtedness arising under the terms of the crop insurance contract, or who have contracts voided due to fraud or other contract violations.

(6) Referral of information regarding policyholder ineligibility to private insurance companies under a Reinsurance Agreement with FCIC with respect to individuals whose crop insurance policies are reinsured by FCIC, and whose policies are determined by FCIC to be ineligible for reinsurance by FCIC due to excessive losses or questionable farming practices not typical to their area, non-payment of premium or other indebtedness arising under the terms of the crop insurance contract, or who have contracts voided due to fraud or other contract violations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders by county, and on magnetic tape.

RETRIEVABILITY:

Records are indexed by State, county, name and last known address of individuals, including township and range where applicable, Social Security and Tax Identification numbers when voluntarily provided, and prior policy numbers, if any, for a specific state and county.

SAFEGUARDS:

Records are accessible only to authorized personnel and are maintained in offices which are locked during non-working hours.

RETENTION AND DISPOSAL:

Magnetic tape records are maintained indefinitely. Hard copy records are maintained subject to the Disposal of Field Records retention schedule (FCIC Issuance System—M5–P2–C8, Exhibits 1, 2, and 5).

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Federal Crop Insurance Corporation, USDA, Washington, DC 20250.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records or information as to whether the system contains records pertaining to such individual from the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250. Addresses of locations where records are maintained may also be obtained from the above office.

A request for information pertaining to an individual should contain (1) Individual's name and address, (2) State(s) and county(ies) where such individual farms, and (3) the individual policy number(s), if known.

RECORD ACCESS PROCEDURES:

An individual may obtain information as to the procedures for gaining access to a record in the system which pertains to such individual by submitting a written request to the appropriate official referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access procedure.

RECORD SOURCE CATEGORIES:

Information in this system comes from FCIC policyholder records, reports of inspections made by FCIC personnel of producer's operations, records of previous insuring experience, and equivalent records maintained by reinsured companies and reported to FCIC.

[FR Doc. 87–10483 Filed 5–7–87; 8:45 am]

BILLING CODE 3410–08–M

Cooperative State Research Service

Policy Advisory Committee for the Science and Education Research Grants Program; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Cooperative State Research Service announces the following meeting:

Name: Policy Advisory Committee for the Science and Education Research Grants Program.

Date: June 17, 1987.

Time: 9:00 a.m. to 5:00 p.m.

Place: U.S. Department of Agriculture, Room 107–A, Administration Building, 14th and Independence Avenue, SW., Washington, DC 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To advise the Secretary of Agriculture with respect to the research to be supported, priorities to be adopted and emphasized, and the procedures to be followed in implementing those programs of research grants to be awarded competitively.

Contact person for agenda and more information: Anne Holiday Schauer, Associate Chief, Competitive Research Grants Office, Cooperative State Research Service, U.S. Department of Agriculture, Room 112, J.S. Morrill Building, Washington, DC 20251, telephone: 202–475–5022.

Done at Washington, DC, this 30th day of April 1987.

Anne Holiday Schauer,

Executive Secretary, Policy Advisory Committee.

[FR Doc. 87–10539 Filed 5–7–87; 8:45 am]

BILLING CODE 3410–MT–M

Food Safety and Inspection Service

[Docket No. 87–011N]

SLD Policy Memoranda; Semi-Annual Listing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists and makes available to the public memoranda issued by the Standards and Labeling Division (SLD), Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service (FSIS), which contain significant new applications or interpretations of the

Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy concerning labeling.

FOR FURTHER INFORMATION CONTACT: Ashland L. Clemons, Acting Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling (specified in 9 CFR 317.4, 317.5, 381.132, and 381.134) to be used on federally inspected meat and poultry products. Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS's prior label approval program is conducted by label review experts within SLD. A variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in foods, has generated a series of increasingly complex issues which SLD must resolve as part of the prior label approval process. In interpreting the Acts or regulations to resolve these issues, SLD may modify its policies on labeling or develop new ones.

Significant or novel interpretations or determinations made by SLD are issued in writing in memorandum form. This document lists those SLD policy memoranda issued from October 1, 1986, through April 1, 1987.

Persons interested in obtaining copies of any of the following SLD policy memoranda, or in being included on a list for automatic distribution of future SLD policy memoranda, may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Memo No.	Title and date	Issue	Reference
074A	Exemptions from Maintaining Nutrition Labeling Verification (NLV) Procedures or Partial Quality Control (PQC) Programs, November 4, 1986.	Under what conditions are Nutrition Labeling Verification (NLV) Procedures or Partial Quality Control (PQC) Programs for nutrition related information not required?.	(Replaces Policy Memo 085); 9 CFR 319.15(a), 319.15(b), 319.15(d), 319.141, 319.142, 319.180, and 319.700; Agriculture handbook No. 8.
085A	Nutrition Labeling Verification (NLV) Procedures, November 4, 1986.	What is required to assure the continued accuracy of nutrition labeling (including sodium information) and all other nutritional claims including fat, lean, protein, calorie, sale and cholesterol content?.	Replaces Policy Memo 085.
101	Use of Quality Grade Terms and Subjective Terms on Labels, November 4, 1986.	How and when may terms which denote quality grades and certain other subjective terms be used on labels for meat and/or poultry products?.	N/A.
094B	Sulfiting Agents in Meat and Poultry Food Products, December 17, 1986.	Whether sulfiting agents present in sulfite labeled ingredients which are incorporated into meat and poultry food products need to be declared on the label of the finished product.	Replaces Policy Memo 094A.
102	The Labeling of Products Containing Meat with Added Solutions or Other Nonmeat Ingredients in Secondary Products, January 6, 1987.	What are the labeling requirements for products containing a component consisting of meat with added solutions or other nonmeat ingredients?.	Policy Memos 066B and 084.
103	Boneless, Raw or Cooked, Poultry Containing Binders, February 13, 1987.	Labeling of boneless, raw or cooked, poultry to which binders are added.	9 CFR 381.159.
104	Handling Statements on Retorted Products, February 13, 1987	Can handling statements such as "keep refrigerated" or "keep frozen" appear on labels for products which are packaged and processed to provide safety and stability at ambient temperatures?.	

The SLD policies specified in these memoranda will be uniformly applied to all relevant labeling applications unless modified by future memoranda or more formal Agency action. Applicants retain all rights of appeal regarding decisions based upon these memoranda.

Done at Washington, DC, on: May 5, 1987.

Ashland L. Clemons,

Acting Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service.

[FR Doc. 87-10535 Filed 5-7-87; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On December 18, 1986, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers one manufacturer/or exporter of this merchandise to the United States and the period April 1, 1981 through September 1, 1983.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have changed the final results from those presented in our preliminary results of review.

EFFECTIVE DATE: May 8, 1987.

FOR FURTHER INFORMATION CONTACT: Richard P. Bruno or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On December 18, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 45366) the preliminary results of its administrative review of the antidumping finding on roller chain, other than bicycle, from Japan (38 FR 9926, April 12, 1973). The Department has now completed the administrative

review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle" as used in this review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain. This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain, other than bicycle, is currently classifiable under various provisions of the Tariff Schedules of the United States Annotated, from item numbers 652.1400 through 652.3800.

The review covers Tsubakimoto, a manufacturer and exporter of Japanese roller chain, other than bicycle, to the United States, and the period April 1, 1981 through September 1, 1983.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received comments from the respondent, Tsubakimoto Chain Company ("Tsubakimoto"). We received rebuttals to Tsubakimoto's comments from the petitioner, the American Chain Association. We have considered both sides' arguments in determining the Department's positions, but, since ACA's rebuttals supported the Department's preliminary determination, have addressed only Tsubakimoto's comments in this notice. (We received additional comments from Tsubakimoto concerning mathematical or clerical errors. We have corrected such errors but have not addressed them specifically in this notice.)

Respondent's Comments

Comment 1: Tsubakimoto argues that in calculating United States price ("USP") the Department erroneously used exporter's sales price ("ESP") for all merchandise shipped to the United States. Purchase price should be used to calculate USP for certain sales of special chain manufactured and exported according to a firm order from an unrelated U.S. customer.

Department's position: We agree that for certain special chain sales purchase price may be the proper basis for calculating USP. However, we were unable to use purchase price since the response does not provide a breakdown of U.S. sales and U.S. selling expenses that would allow the Department to calculate USP using purchase price or ESP, as appropriate. Furthermore, Tsubakimoto raised this issue for the first time late in the review and did not submit any additional information to substantiate its claim.

Comment 2: Tsubakimoto argues that the Department has improperly calculated ESP by twice deducting selling and warehouse commissions paid to unrelated representatives. In addition, these commissions were not incurred, and should not have been deducted from ESP, for certain "inhouse" sales. For example, special order chain, included in what the Department has labeled for purposes of its calculation as sales channels II and III, would never have a warehouse commission even if sold through a commissioned sales representative. In another instance, the full amounts of direct selling expenses and sales commissions would not both apply to commission sales.

Department's position: Selling and warehouse commissions to unrelated representatives were not deducted twice from ESP. In its response, Tsubakimoto reported weighted-average amounts for each commission instead of reporting commissions on a sale-by-sale basis. Therefore, we did not use the reported amounts and substituted for them the maximum percentage for each type of commission.

We agree that warehouse commissions do not apply to certain "inhouse" sales and to special order chain in sales channels II and III and have revised our calculations accordingly. We continue to deduct the full amount of direct selling expenses from commission sales, since direct selling expenses were not properly allocated to commission and non-commission sales.

Comment 3: The repondent contends that, in calculating the interest expense applicable to U.S. sales, the Department should have used the actual short-term interest expense incurred by UST, Inc. ("UST"), Tsubakimoto's U.S. subsidiary, instead of the weighted average U.S. prime rate. The Department should base interest expense on the actual experience of UST, not on an artifical rate which does not reflect the real cost to UST.

Department's position: In calculating interest expense on U.S. sales, the Department considers all short-term loans. We attempted to verify UST's interest expense for two of their fiscal years. The few short-term loans that UST did have during the periods of review were at rates that closely reflected the U.S. prime rate in effect at the time the loans were issued, as would be expected. We do not consider the U.S. prime rate to be an artifical rate, but an actual, favorable commercial loan rate. In regard to other loans that respondent claims reflect UST's actual short-term interest expense, we do not consider loans with revolving balances that are outstanding for periods longer than one year, but which have variable rates, to be short-term loans. The rate used to calculate interest expense on U.S. sales should be taken from short-term loans, not from loans with short-term rates. Since the Department needed to calculate interest expense for periods that UST did not take out short-term loans or for which information was not available, the U.S. prime rate was used as the best information available.

Comment 4: Tsubakimoto argues that the Department incorrectly calculated foreign market value ("FMV") by using the highest possible exchange rate for certain chains that were not sold in Japan and that were sold in the United States under sales channels II and III. Information in regard to the actual exchange rates that should be used was submitted to the Department prior to the date of the preliminary determination.

Department's position: We agree. This concerns items for which FMV was based upon constructed value. We originally used the highest possible exchange rate for each period, since neither sale dates nor shipment dates were shown in the response. Information on these dates was received shortly before publication of the preliminary results of review but too late to be incorporated into our preliminary analysis. We have now recalculated FMV for these items using the appropriate exchange rates.

Comment 5: The repondent claims that the Department has incorrectly calculated general expenses as a percentage of the cost of sales instead of as a percentage of sales.

Department's position: We disagree. Section 773(e)(1)(B) of the Tariff Act requires that an amount be added for

general expenses equal to that usually reflected in sales of the same general class or kind of merchandise. In order to calculate the actual amount "reflected" in sales as a percentage, we started with the cost of goods sold as found on the financial statements. We do not start with the sales amounts, since it already includes general expenses and any profit earned. Therefore, using any percentage based on sales would dilute general expenses. Since this percentage is applied to the sum of materials and fabrication costs, and not to any sales amount, it should be derived by comparing general expenses to the cost of goods sold.

To view this another way, the statute further directs that the amount added for general expenses must be at least 10 percent of the costs. It does not state that the amount be at least 10 percent of the sales.

Comment 6: Tsubakimoto argues that the Department has improperly disallowed a deduction for director's expenses. These expenses have been verified and should be allowed as a circumstance of sale adjustment in the home market. Director's expenses have been properly allocated based on time spent engaged in sales and marketing.

Department's position: We disagree. As indicated in the verification report, the amount claimed for director's expenses is an allocation of the director's bonus. The director's expenses were not shown to be sales related and are not a sales expense, but an administrative expense. Furthermore, even assuming the expenses were sales related, to be consistent there should also be an allocation of a portion of the expenses to UST as an ESP deduction.

Comment 7: Tsubakimoto claims that application of the so-called "traditional method" of analysis, upon which it relied in preparing its response, would have resulted in no or *de minimis* margins.

Further, the changes proposed in the preliminary determination are a retroactive change in policy, made without notice, an unwarranted burden, and impose a penalty for conduct which was previously permitted.

Department's position: This issue is now moot since the final margins are *de minimis* even under the new methodology. Nevertheless, the Department is permitted to select reasonable methods and to correct past errors. There can be no obligation to continue an inferior or incorrect methodology. The Department gave Tsubakimoto sufficient notice of these changes and ample time to submit additional or corrected information, as evidenced by the changes in the final results based upon our consideration of their supplemental submissions.

Comment 8: Tsubakimoto claims that the Department failed to request additional information. It states that it was not given the opportunity to provide this additional information, which was not deemed necessary until late in the review. Rather than use a worst case analysis, the Department should make use of the supplemental information which has now been submitted by Tsubakimoto and UST.

Department's position: The Department did request additional information verbally in *ex parte* meetings and in writing by issuing a "deficiency" letter. The additional information submitted by Tsubakimoto pursuant to our requests was received too late to be fully included in our preliminary analysis, but has been considered for the final determination.

Comment 9: Respondent argues that the Department has improperly applied the *de minimis* standard. First, margin calculations must consider sales in excess of FMV to offset those below FMV. This method is employed in antitrust proceedings. The Department should consider the entire product line when examining roller chain sales. It should offset any amount of underselling in one particular chain type with the excess profits on other chain types. This technique would more fairly reflect actual market experience and would not result in the artificial dumping margins created by the Department's current methods. Second, the standard for *de minimis* margins must be considered based on the volume of sales. The number of sales found to be dumped is a small percentage of total sales and the margins themselves are low.

Department's position: This issue is moot since the Department considers the revised margins to be *de minimis* for cash deposit purposes. Further, treatment of margins as *de minimis* is not based on the number of sales at margin, but on the aggregate amount by which FMV exceeds USP compared to the total amount of shipments to the United States.

Comment 10: Tsubakimoto challenges the standing of the American Chain Association ("ACA") as an interested party on the basis that ACA's membership does not produce a like product comparable to certain specially manufactured chains. In addition, Tsubakimoto notes that ACA has not shown the requisite interest of a true interested party and does not meet the definition of an interested party.

Department's position: The Department is satisfied that ACA is an interested party and a party to the proceeding as defined in the Commerce Regulations.

Final Results of the Review

As a result of the comments received, we have revised our preliminary results and we determine that the following margins exist:

Manufacturer/Exporter	Time period	Margin (percent)
Tsubakimoto Chain Company	4/1/81—3/31/82	0.18
	4/1/82—3/31/83	0.21
	4/1/83—9/1/83	0.36

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on Tsubakimoto directly to the Customs Service.

Further, since the most recent margin has been determined to be *de minimis*, the Department waives the estimated antidumping duty cash deposit requirement. For any shipments from the remaining known manufacturers and/or exporters not covered in this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after September 1, 1983, and who is unrelated to any reviewed firm or any previously reviewed firm, no cash deposit shall be required. These deposit requirements and waiver are effective for all shipments of Japanese roller chain, other than bicycle, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: May 6, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-10670 Filed 5-7-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-437-601]

Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the Hungarian People's Republic

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that tapered roller bearings and parts thereof, finished or unfinished (tapered roller bearings), from the Hungarian People's Republic (Hungary) are being, or are likely to be, sold in the United States at less than fair value. We have also determined that critical circumstances do not exist in these investigations. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to continue to suspend the liquidation of all entries of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond for each such entry in an amount equal to the estimate dumping margin as described in the "continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: May 8, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins (202/377-1756) or John R. Brinkman (202/377-3965), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that tapered roller bearings from Hungary are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act)(19 U.S.C. 1673d(a)). The weighted-average margin of sales at less than fair value is 7.42 percent.

Case History

On August 25, 1986, we received a petition in proper form filed by the Timken Company, on behalf of the United States industry producing tapered roller bearings. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Hungary are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on September 15, 1986 (51 FR 33284, September 19, 1986) and notified the ITC of our action.

On October 2, 1986, the ITC determined that there is a reasonable indication that imports of TRBs from Hungary are materially injuring a U.S. industry (U.S. ITC Pub. No. 1899, October 16, 1986).

On November 3, 1986, a questionnaire was presented to counsel for Magyar Gordulocsopagy Muvek (MGM), the only known exporter of the subject merchandise from Hungary to the United States. We received MGM's questionnaire reponse on December 10, 1986. Supplemental reponses were received on January 7, 1987, and February 24, 1987.

As discussed under the "Foreign Market Value" section of this notice, we have determined that Hungary is a state-controlled-economy country for the purpose of this investigation.

On February 2, 1987, we made an affirmative preliminary determination (52 FR 3835, February 6, 1987).

On February 25, 1987, petitioner alleged that "critical circumstances" exist with respect to imports of TRBs from Hungary. We conducted verification in Budapest and Diosd, Hungary from March 3 through 6, 1987. On March 27, 1987, we made a negative preliminary determination of "critical circumstances" (52 FR 11301, April 8, 1987). On March 20, 1987, the respondent requested a two-week extension of the final determination.

We granted that request and postponed the due date of the final determination until May 4, 1987 (52 FR 11722, April 10, 1987). A public hearing was held on March 30, 1987. As required by the Act, we afforded interested parties an opportunity to submit written comments to address the issues arising in this investigation.

Scope of Investigation

The products covered by this investigation are tapered roller bearings (TRBs), currently classified under *Tariff Schedules of the United States* (TSUS) item numbers 680.30 and 680.39; flange, take-up cartridge, and hanger units incorporating TRBs currently classified under TSUS item number 681.10; and tapered roller housing (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use, and currently classified under TSUS item numbers 692.32 or elsewhere in the TSUS.

Fair Value Comparisons

Because MGM accounted for all sales of this merchandise from Hungary, we limited our investigation to that company.

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value. We investigated sales of TRBs for the period September 1, 1985 through August 31, 1986. We used a twelve-month period of investigation because the respondent had no sales in the original six-month period of investigation.

United States Price

As provided in section 772 of the Act, we used to the purchase price of the subject merchandise to represent the United States price for sales by MGM because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the f.o.b. Hamburg, West Germany port price to unrelated purchasers. We made deductions for foreign inland freight, handling and loading charges, and a cash discount.

In accordance with the policy set forth in our final determination in the investigation of *Carbon Steel Wire Rod from Poland* (49 FR 29434, July 20, 1984), we based the inland freight deductions on charges incurred in a non-state-controlled-economy country, Portugal. Handling and loading were based on the actual charges paid by MGM in freely convertible currency to a West German freight forwarder. The cash discount was based on the actual cash discount given on certain sales or the cost of extraordinary terms of payment on other sales. Since the extraordinary credit terms were converted to a cash discount, we treated the extraordinary credit terms as being equivalent to a cash discount.

Foreign Market Value

Petitioner alleged that Hungary is a state-controlled-economy country and that sales of the subject merchandise in that country do not permit a determination of foreign market value under section 773(a) of the Act. After an analysis of the Hungarian economy, and consideration of the briefs submitted by

the parties, we concluded that Hungary is a state-controlled-economy for purposes of this investigation. Basic to our decision is the degree of direct and indirect central control that the Hungarian government exercises over the prices and levels of production of the TRB industry, as well as the internal pricing of the factors of production.

As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchandise in a "non-state-controlled-economy" country. The statute further stipulates that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled-economy" country at a stage of economic development comparable to the country with the state-controlled economy.

We subsequently determined that Argentina, Brazil, Mexico, Portugal and Yugoslavia would be the most appropriate surrogates. South Korea and Spain were selected as alternative surrogates. We sent questionnaires requesting assistance in this investigation to TRB producers in Argentina, Brazil, Mexico, South Korea and Spain. We did not send questionnaires to Portugal because there were no TRB producers in that country. We did not sent questionnaires to Yugoslavia because we are currently conducting an antidumping duty investigation on TRBs from that country. Although the Department made numerous efforts to obtain the cooperation of these potential respondents, we received no response from any company to which the Department sent questionnaires.

Following the Department's hierarchy of preferences under § 353.8(a), we analyzed the import prices from the comparable non-state-controlled-economy countries. In this case, we found the applicable Department of Commerce statistics for the subject merchandise were based on categories that were too broad to make specific comparisons. Additionally, U.S. imports from the surrogate countries where there were measurable imports may have benefited from export subsidies, which would make them inappropriate for calculating foreign market value.

Since we were unable to obtain verifiable prices or constructed value data from the potential surrogate companies in comparable economies, we used the factors of production valued in a comparable economy as provided for in § 353.8(c), as the basis for determining foreign market value. We calculated constructed value based on the factors of production reported by the Hungarian producer which accounts for all of the Hungarian exports to the United States of the subject merchandise.

We used the best information available for valuing the factors of production. Where possible, best information available was obtained from publicly available sources in Portugal or from a surrogate company in the metals processing industry in Portugal. We chose Portugal as the surrogate for purposes of valuation of the factors of production because we were able to obtain more complete publicly available data from that country as opposed to the other surrogate countries. We valued labor, direct factory overhead and raw materials for certain TRB components from information obtained from the surrogate company in Portugal. Other raw material costs were based on the verified costs to the Hungarian producer for imports of certain steel products from market economies. In such instances, the steel was paid for in freely convertible currency. Terms of payment did not encompass countertrade. Commissions charged by the Hungarian importer to MGM as a percentage of the cost of goods, and delivery costs valued using Portuguese freight rates, were added to the cost of the imported steel. Packing was obtained from publicly available data in the public version of the response of a market-economy country TRB producer involved in a current antidumping duty investigation. We used the statutory minimum of 10 percent of the sum of material and production costs for general, sales and administrative expenses and the statutory minimum of eight percent for profit.

When using surrogate country data, we made currency conversions in accordance with § 353.56(a) of our regulations, using certified exchange rates as furnished by the Federal Reserve Bank of New York.

Verification

As provided in section 776(a) of the Act, we verified information provided by the respondent, using standard verification procedures, including examination of accounting records and original source documents containing relevant information on selected sales.

Comments Section

Petitioner's Comments

Comment #1: Petitioner argues that the Department may not use the factors of production constructed value method provided for in § 353.8(c) of the Commerce regulations as the basis for foreign market value in this investigation.

Petitioner contends that § 353.8 (a) and (b) of the Commerce regulations establishes a hierarchy for determining foreign market value in which prices and constructed value of such or similar merchandise take preference over the factors of production constructed value method under § 353.8(c). The Department must first consider prices and constructed value of such or similar merchandise under § 353.8 (a) and (b) in the following order of preference: (1) A non-state-controlled-economy country at a stage of economic development comparable to the state-controlled-economy country from which the merchandise is exported; (2) a non-state-controlled-economy country not necessarily at a stage of economic development comparable to the state-controlled-economy country, other than the United States, suitably adjusted for known differences in costs of materials and labor; and (3) the United States. According to the petitioner, the Department must exhaust all of these established preferences before resorting to the factors of production approach.

DOC position: We disagree. Petitioner's hierarchy of methods for calculating foreign market value, under which the factors of production constructed value approach would be a last resort, is based upon a misconception of 19 CFR 353.8 and applicable precedent. The Commerce regulation and past Departmental practice does establish a preference for the use of comparable economy sales prices and constructed value as the basis for foreign market value. However, it is not true, as petitioner claims, that under § 353.8(b) foreign market value based on sales prices or constructed value in a non-state-controlled-economy country not at a comparable stage of economic development are preferable to the factors of production constructed value approach under § 353.8(c).

Section 353.8(b)(1) of the regulations makes clear that the preference in favor of sales prices is tempered by the overriding preference for ascertaining foreign market value by reference to *comparable* non-state-controlled-economies. *Chemical Products Corp.* v. *United States*, 12 CIT ———, Slip Op. 86–97 (September 26, 1986). The Department would arrive at § 353.8(b)(2) only after it has exhausted the pricing and constructed value options in comparable economies, i.e., under § 353.8 (a) and (c).

In this case, verifiable and otherwise acceptable surrogate sales price and constructed value information was not

available from TRB producers in any of the non-state-controlled-economy countries determined by the Department to be at stages of economic development comparable to that of Hungary. The Department sent surrogate questionnaires to seven firms in these countries. None of these firms was willing to provide the information sought in the questionnaire (See DOC response to petitioner's comment #2 for the Departments position with respect to price and constructed value data provided by the petitioner). (See DOC response to petitioner's comment #3 for the Department's handling of prices obtained from U.S. import statistics). However, the Department was able to obtain and verify the respondent's factors of production information and value such information in a comparable economy. Therefore, factors of production constructed value methodology has been used for purposes of determining foreign market value with respect to the final determination in this investigation.

Comment #2: Petitioner argues that, since the Department was unable to obtain verifiable prices and constructed value information from the TRB producers in comparable surrogates to whom it sent questionnaires, the Department must use the surrogate country price and constructed value information provided by the petitioner. The petitioner has supplied the Department with price lists for almost all the TRB part numbers exported by the respondent from almost all of the surrogate countries chosen by the Department. In addition, petitioner's subsidiary in a surrogate country has voluntarily responded to the Department's questionnaire, furnishing data on both its home market sales and its cost of production.

DOC position: In selecting potential surrogate respondents, the Department initially identified five (later increased to seven) comparable (surrogate) economies. The Department requested and received assistance from both the petitioner and respondent in identifying TRB producers in those seven surrogate countries. Ultimately, the Department identified fourteen TRB producers and sent seven TRB producers in five surrogate countries questionnaires requesting pricing, constructed value and valuation of factors of production information. No questionnaires were sent to the other seven TRB producers because they were either: (1) Located in a country subject to a current antidumping investigation; (2) identified as being related to a company subject to a current antidumping investigation on TRBs; or (3) identified as being related to the petitioner in this proceeding.

The Department used these criteria for eliminating TRB producers after determining that the relationship of TRB producers to the petitioner or other parties subject to an antidumping proceeding might raise questions as to the propriety of the information submitted. Furthermore, the Department determined that it had an adequate number of TRB producers to whom to send questionnaires.

The petitioner was aware of the Department's selection of surrogate producers and did not submit objections to the Department's rejection of potential surrogate respondents at the time the questionnaries were sent out. The petitioner first raised objections to the Department's surrogate selections after the preliminary determination.

Additionally, with the possible exception of the voluntary response of the petitioner's subsidiary in a surrogate country which "volunteered" to be verified, none of the price list data submitted by the petitioner is verifiable. It is not our practice to use price lists for comparison purposes, nor do we have sufficient verifiable information to allow us to make the necessary adjustments to these prices. With regard to the petitioner's subsidiary's respnse, we note that the response was not received until one month after the Department's preliminary determination. It has been the Deprtments's position that in order to even be considered in a final determination, a complete and full voluntary response must be received by the date of the preliminary determination.

Comment #3: Petitioner contends that under § 353.8(a), the Department must consider U.S. import statistics for TRBs from the selectd surrogate countries before considering use of factors of production. Such import statistics have been used in prior non-market-economy investigations, where the Department has been unable to obtain surrogate country producer prices, as being representative of third country prices form the surrogate country.

DOC position: We disagree that the use of import statistics is appropriate in this investigation. Although the subject TSUS numbers do cover complete sets of TRBs, as well as TRB cups and cones, these tariff categories cover a great range of dimensions. Additionally, imports from the surrogate countries, where there were measurable imports, benefited from export subsidies, which makes them inappropriate for foreign market value calculations.

Comment #4: Petitioner questions the Department's decision to request factors of production data from the MGM Diosd TRB production plant and not two other MGM plants. Under the Department's consistent practice, MGM should provide the factors of production for all plants producing TRBs, regardless of whether the bearings produced are for export or not, and whether producton is primarily of inch- or metric-denominated bearings, or large- or small-dimensioned bearings. Since this data was not submitted, the Department is deprived of information necessary for determining foreign market value based on factors of production and must instead rely on the best information otherwise available.

DOC position: Although the Department did initially request factors of production data from MGM for all three plants, subsequent submissions by MGM led the Department to revise that request to cover the Diosd factory only. The Department's past practice in determining which factories in a non-market-economy investigation would be required to submit factors of production data has been to first gather information (which would be subject to verification) on each factory's production capacity, production processes, products produced, volume of domestic and export sales and age of the factory. Based on this data, the Department would decide which plant or plants would be required to submit the factors of production information.

In this investigation, the Department made the decision to limit the reporting of factors to the Diosd plant based on the data submitted which indicated that the Diosd plant accounted for all of the production and sales of the size and type of TRBs exported to the United States from Hungary. The subsequent verification established to the Department's satisfaction that this representation was correct. In the one instance where a second plant produced a TRB component used in the assembly of the subject TRBs in the Diosd plant, the factors of production for this component were obtained during verification. Accordingly, foreign market value has been based on the factors of production as verified.

Comment #5: Petitioner argues that the Department is precluded from using the factors of production constructed value method because § 353.8(c) provides that it should be used where "such or similar merchandise *is not* produced" in a comparable market-economy country, and in this case such or similar merchandise *is* produced in such countries.

DOC position: We disagree. None of the seven producers in surrogate countries to which we sent questionnaires were willing to provide the Department with the price and constructed value information which we sought. We consider the absence of surrogate producer responses tantamount to a situation in which such or similar merchandise is not produced in a comparable market-economy country. See, *Barium Carbonate from the People's Republic of China* (49 FR 33913, 1984).

Comment #6: As noted in the Department's verification report, MGM incurs containerization charges in the West German port. Since these are part of MGM's movement changes and are incurred in a non-state-controlled-economy country, the actual charges should be deducted from the U.S. price.

DOC position: We agree. The actual charges incurred by MGM on each shipment have been deducted from the U.S. price.

Comment #7: In calculating foreign market value. The Department should adjust the foreign prices to account for differences in the circumstances of sale between sales in the United States and sales in the foreign market for expenses for credit, warranties, commission, technical services, and advertising. To adjust for differences in circumstances of sales, the Department should deduct from foreign market value the cost of these expenses in the home market of the surrogate country, and then add to foreign market value the cost of these expenses on sales by the producer under investigation to the United States. *See, e.g., Potassium Chloride from the Union of Soviet Socialist Republics.* (50 FR 4562, 4563, 1985).

These adjustments should be based on the experience of the petitioner's TRB subsidiary in Brazil.

DOC position: We disagree. In this investigaiton the Department has valued factors of production in a comparable surrogate country using the best information available. The specificity of the data obtained for valuing the factors is not sufficient for us to identify the directly related selling expense adjustments which would have to be made to foreign market value for both U.S. price and constructed value. Absent specific information that the respondent incurs extraordinary directly related selling expenses for U.S. sales, the Department assumed, as best information available, that ordinary and similar selling expenses occur in both markets and, as such, offset one another.

For reasons stated in the "DOC Position" to petitioner's comment #2, we have not considered the data submitted by the petitioner for its subsidiary in Brazil.

Comment #8: Petitioner contends that the Department's preliminary determination methodology for calculating direct factory overhead seriously understated the factory overhead element of the constructed value by omitting various cost categories. Petitioner contends that in valuing the factory overhead in an appropriate surrogate the Department should independently value such cost categories as energy utilization, tools, lubricants, work clothes, maintenance materials, machines, equipment and buildings, natural gas, depreciation, contracted repair, and other factory overhead. The factory overhead experience of the petitioner's subsidiary in Brazil, a surrogate country chosen by the Department, as well as that of the petitioner itself and several Japanese producers, is indicative of an appropriate factory overhead rate which is inclusive of these cost categories.

DOC position: We disagree with the petitioner's requirement that all elements of factory overhead be individually valued. The Department has obtained, and used as the best information available, a factory overhead rate from a surrogate company in the metal processing industry in Portugal. This overhead rate is expressed as a percentage of cost of goods sold and as such is inclusive of all elements of factory overhead.

With regard to petitioner's request that we use the average factory overhead experience of Japan and the United States as being representative of the Hungarian industry, the Department considers the factory overhead experience of a surrogate company in a comparable-economy country (notwithstanding the fact that the company is not involved in the production of TRBs) preferable to the alternatives offered by the petitioner.

We are required to select a comparable economy in which to value the factors of production information. The rationale behind selecting a comparable economy is that the experience of a producer in a comparable-economy country is reflective of the same degree of economic and industrial development as that of a producer in a non-market-economy country. The United States and Japanese overhead ratios offered by the petitioner, on the other hand, are for fully industrialized economies whose TRB producers use highly automated, state-of-the-art production equipment, in which factory overhead is high and direct labor low. The Hungarian production facilities use less automated and less sophisticated machinery and are much more labor intensive. In such instances, direct factory overhead would be lower and direct labor higher than for U.S. and Japanese TRB producers.

For reasons stated in the "DOC Position" section to petitioner's comment #2, we have not considered the data submitted by the respondent for its subsidiary in Brazil.

Comment #9: Petitioner asserts that if the Department persists in using factors of production, constructed value should be based upon costs and expenses incurred in Brazil in the production of bearings, not those incurred generally in Portugal. Petitioner states that the Department is prohibited by statute from using Portugal, a country which has no TRB industry, as a surrogate for valuing the factors of production. The applicable statute provides for the Department's use of constructed value only with respect to "such or similar merchandise" in a non-state-controlled-economy country.

DOC position: We disagree. In cases involving state-controlled-economy countries, we devise our list of potential surrogates on the basis of the comparability of their economies to that of the state-controlled-economy country under investigation, not on the presence or absence of an industry within that potential surrogate producing such or similar merchandise to that which is subject to the investigation. The Department valued the factors of production data in Portugal because it was the comparable surrogate country from which the most complete data was available. The Department did not use the constructed value information provided by the petitioner for its subsidiary in Brazil for reasons stated in the Department's response to petitioner's comment #2.

Comment #10: Petitioner maintains that, for purposes of valuing factors of production, using the prices that Hungary (MGM) pays the United Kingdom, Sweden and the Federal Republic of Germany for various steel inputs is not permissible under the Statute.

Section 773(c) states that in the case of a state-controlled-economy country, the administering authority *shall* determine the foreign market value on the basis of prices in a non-state-controlled economy (or prices from that country to a third country). 19 U.S.C. 1677b(c) (emphasis added). The statute does not provide discretion to choose some of the input costs actually incurred in a state-controlled economy and other

costs incurred in a surrogate country and to mix the two values in arriving at constructed value.

DOC Position: We disagree. We used the prices paid by the Hungarian importer for grades and dimensions of steel used in the production of certain components of the TRBs as best information available because we did not have such specific information in Portugal, our surrogate country. These prices were not set in the state-controlled-economy country but rather in the non-state-controlled-economy countries of Western Europe. An extensive verification of this data showed that the prices and terms were freely negotiated in Western European market economies and that payment was made by the Hungarian importer to Western European steel producers in freely convertible currency. The Hungarian importer, who acted as a purchasing agent for MGM, charged MGM a commission for its services. Accordingly, the import price used in valuing the appropriate factors of production was increased by the amount of the commission charged.

Comment # 11: Petitioner advocates the use of actual West German freight rates as the basis for calculating foreign inland freight expense. Petitioner further contents that the Department's use of surrogate rates (Portuguese freight rates) is unnecessary for purposes of the final determination due to the availability of a free-market rate for inland freight in West Germany.

DOC Position: We disagree. The intent of using a surrogate country's information is to allow for a comparison between the state-controlled-economy country under investigation and the non-state-controlled-economy country to which its economy is most comparable. Therefore, inland freight rates in Portugal are preferable to those of West Germany for purposes of establishing a value for Hungarian inland freight rates.

Respondent's Comments

Comment #1: Respondent contends that constructed value (based upon factors of production) is the most appropriate methodology for calculating foreign market value in this investigation. Respondent also believes that Portugal is the most appropriate surrogate country.

DOC position: For reasons set forth in "DOC Position" section of the petitioner's comment #1, we agree.

Comment #2: Respondent feels that, in calculating a constructed foreign market value, the amount added for factory overhead should be based on experience in the surrogate market-economy country, in this case Portugal.

DOC position: We agree. The Department developed, for purposes of its final determination, an amount for overhead based on best information available which was the experience in Portugal of a company in the metals processing industry. We added this amount for overhead to the direct costs of production for purposes of determining foreign market value.

Comment #3: Respondent questions the Department's basing MGM's packing costs on information supplied in the investigation involving TRBs from Italy. Two reasons cited are: One, Italy is not at a stage of economic development comparable to that of Hungary and, therefore, was not chosen by the Department as a possible surrogate in this investigation; two, respondent fears that double-counting of such items as containerization and packing labor will occur.

DOC position: Since we were not able to obtain the information necessary to value packing data in a surrogate country, we have used as best information available the packing cost information in the public response of an Italian TRB producer. Since the cost of containerization in Hungary was included in the freight forwarder costs, containerization costs have been deducted from the Italian packing costs. Packing labor has been excluded from the direct labor input.

Comment #4: Respondent argues that the Department should not use the pricing data supplied by the petitioner because the data is unverified, is unsolicited, and is supplied by a company related to or controlled by an interested party to this investigation.

DOC Position: For reasons set forth in the "DOC Position" section of petitioner's comment #2, we have not used the information supplied by the petitioner.

Comment #5: Respondent maintains that the factors of production information it provided for the Diosd factory is a sufficient basis for an accurate and complete constructed value calculation.

DOC Position: For reasons set forth in the "DOC Position" section of petitoner's comment #4, we agree.

Comment #6: Respondent holds that the Department's use (for purposes of the preliminary determination) of the convertible currency prices actually paid for steel inputs from West European supplier was correct and will yield the most accurate foreign market value for purposes of the final determination.

DOC position: For reasons set forth in the "DOC Position" section of petitioner's comment #10, we agree.

Comment #7: Respondent supports the Department's method of valuing inland freight based on rates in the surrogate country (Portugal). Respondent believes that this approach should be used for the final determination.

DOC position: For reasons established in the "DOC Position" section of petitioner's comment #11, we agree and have used inland freight data valued in Portugal for purposes of our final determination.

Interested Party Comments

Comments #1: Marsuda-Rodgers (an importer of TRBs from Hungary) contends that, although some Hungarian and domestically-produced TRBs may share identical identification numbers, they are not necessarily interchangeable. Marsuda-Rodgers points out that domestically-produced TRBs are case-carburized as opposed to Hungarian-produced TRBs, which are through-hardened. Marsuda-Rodgers asserts that case-carburized TRBs (produced domestically, not in Hungary), because of their inherent capacity to withstand high pressure usage, can command a higher price in the market and, therefore, cannot reasonably be compared to Hungarian TRBs, which are not as well-suited for high-pressure situations.

Therefore, if the Department uses price-to-price comparisons for purposes of its final determination, and uses case-carburized TRBs produced in a surrogate country as a basis for foreign market value, it should devise a method for making adjustments for differences in the subject merchandise.

DOC position: As we are not basing our final determination upon price-to-price comparisons, but rather on constructed value based upon factors of production, this issue need not be addressed for purposes of our final determination.

Negative Determination of Critical Circumstances

On February 25, 1987, counsel for petitioner alleged that imports of TRBs from Hungary present "critical circumstances." In determining whether critical circumstances exist, section 735(a)(3) of the Act requires that we examine whether:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject

of the investigation at less than fair value; and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(e)(1)(A), we reviewed past antidumping findings of the Department of Treasury as well as past Department of Commerce antidumping orders to determine whether there is a history of dumping of TRBs from Hungary in the United States or elsewhere. There have been no past United States antidumping determinations on TRBs from Hungary. We also reviewed the antidumping actions of other countries made available to us through the Antidumping Code Committee established by the General Agreement on Tariffs and Trade. We found no history of this product being dumped from Hungary.

We then considered whether the persons by whom, or for whose account, this product was imported knew or should have known that it was being sold at less than fair value. We have no evidence that the importers had such knowledge. Nor is the weighted-average margin found in our final determination (7.42 percent) sufficiently large in and of itself for us to assume that the importers should have known that the product was being sold at less than fair value. Accordingly, having failed the first prong of the test, there is no need to consider whether the second prong, massive imports, under section 735 (e)(1)(B) of the Act applies.

For reasons described above, we have determined that "critical circumstances" do not exist with respect to TRBs from Hungary.

Continuation of Suspension of Liquidation

In accordance with section 735(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of TRBs from Hungary that are entered or withdrawn from warehouse, for consumption, or or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond on all such entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which is 7.42 percent of the ex-factory value. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will make its determination whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the date of this determination. If the ITC determines that material injury, or threat of material injury, does not exists, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled.

However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs Officers to assess an antidumping duty on TRBs from Hungary entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

May 4, 1987.

[FR Doc. 87-10533 Filed 5-7-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-485-602]

Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the Socialist Republic of Romania

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that tapered roller bearings and parts thereof, finished or unfinished (tapered roller bearings), from the Socialist Republic of Romania (Romania) are being, or are likely to be, sold in the United States at less than fair value. We have also determined that critical circumstances do exist in this investigation. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to continue to suspend the liquidation of all entries of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin as described in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: May 8, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins (202/377-1756) or John R. Brinkmann (202/377-3965), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that tapered roller bearings from Romania are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). The weighted-average margin of sales at less than fair value is 8.70 percent.

Case History

On August 25, 1986, we received a petition in proper form filed by the Timken Company, on behalf of the U.S. industry producing tapered roller bearings. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Romania are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on September 15, 1986 (51 FR 33287, September 19, 1986) and notified the ITC of our action.

On October 2, 1986, the ITC determined that there is a reasonable indication that imports of tapered roller bearings from Romania are materially

injuring a United States industry (U.S. ITC Pub. No. 1899, October 16, 1986).

On November 3, 1986, a questionnaire was presented to the Embassy of Romania. On December 22, 1986, we received a response from Tehnoimportexport, the only known exporter of the subject merchandise from Romania to the United States. Supplemental responses were received on January 20, 1987, and February 23, 1987.

As discussed under the "Foreign Market Value" section of this notice, we have determined that Romania is a state-controlled-economy country for the purpose of this investigation.

On February 2, 1987, we made an affirmative preliminary determination (52 FR 3838, February 6, 1987).

On February 25, 1987, petitioner alleged that "critical circumstances" exist with respect to imports of tapered roller bearings from Romania. We conducted verification in Bucharest and Brasov, Romania, March 9 through March 13, 1987. A hearing we held on March 26, 1987. On March 27, 1987, we made a preliminary affirmative determination of "critical circumstances" (52 FR 11303, April 8, 1987). On March 30, 1987, respondent requested a two-week extension of the final determination. We granted that request and postponed the final determination until May 4, 1987 (52 FR 11722, April 10, 1987).

As required by the Act, we afforded interested parties an opportunity to submit written comments to address the issues arising in this investigation.

Scope of Investigation

The products covered by this investigation are tapered roller bearings (TRBs), currently classified under *Tariff Schedules of the United States* (TSUS) item numbers 680.30 and 680.39; flange, take-up cartridge, and hanger units incorporating tapered roller bearings currently classified under TSUS item number 681.10; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use, and currently classified under TSUS item numbers 692.32 or elsewhere in the TSUS.

Fair Value Comparisons

Because Tehnoimportexport accounted for all sales of this merchandise from Romania, we limited our investigation to that company.

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value. We investigated sales of TRBs for the period September 1, 1985, through August 31, 1986. We used a twelve-month period of investigation because the respondent had insufficient sales in the original six-month period of investigation.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by Tehnoimportexport because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the f.o.b. Romanian port price to unrelated purchasers. We made deductions for foreign inland freight, and handling and loading charges.

In accordance with the policy set forth in our final determination in the investigation of *Carbon Steel Wire Rod from Poland* (49 FR 29434, July 20, 1984), we based the inland freight deduction on similar charges incurred in a non-state-controlled-economy country, Portugal. Handling and loading were based on best information available, which was the publicly available actual handling and loading charges paid by a Hungarian exporter for TRB exports to the United States.

Foreign Market Value

Petitioner alleged that Romania is a state-controlled-economy country and that sales of the subject merchandise in that country do not permit a determination of foreign market value under section 773(a) of the Act. After an analysis of the Romanian economy, and consideration of the briefs submitted by the parties, we concluded that Romania is a state-controlled-economy country for purposes of this investigation. Basic to our decision on this issue is the fact that the central government of Romania controls the prices and levels of production of the TRB industry, as well as the internal pricing of the factors of production.

As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchandise in a "non-state-contolled-economy" country. The statute stipulates that, to the extent possible, we should use sales prices or constructed value in a "non-state-controlled-economy" country at a stage of economic development comparable to the country with the state-controlled economy.

We subsequently determined that Argentina, Brazil, Mexico, Portugal and Yugoslavia would be the most appropriate surrogates. South Korea and Spain were selected as alternative surrogates. We sent questionnaires requesting assistance in this investigation to producers of TRBs in Argentina, Brazil, Mexico, South Korea and Spain. We did not send questionnaires to Portugal because there were no TRB producers in that country. We did not send questionnaires to Yugoslavia because we are currently conducting an antidumping duty investigation on TRBs from the country. Although the Department made numerous efforts to attain the cooperation of these potential surrogate respondents, we received no response from any company to which the Department sent questionnaires.

Following the Department's hierarchy of preferences under § 353.8(a), we analyzed the import prices from the comparable non-state-controlled-economy countries. In this case, we found the applicable Department of Commerce statistics for the subject merchandise were based on categories that were too broad to make specific comparisons. Additionally, U.S. imports from the surrogate countries where there were measurable imports may have benefited from export subsidies, which would make them inappropriate for foreign market value calculations.

Since we were unable to obtain verifiable prices or constructed value data from the potential surrogate companies in comparable economies, we used the factors of production valued in a comparable economy, as provided for in § 353.8(c), as the basis of foreign market value. We calculated constructed value based on the factors of production reported by Tehnoimportexport on behalf of the Romanian producers which account for 100 percent of the exports to the United States of the subject merchandise.

We used the best information available for valuing the factors of production. Where possible, best information available was obtained from publicly available sources in Portugal or from a surrogate company in the metals processing industry in Portugal. We chose Portugal as the surrogate for purposes of valuation of the factors of production because we were able to obtain more complete publicly available data from that country as opposed to the other surrogate countries. We valued direct factory overhead and raw materials for certain TRB components from information obtained from the surrogate company in Portugal. Other raw material costs for Romania factors of production were based on the average prices obtained from publicly available

import prices paid by a Hungarian producer of TRBs for imports of certain steel products from market economies; or the average invoice price charged by the petitioner in the United States for certain grades and sizes of steel. Labor value was based on average fully loaded labor rates provided by the American Embassy in Portugal. This rate was corroborated by labor rates obtained from the Bureau of Labor statistics for the Portugal metals processing industry. Packing was obtained from data in the public version of the response of a market-economy-country TRB producer involved in a current antidumping duty investigation. We used the statutory minimum of 10 percent of the sum of material and production costs for general, sales and administrative expenses and the statutory minimum of eight percent for profit.

When using surrogate country data, we made currency conversions in accordance with § 353.56(a)(1) of our regulations, using certified exchange rates as furnished by the Federal Reserve Bank of New York.

Verification

As provided in section 776(a) of the Act, we verified information provided by the respondent, using standard verification procedures, including examination of accounting records and original source documents containing relevant information on selected sales.

Comments Section

Petitioner's Comments

Comment #1: Petitioner argues that the Department may not use the factors of production constructed value method provided for in § 353.8(c) of the Commerce regulations as the basis for foreign market value in this investigation.

Petitioner contends that § 353.8 (a) and (b) of the Commerce regulations establishes a hierarchy for determining foreign market value in which prices and constructed value of such or similar merchandise take preference over the factors of production constructed value method under § 353.8(c). The Department must first consider prices and constructed value of such or similar merchandise under § 353.8 (a) and (b) in the following order of preference: (1) A non-state-controlled-economy country at a stage of economic development comparable to the state-controlled-economy country from which the merchandise is exported; (2) a non-state-controlled-economy country not necessarily at a stage of economic development comparable to the state-controlled-economy country, other than the United States, suitably adjusted for known differences in costs of materials and labor; and (3) the United States. According to the petitioner, the Department must exhaust all of these established preferences before resorting to the factors of production approach.

DOC position: We disagree. Petitioner's hierarchy of methods for calculating foreign market value, under which the factors of production constructed value approach would be a last resort, is based upon a misconception of 19 CFR 353.8 and applicable precedent. The Commerce regulation and past Departmental practice does establish a preference for the use of comparable economy sales prices and constructed value as the basis for foreign market value. However, it is not true, as petitioner claims, that under § 353.8(b) foreign market value based on sales prices or constructed value in a non-state-controlled-economy country not at a comparable stage of economic development are preferable to the factors of production constructed value approach under § 353.8(c).

Section 353.8(b)(1) of the regulations makes clear that the preference in favor of sales prices is tempered by the overriding preference for ascertaining foreign market value by reference to *comparable* non-state-controlled economies. *Chemical Products Corp.* v. *United States*, 12 CIT____, Slip Op. 86-97 (September 26, 1986). The Department would arrive at § 353.8(b)(2) only after it has exhausted the pricing and constructed value options in comparable economies, i.e., under § 353.8 (a) and (c).

In this case, verifiable and otherwise acceptable surrogate sales price and constructed value information was not available from TRB producers in any of the non-state-controlled-economy countries determined by the Department to be at stages of economic development comparable to that of Romania. The Department sent surrogate questionnaires to seven firms in these countries. None of these firms were willing to provide the information sought in the questionnaire (See DOC response to petitioner's comment #2 for the Department's position with respect to price and constructed value data provided by the petitioner). (See DOC response to petitioner's comment #3 for the Department's handling of prices obtained from U.S. import statistics.) However, the Department was able to obtain and verify the respondent's factors of production information and value such information in a comparable economy. Therefore, factors of production constructed value methodology has been used for purposes of determining foreign market value with respect to the final determination in this investigation.

Comment #2: Petitioner argues that, since the Department was unable to obtain verifiable prices and constructed value information from the TRB producers in comparable surrogates to whom it sent questionnaires, the Department must use the surrogate country price and constructed value information provided by the petitioner. The petitioner has supplied the Department with price lists for almost all the TRB part numbers exported by the respondent from almost all of the surrogate countries chosen by the Department. In addition, petitioner's subsidiary in a surrogate country has voluntarily responded to the Department's questionnaire, furnishing verifiable data on both its home market sales and its cost of production.

DOC position: In selecting potential surrogate respondents, the Department initially identified five (later increased to seven) comparable (surrogate) economies. The Department requested and received assistance from both the petitioner and respondent in identifying TRB producers in those seven surrogate countries. Ultimately, the Department identified fourteen TRB producers and sent seven TRB producers in five surrogate countries questionnaires requesting pricing, constructed value and valuation of factors of production information. No questionnaires were sent to the other seven TRB producers because they were either: (1) Located in a country subject to a current antidumping investigation; (2) identified as being related to a company subject to a current antidumping investigation on TRBs; or (3) identified as being related to the petitioner in this proceeding.

The Department used these criteria for eliminating TRB producers after determining that the relationship of TRB producers to the petitioner or other parties subject to an antidumping proceeding might raise questions as to the propriety of the information submitted. Furthermore, the Department determined that it had an adequate number of TRB producers to whom to send questionnaires.

The petitioner was aware of the Department's selection of surrogate producers and did not submit objections to the Department's rejection of potential surrogate respondents at the time the questionnaires were sent out. The petitioner first raised objections to the Department's surrogate selections after the preliminary determination.

Additionally, with the possible exception of the voluntary response of

the petitioner's subsidiary in a surrogate country which "volunteered" to be verified, none of the price list data submitted by the petitioner is verifiable. It is not our practice to use price lists for comparison purposes, nor do we have sufficient verifiable information to allow us to make the necessary adjustments to these prices. With regard to the petitioner's subsidiary's response, we note that the response was not received until one month after the Department's preliminary determination. It has been the Department's position that, in order to be considered in a final determination, a complete and full voluntary response must be recieved by the date of the preliminary determination.

Comment #3: Petitioner contends that under § 353.8(a), the Department must consider U.S. import statistics for TRBs from the selected surrogate countries before considering use of factors of production. Such imports statisitcs have been used in prior non-market-economy investigations where the Department has been unable to obtain surrogate country producer prices, as being representative of third country prices from the surrogate country.

DOC position: We disagree that the use of import statistics is appropriate in this investigation. Although the subject TSUS numbers do cover complete sets of TRBs, as well as TRB cups and cones, these tariff categories cover a great range of dimensions. Additionally, imports from the surrogate countries, where there were measurable imports, benefited from export subsidies, which makes them inappropriate for foreign market value calculations.

Comment #4: Petitioner contends that factors of production, to the extent they are based on the Romanian response, should include the weighted average cost components from both the Brasov and Alexandria plants, which export TRBs to the United States, as well as the two other palnts which do not export TRBs to the United States. Petitioner claims that it is not consistent with Department precedent to limit the average only to TRB production facilities producing for export to the United States.

DOC position: Although the Department did initially request factors of production data from Tehnoimportexport for all plants, subsequent submissions by Tehnoimportexport led the Department to revise that request to cover the Brasov and Alexandria factories only. The Department's past practice in determining which factories in a non-market-economy investigation would be required to submit factors of production data has been to first gather information (which would be subject to verification) on each factory's production capacity, production processes, products produced, volume of domestic and export sales and age of the factory. Based on this data, the Department would decide which plant or plants would be required to submit the factors of production information.

In this investigation, the Department made the decision to limit the reporting of factors to these two plants based on the data submitted which indicated that these plants accounted for 100 percent of sales of the size the type of TRBs exported to the United States from Romania. The subsequent verification established to the Department's satisfaction that this representation was correct. Accordingly, where both plants produced the same TRB, we have weight averaged the factors of production in calculating foreign market value.

Comment #5: Petitioner argues that the Department is precluded from using the factors of production constructed value method because § 353.8(c) provides that it should be used where "such or similar merchandise *is not* produced" in a comparable market-economy country, and in this case such or similar merchandise *is* produced in such countries.

DOC position: We disagree. None of the seven producers in surrogate countries to which we sent questionnaires were willing to provide the Department with the price and constructed value information which we sought. We consider the absence of surrogate producer responses tantamount to a situation in which such or similar merchandise is not produced in a comparable market-economy country. See, *Barium Carbonate from the People's Republic of China*, 49 FR 33913 (1984).

Comment #6: Petitioner asserts that if the Department persists in using factors of production, constructed value should be based upon costs and expenses incurred in Brazil in the production of bearings, not those incurred generally in Portugal. Petitioner states that the Department is prohibited by statute from using Portugal, a country which has no TRB industry, as a surrogate for valuing the factors of production. The applicable statute provides for the Department's use of constructed value only with respect to "such or similar merchandise" in a non-state-controlled-economy country.

DOC position: We disagree. In cases involving state-controlled-economy countries, we devise our list of potential surrogates on the basis of the comparability of their economies to that of the state-controlled-economy country under investigation, not on the presence or absence of an industry within that potential surrogate producing such or similar merchandise to that which is subject to the investigation. The Department valued the factors of production data in Portugal because it was the comparable surrogate country from which the most complete data was available. The Department did not use the constructed value information provided by the petitioner for its subsidiary in Brazil for reasons stated in the Department's response to petitioner's comment #2.

Comment #7: Petitioner contends that the Department's preliminary determination methodology for calculating direct factory overhead seriously understated the factory overhead element of the constructed value by omitting various cost categories. Petitioner contends that in valuing the factory overhead in an appropriate surrogate the Department should independently value such cost categories as energy utilization, tools, lubricants, work clothes, maintenance materials, machines, equipment and buildings, natural gas, depreciation, contracted repair, and other factory overhead. The factory overhead experience of the petitioner's subsidiary in Brazil, a surrogate country chosen by the Department, as well as that of the petitioner itself and several Japanese producers, is indicative of an appropriate factory overhead rate which is inclusive of these cost categories.

DOC position: We disagree with the petitioner's requirement that all elements of factory overhead be individually valued. The Department has obtained, and used as the best information available, a factory overhead rate from a surrogate company in the metal processing industry in Portugal. This overhead rate is expressed as a percentage of cost of goods sold and as such is inclusive of all elements of factory overhead.

With regard to petitioner's request that we use the average factory overhead experience of Japan and the United States as being representative of the Romanian industry, the Department considers the factory overhead experience of a surrogate company in a comparable-economy country (notwithstanding the fact that the company is not involved in the production of TRBs) preferable to the alternatives offered by the petitioner.

We are required to select a comparable economy in which to value the factors of production information. The rationale behind selecting a

comparable economy is that the experience of a producer in a comparable-economy country is reflective of the same degree of economic and industrial development as that of a producer in a non-market-economy country. The United States and Japanese overhead ratios offered by the petitioner, on the other hand, are for fully industrialized economies whose TRB producers use highly automated, state-of-the-art production equipment, in which factory overhead is high and direct labor low. The Romanian production facilities use less automated and less sophisticated machinery and are much more labor intensive. In such instances, direct factory overhead would be lower and direct labor higher than for U.S. and Japanese TRB producers.

For reasons stated in the "DOC Position" section to petitioner's comment #2, we have not considered the data submitted by the respondent for its subsidiary in Brazil.

Comment #8: In calculating foreign market value, the Department should adjust the foreign prices to account for differences in the circumstances of sale between sales in the United States and sales in the foreign market for expenses for credit, warranties, commissions, technical services, and advertising. To adjust for differences in circumstances of sales, the Department should deduct from foreign market value the cost of these expenses in the home market of the surrogate country, and then add to foreign market value the cost of these expenses on sales by the producer under investigation to the United States. *See, e.g., Potassium Chloride from the Union of Soviet Socialist Republics* (50 FR 4562, 4563, 1985).

These adjustments should be based on the experience of the petitioner's TRB subsidiary in Brazil.

DOC position: We disagree. In this investigation the Department has valued factors of production in a comparable surrogate country using the best information available. The specificity of the data obtained for valuing the factors is not sufficient enough for us to identify the directly related selling expense adjustments which would have to be made to foreign market value for both U.S. price and constructed value. Absent specific information that the respondent incurs extraordinary directly related selling expenses for its U.S. sales, the Department assumed, as best information available, that ordinary and similar selling expenses occur in both markets and, as such, offset one another.

For reasons stated in the "DOC Position" to petitioner's comment #2, we have not considered the data submitted by the petitioner for its subsidiary in Brazil.

Respondent's Comments

Comment #1: If the Department makes price-to-price comparisons between Romanian TRBs and those of other TRB producers, it must make an adjustment for physical differences in merchandise.

DOC position: As the Department is not basing its final determination upon price-to-price comparisons, but rather on constructed value based upon factors of production, this issue is moot.

We note, however, that in valuing the factors of production, the Department did take into account the various grades of steel used by the Romanian TRB producers. In this regard, the physical differences in merchandise are accounted for in the constructed value calculation.

Comment #2: Respondent contends that, since Romanian steel inputs are sourced domestically, expenses such as freight, insurance and import duties and taxes are not incurred, and the inclusion of these items in the valuation of steel imported into Portugal artificially inflates the value of the input. Therefore, respondent argues that these additional costs would increase the value of the input by adding costs which would not be applicable to domestically sourced (Romanian) raw material.

DOC position: We disagree. When using constructed value based on the factors of production, the Department is required to value the factors of production, primarily, labor, raw materials, and energy, in the comparable economy. The value assigned to these factors is dependent upon the cost of such factors in the comparable economy. In those situations in which the comparable economy surrogate imports the raw materials, as is the case here, all costs associated with the cost of importation should remain in the value used.

Comment #3: Respondent contends that the Department, in its preliminary determination, inadvertently included in the labor cost calculation the labor hours required with respect to packing the TRBs in Romania.

Respondent claims that, since an additional charge was ultimately added for packing, the labor costs for packing were essentially double counted. Therefore, respondent feels that, for purposes of the final determination, such packing labor should not be included in the calculation of labor costs with respect to the production costs of the merchandise.

DOC position: We agree. For purposes of our final determination, packing costs have been excluded from the direct labor input element of factors of production. This measure will prevent the occurrence of double-counting.

Comment #4: Respondent contends that the wage information used by the Department for purposes of the preliminary determination is unreasonably high.

Respondent base its assertion on what it perceives to be the difference between wage information for the primary metal and fabricated metal products industry in the surrogate used in this investigation, Portugal, and wage information with respect to the TRB industry in Romania.

Respondent feels that wage rates incurred in producing TRBs in Romania are relatively low (due to the relatively high level of low-skilled labor employed) in comparison to the surrogate value which was based upon wage information which was not restricted to the production of TRBs but encompased a wide variety of products. Accordingly, respondent feels that such surrogate information should be adjusted to reflect the fact that the relatively low level of skill involved in the production of TRBs necessarily results in lower wages being paid to the employees involved in such production.

DOC position: We disagee. The respondent did not provide the Department with information which would indicate the various skill levels involved in the production of TRBs. Accordingly, we have applied an average labor rate obtained for the fabricated metals industry in our surrogate, Portugal.

Comment #5: Respondent argues that the Department's preliminary determination of massive imports was erroneous for several reasons. First, they note that both the import penetration level and the actual volume of imports decreased in 1986. Second, the percentage increase in imports after filing of the petition was insignificantly greater than the percentage increase during the same period of 1985. Third, the value figures are meaningless because changes in value only reflect changes in product mix, not necessarily changes in the amount imported. Finally, they note that all shipments during this period were subject to long term contracts signed long before the filing of the petition and, therefore, clearly not an attempt to anticipate the preliminary determination. Additionally, two U.S. customers of the respondent argue that the increase after the filing of the

petition is accounted for by seasonal cycles.

DOC position: We continue to believe that massive imports exist for purposes of the critical circumstances determination. First, while import penetration levels and the actual volume of imports are factors to be considered, they are not determinative. The purpose of the critical circumstances provision is to prevent attempts to circumvent the suspension of liquidation by stockpiling imports prior to the preliminary determination. As such, the behavior after filing the petition and before the date of the preliminary determination is critical. Import penetration levels and actual valumes can help establish a trend. Here, they do not. We note that both increased substantially in 1985 from the 1984 levels, then decreased somewhat to the 1986 levels. This demonstrates no trend.

Second, the change in volume from the period immediately before the filing of the petition to the period immediately following the filing is the single most important factor we consider. Here, the increase was 109.28 percent. This increase cannot be called insignificant. We did note increases during the same periods in 1984 and 1985 of 19.58 percent and 85.32 percent, respectively. Some of this increase may be accounted for by seasonal cycles but no evidence has been submitted to support this. Even if there was a seasonal increase, we do not believe it would account for all of the increase. Seasonally adjusted statistics would still show a significant increase after the filing of the petition supporting a finding of massive imports.

Third, we agree that value figures may not accurately reflect the situation, and have given them little weight in our consideration. However, to the extent that we did consider them, they, too, indicate massive imports.

Finally, we do not believe that the existence of long term contracts in this case precludes a finding of massive imports. Most of the contracts we examined did not provide a binding schedule of shipments. Respondent itself noted that, where schedules were included, shipments could be, and were, cancelled. Thus, we find the contracts do not account for the import pattern and we find that the level of imports may have been affected by the filing of the petition. For these reasons, we maintain that there were massive imports for the purposes of the critical circumstances determination.

Comment #6: Petitioner's allegation of critical circumstances is not supported by substantial evidence because its allegation of a history of dumping is based on an investigation in the European Community covering far more products than those subject to this investigation. The low margins found at the preliminary determination in this case demonstrate that there is no basis to conclude the importers knew or should have known of the dumping of TRBs from Romania. The small market share of Romanian TRBs, and the fact that shipments during the period of investigation are all made pursuant to earlier contracts, show that imports have not been massive.

DOC position: We disagree, *See* the section of this notice entitled *Final Affirmative Determination of Critical Circumstances.*

Interested Party Comments

Comments #1: Marsuda-Rodgers (an importer of TRBs from Romania) contends that, although some Romanian and domestically-produced TRBs, may share identical identification numbers, they are not necessarily interchangeable. Marsuda-Rodgers asserts that domestically-produced TRBs are physically superior to Romanian TRBs and notes that the petitioner in this investigation, in its product brochures, points out the relative superiority of TRBs produced domestically, Marsuda-Rodgers asserts that the higher quality domestically-produced TRBs because of their inherent capacity to withstand high pressure usage, can command a higher price in the market and, therefore, cannot reasonably be compared to Romanian TRBs, which are not as well-suited for high-pressure situations.

Therefore, if the Department uses price-to-price comparisons for purposes of its final determination, and uses case-carburized TRBs produced in a surrogate country as a basis for foreign market value, it should devise a method for making adjustments for differences in the subject merchandise.

DOC position: As we are not basing our final determination upon price-to-price comparisons, but rather on constructed value based upon factors of production, this issue need not be addressed for purposes of our final determination.

Final Affirmative Determination of Critical Circumstances

In determining whether critical circumstances exist, section 735(a)(3) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673(a)(3) requires that we examine whether:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value; and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(a)(3), we reviewed past antidumping findings of the Department of Treasury as well as past Department of Commerce antidumping orders to determine whether there is a history of dumping of TRBs from Romania in the United States. There have been no past United States antidumpting determinations on TRBs from Romania. We also reviewed the antidumping actions of other countries made available to us through the Antidumping Code Committee established by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. We found that the Commission of European Communities (EC) made a preliminary determination of dumping and injury. Subsequently, on June 4, 1981, the EC and Romania entered an undertaking with respect to roller bearings. On April 15, 1986, this undertaking was terminated. (*Official Journal of the European Communites,* No. L 102–31, April 18, 1986.) We have therefore determined, based on this EC undertaking, that there is a history of dumping of the class or kind of merchandise which is the subject of this investigation. Accordingly, we do not have to consider whether the persons by whom, or for whose account, this product was imported knew or should have known that it was being sold at less than fair value under section 735(a)(3) of the Act.

Pursuant to section 735(a)(3)(B), we generally consider the following data in order to determine whether massive imports have taken place over a short period of time: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of the domestic consumption accounted for by the imports. We found that imports have been massive since the filing of the petition even though total volume and value have decreased since 1985. Import penetration was not available for the second half of 1986.

For the reasons described above, we maintain that "critical circumstances" exist with respect to TRBs from Romania.

Continuation of Suspension of Liquidation

In accordance with section 735(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of TRBs from Romania that are entered or withdrawn from warehouse, for consumption, on or after the publication date of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond on all such entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which is 8.70 percent of the ex-factory value. Since we have made a final affirmative critical circumstances determination, we are countinuing the retractive suspension of liquidation ordered by our March 27, 1987, preliminary affirmative critical circumstances determination. The effective date for the suspension of liquidation of this investigation is November 7, 1986, ninety days prior to the date of publication of our preliminary affirmative determination of sales at less than fair value.

This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will make its determination whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the date of this determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled.

However, if the ITC determines that such injury does exists, we will issue an antidumping duty order directing Customs Officers to assess an antidumping duty on TRBs from Romania entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

May 4, 1987.

[FR Doc. 87-10532 Filed 5-7-87; 8:45 am]

BILLING CODE 3510-DS-M

Exporters' Textile Advisory Committee; Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held June 9, 1987 at 1:30 p.m. in Room 4830 of the U.S. Department of Commerce, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, DC. The Committee provides advice about ways to promote increased exports of U.S. textiles and apparel.

AGENDA: Review of export data; report on conditions in the export market; recent foreign restrictions affecting textiles; export expansion activities; and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact Alfreda Burton (202/377-5761).

Dated: May 5, 1987.

Ronald I. Levin,

Acting Deputy Assistant Secretary for Textiles and Apparel

[FR Doc. 87-10531 Filed 5-7-87; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extending Coverage of the Singapore Export Visa and Exempt Certification Requirements to Include Man-Made Fiber Textile Products in Category 670

May 5, 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 May 18, 1987. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated February 10, 1982, as amended, was published in the **Federal Register** (47 FR 6683), which established export visa and exempt certification requirements for Categories 300-320, 330-359, 360-369, 400-429, 431-459, 464-469, 600-627, 630-659 and 665-669, which are subject to the restraint limits of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore.

A directive dated November 25, 1986 (51 FR 43454) further amended the visa and exempt certification requirements for goods exported on and after January 1, 1987.

Under the Agreement between the Governments of the United States and the Republic of Singapore coverage of the existing export visa and exempt certification requirements includes all man-made fiber textile products in Category 670 (luggage, handbags and flatgoods), produced or manufactured in Singapore and exported to the United States.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, effective on May 18, 1987, to further amend the directive of February 10, 1982 to extend coverage to all man-made fiber textile products in Category 670, produced or manufactured in Singapore and exported on and after May 18, 1987.

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 27086) 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.

May 5, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of February 10, 1982, as amended, from the

Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry and withdrawal from warehouse for consumption in the United States of cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Singapore and exported from Singapore, for which the Government of Singapore had not issued an appropriate export visa or exempt certification.

Effective on May 18, 1987, the directive of February 10, 1982, as amended, is hereby further amended to require that all man-made fiber textile products in Category 670 (luggage, handbags and flatgoods) also be visaed if exported on and after May 18, 1987.

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).

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-10529 Filed 5-7-87; 8:45 am]

BILLING CODE 3510-DR-M

Waiver of Export Visa Requirements for Certain Cotton Textile Products Produced or Manufactured in Nepal

May 4, 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 May 4, 1987. For further information contact Ann Fields, International Trade Specialist (202) 377-4212.

Background

A CITA directive dated April 3, 1987 (52 FR 11724) established export visa requirements for certain cotton textile products, produced or manufactured in Nepal and exported to the United States.

As a result of an administrative problem concerning export visas issued by the Government of Nepal, the Chairman of the Committee for the Implementation of Textile Agreements has directed the Commissioner of Customs, in the letter published below, to waive, effective May 4, 1987 and until further notice, visa requirements for cotton textiles and textile products in Categories 300-369, including, if any, part categories or merged categories, produced or manufactured in Nepal, regardless of the date of export.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

May 4, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton Textile Agreement of June 1, 1986 between the Governments of the United States and Nepal, I request that, effective on May 4, 1987 and until further notice, you waive the visa requirements for cotton textiles and textile products in Categories 300-369, including, if any, part categories or merged categories, produced or manufactured in Nepal.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implemention of Textile Agreements.

[FR Doc. 87-10530 Filed 5-7-87; 8:45 am]

BILLING CODE 3510-DR-M

COMMISSION ON MERCHANT MARINE AND DEFENSE

Closed Meeting

SUMMARY: The Commission on Merchant Marine and Defense was established by Pub. L. 98-525 (as amended), and the Commission was constituted in December 1986. The Commission's mandate is to study and report on problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the Merchant Marine to meet the need for such transportation, and the adequacy of the shipbuilding mobilization base to support naval and merchant ship construction. In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the Commission announces the following meeting:

Dates and Times: Monday, May 18, 1987, Beginning 9:00 a.m.; Tuesday, May 19, 1987, Beginning 9:00 a.m.

Place: Suite 520, 4401 Ford Avenue, Alexandria, Virginia, 22301-0268.

Type of Meeting: Closed.

Contact Person: Allan W. Cameron, Executive Director, Commission on Merchant Marine and Defense, Suite 520, 4401 Ford Avenue, Alexandria, Virginia 22301-0268, Telephone (202) 756-0411.

Purpose of Meeting: To receive additional information pertaining to the needs of the national defense for the Merchant Marine and the shipbuilding industry, and to discuss and deliberate facts and opinions obtained from briefings and public hearings.

SUPPLEMENTARY INFORMATION. The executive meetings of the Commission will be closed to the public pursuant to 5 U.S.C. 552b(c)(1) and 552b(c)(4) in the interests of national security and to protect proprietary information provided to the Commission in confidence. A public meeting and hearing on the shipyard industry, announced in the **Federal Register** on April 14, 1987, will be held at 2:00 p.m. on Monday, May 18, 1987, in the Center for Naval Analyses Auditorium, First Floor, 4401 Ford Avenue, Alexandria, Virginia.

Allan W. Cameron,

Executive Director, Commission on Merchant Marine and Defense.

[FR Doc. 87-10504 Filed 5-7-87; 8:45 am]

BILLING CODE 3820-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 1, 1987.

The USAF Scientific Advisory Board's Ad Hoc Committee on Space-Based Radar will conduct a meeting at the ANSER building on June 2-3, 1987, from 8:00 A.M. to 5:00 P.M.

The purpose of this meeting is to discuss technology issues relevant to Air Force requirements for a space-based radar system.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Patsy J. Connor,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-10454 Filed 5-7-87; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Technology Services, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before June 8, 1987.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 732-3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: May 5, 1987

Carlos U. Rice,

Director for Information Technology Services.

Office of Postsecondary Education

Type of Review: Revision
Title: Application for Federal Student Aid
Agency Form Number: ED 255
Frequency: Annually
Affected Public: Individuals or households
Reporting Burden:
Responses: 6,733,000
Burden Hours: 9,762,850
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This application will collect information from students who are applying for Federal student aid. The Department uses the data collected to determine student eligibility for the distribution of Pell grants and other financial aid.

Office of Elementary and Secondary Education

Type of Review: Reinstatement
Title: Application for the Follow Through Program
Agency Form Number: ED 4473
Frequency: Annually
Affected Public: State and local governments; non-profit institutions
Reporting Burden:
Responses: 100
Burden Hours: 3000
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This application will be used by institutions of higher education and State and local educational agencies to apply for grants under the Follow Through Program. The Department evaluates the data collected to award grants to those applicants active in the field of early childhood and primary education.

Office of Special Education and Rehabilitative Services

Type of Review: New
Title: Application for Handicapped Infants and Toddlers Program, Under Part H of the Education of the Handicapped Act
Agency Form Number: B20-26P
Frequency: Annually
Affected Public: State and local governments
Reporting Burden:
Responses: 57
Burden Hours: 456
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This application will be used by State agencies to apply for grants under the Handicapped Infants and Toddlers Program. The information collected will be used by the Department to determine a State's eligibility for receiving a grant award

[FR Doc. 87-10572 Filed 5-7-87; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Guranteed Student Loan Program, SLS Program, PLUS Program, and Consolidation Loan Program

AGENCY: Department of Education.

ACTION: Notice of speical allowance for quarter ending March 31, 1987.

The Assistant Secretary for Postsecondary Education announces a special allowance to holders of eligible loans made under the Guaranteed Student Loan Program (GSLP), the Supplemental Loans for Students (SLS) Program, the PLUS Program or the Consolidation Loan Program. This special allowance is provided for under section 438 of the Higher Education Act of 1965 (the Act), as amended (20 U.S.C. 1087-1).

Pursuant to the requirements of Section 252 of Pub. L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (popularly known as the Gramm-Rudman-Hollings Act), the President issued a sequestration order on February 4, 1986, directing implementation of the reductions contained in the law. Congress ratified and affirmed the order as law (Pub. L. 99-366; July 31, 1986). Section 256 of Pub. L. 99-177 provides that if a sequestration order is issued, the special allowance formula for loans made after the order takes effect and before the end of the fiscal year is adjusted by reducing the rate provided in section 438(b)(2)(A)(iii) of the Higher Education Act by 0.4 percent. The reduction will apply to the first four special allowance payments on

loans made on or after March 1, 1986, and before October 1, 1986.

Except for loans subject to section 438(b)(2)(b) of the Act, 20 U.S.C. 1087-1(b)(2)(B), for the quarter ending March 31, 1987, the special allowance will be paid at the following rates:

Applicable interest rate percent	Annual special allowance rate percent	Special allowance rate percent for quarter ending March 31, 1988
I. GSLP, PLUS or Consolidation loans made prior to October 1, 1981:		
7 percent	2.25	0.5625
9 percent	0.25	0.0625
II. GSLP, SLS or PLUS loans made on or after October 1, 1981 for periods of enrollment beginning prior to November 16, 1986; Consolidation loans made on or after October 1, 1981, but prior to October 17, 1986:		
A. Loans *not* subject to sequester order (Pub. L. 99-177):		
7 percent	2.19	0.5475
8 percent	1.19	0.2975
9 percent	0.19	0.0475
12 percent	0.00	0.00
14 percent	0.00	0.00
B. Loans subject to sequester order (Pub. L. 99-177):		
7 percent	1.7	0.4475
8 percent	0.79	0.1975
9 percent	0.00	0.00
12 percent	0.00	0.00
III. GSLP loans for periods of enrollment beginning on or after November 16, 1986; SLS or PLUS loans for periods of enrollment beginning on or after November 16, 1986, but before July 1, 1987; Consolidation loans made on or after October 17, 1986:		
7 percent	1.94	0.485
8 percent	0.9	0.235
9 percent	0.00	0.00
10 percent	0.00	0.00
11 percent	0.00	0.00
12 percent	0.00	0.00
13 percent	0.00	0.00
14 percent	0.00	0.00

The Assistant Secretary determines the special allowance rate in the manner specified in the Act, for loans at each applicable interest rate, by making the following four caculations:

(a) *Step 1.* Determine the average bond equivalent rate of the 91-day Treasury bills auctioned during the quarter for which this notice applies (5.69 percent for the quarter ending March 31, 1987);

(b) *Step 2.* Subtract from that average the applicable interest rate of loans for which a holder is requesting payment;

(c) *Step.* (1) Add 3.5 percent to the remainder, and, in the case of loans made before October 1, 1981, round the sum upward to the nearest one-eight of one percent: or

(2) Add 3.1 percent to the remainder, in the case of loans subject to the sequester order issued pursuant to Pub. L. 99-177; or

(3) Add 3.25 percent in the case of (i) GSLP loans for periods of enrollment beginning on or after November 16, 1986, (ii) SLS of PLUS loans for periods of enrollment beginning on or after November 16, 1986, but before July 1, 1987, or (iii) Consolidation loans made on or after October 17, 1986; and

Step 4. Divide the resulting percent in Step 3 (either (c)(1), (c)(2), or (c)(3), as applicable) by four.

FOR FURTHER INFORMATION CONTACT: Ralph B. Madden, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education on (202) 245-2475.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Program and PLUS Program)

Dated: May 5, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87-10573 Filed 5-7-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Intent To Renew Grant Agreement; University of Florida

AGENCY: Department of Energy (DOE).

ACTION: The U.S. DOE announces that pursuant to 10 CFR 600.7(b), it is restricting eligibility for the award of additional effort under existing agreement number DE-FGO1-84CE22122 for continuation of their research in daylight design and fensestration performance evaluation. The Univerisity of Florida, Florida Solar Energy Center (FSEC), has submitted a renewal proposal.

SUMMARY: The U.S. DOE, Office of Building and Community Systems, Building Systems Division, is preparing a request to fund a renewal proposal submitted by FSEC. The objectives of this work are to advance the state-of-the-air of daylighting design and fenestration performance evaluation in the area of characterizing sky luminance distribution, developing standard practice for fenestration photometry measurements, and developing optical instruments for measuring daylight availability.

Eligibility: Award of this effort has been limited to FSEC, an institute of higher education, because of their high qualifications in the fields of optical physics and fenestration system design and evaluation. The term of this renewal shall be from May 30, 1987 through September 28, 1988. For further information contact: Rosemarie Marshall, MA-453.2, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue SW. Washington, DC 20585.

Stephen J. Michelsen,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 87-10540 Filed 5-7-87; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 87-08-NG]

American Hunter Exploration Ltd.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Order Granting Blanket Authorization To Import Natural Gas From Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting American Hunter Exploration Ltd. (American Hunter) blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 87-08-NG authorizes American Hunter to import up to 300 Bcf over a two-period for sale in the domestic spot market.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 4, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-10496 Filed 5-7-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-05-NG]

Eastex Canadian, Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Eastex Canadian, Inc. (Eastex), blanket

authorization to import natural gas from Canada. The order issued in ERA Docket No. 87-05-NG authorizes Eastex to import up to 150 MMcf of Canadian gas per day, not to exceed 110 Bcf over a two-year period for sale in the domestic spot market.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:40 p.m., Monday through Friday, except Federal holidays.

Issued in Washingotn, DC, April 30, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-10497 Filed 5-7-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-03-NG]

The Montana Power Co.; Order Granting Blanket Authorization to Import Natural Gas from Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Montana Power Company (Montana) blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 87-03-NG authorizes Montana to import up to 10 Bcf over a two-year period for sale in the domestic spot market.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 4, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-10498 Filed 5-7-87; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Basic Energy Sciences Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Basic Energy Sciences Advisory Committee (BESAC)

Date and Time: May 26, 1987—9:00 a.m.-5:00 p.m.

Place: Salon No. 1, Marriott Hotel—O'Hare, 8535 W. Higgins Rd., Chicago, Illinois 60631.

Contact: Louis C. Ianniello, Department of Energy, Office of Basic Energy Sciences (ER-11), Office of Energy Research, Washington, DC 20545, Telephone: 301/353/3081.

Purpose of the Committee: To provide advice on a continuing basis of the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Basic Energy Sciences (BES) program.

Tentative Agenda: Briefings and discussions of:

May 26, 1987

- BES Information
- Reports from BESAC Information Groups
- High Temperature Superconductivity
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Louis C. Ianniello at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on May 4, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87-10499 Filed 5-7-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-402-000 et al.]

Central Power and Light Co. et al.; Electric Rate and Corporate Regulation Filings

May 4, 1987.

Take notice that the following filings have been made with the Commission:

1. Central Power and Light Company

[Docket No. ER87-402-000]

Take notice that on April 27, 1987 Central Power and Light Company ("CPL") tendered for filing an Agreement for Firm Transmission Service ("Agreement") between CPL and the Texas Municipal Power Agency ("TMPA"), dated March 12, 1987. The Agreement provided for CPL to furnish firm transmission service to TMPA, during the period July 1, 1986 to and through December 31, 1986, for 60,000 kilowatts of power and associated energy purchased by Texas-New Mexico Power Company ("TNP") from the City of Bryan, Texas, a TMPA member. Because the Agreement terminated by its own terms and no new rate schedules or parts thereof were or are to be filed in place of the Agreement, CPL also tendered a Notice of Cancellation of the Agreement.

CPL requests an effective date of July 1, 1986 for the Agreement and an effective date of December 31, 1986 for the Notice of Cancellation and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been sent to the Public Utility Commission of Texas and the Texas Municipal Power Agency.

Comment date: May 18, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Edison Company

[Docket Nos. ER86-76-001, ER86-76-002, ER86-76-006, ER86-76-007, ER86-76-009, ER86-230-001, ER86-230-004, and ER86-230-005]

Take notice that on April 23, 1987, Commonwealth Edison Company filed a compliance report pursuant to the Commission's March 13, 1987 letter order in the above referenced proceeding. In compliance with the

Commission's order, directing refunds on tariff changes Edison submits copies of the following:

(1) Monthly billing determinants and monthly refund calculations for the City of Geneva (Exhibit I).

(2) Revenue receipt dates (Exhibit II).

(3) Comparison of revenue at previous rates and settlement rates (Exhibit III).

(4) Monthly interest computed (Exhibit IV).

(5) Summary of information for the total refund period (Exhibit V).

Also in compliance with the same Commission order pertaining to revenue tax refunds, Edison submits copies of the following.

(1) Computations supporting the amount refunded to Genera.

(2) Workpapers showing the revenue tax credit claimed on Edison's March 1987 tax payment to the State of Illinois.

(3) The February, 1987 bill for service to Geneva showing the tax refund credit.

Copies of this filing have been served on all parties to this proceeding and on the Illinois Commerce Commission.

Comment date: May 18, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, and Niagara Mohawk Power Corporation

[Docket No. ER86-684-003]

Take notice that on April 17, 1987, the above mentioned Companies (collectively GPU Service Corporation) tendered for filing an executed Supplemental Agreement, dated April 14, 1987, to the July 1, 1986, GPU-NM Purchase and Sale Agreement specifying that the energy charges are based on the forecasted incremental cost to the seller to provide such energy.

GPU Service Corporation requests that this Supplemental Agreement be permitted to become effective as of September 1, 1986, but in no event later than April 14, 1987.

Comment date: May 18, 1987, in accordance with Standard Paragraph E at the end of this document.

4. Mississippi Power & Light Company

[Docket No. ER87-401-000]

Take notice that Mississippi Power & Light Company (MP&L), on April 24, 1987 tendered for filing a letter agreement for sale of energy to the Tennessee Valley Authority

MP&L requests an effective date of May 4, 1987 for the letter agreement MP&L requests waiver of the Commission's notice requirements under Section 35.11 of the Commission's regulations.

Comment date: May 18, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Kansas Gas and Electric Company

[Docket No. ER87-404-000]

Take notice that Kansas Gas and Electric Company (KG&E) on April 27, 1987 tendered for filing a proposed Generating Municipal Electric Service Agreement superseding FERC Electric Service Tariff No. 89.

Kansas Gas and Electric Company states that the filing assures continued service to the City of Iola, Kansas (City).

This filing is necessary because KG&E desires to cancel its existing Electric Interconnection Contract at the expiration of its twenty-five year initial term but desires to continue to serve the City. KG&E has requested an effective date of June 30, 1987.

Copies of the filing were served upon the City of Iola, Kansas and the Utilities Division of the Kansas Corporation Commission.

Comment date: May 18, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of Indiana, Inc.

[Docket No. ER87-405-000]

Take notice that the Public Service Company of Indiana, Inc. on April 1987 tendered for filing pursuant to the Power Coordination Agreement between Public Service Company of Indiana, Inc. (PSI) and Indiana Municipal Power Agency (IMPA) a Second Amendment to become effective May 25, 1987, pursuant to Part 35 of the Commission's Regulations.

The Second Amendment inserts a new Service Schedule E—Short Term Power which deletes the existing Service Schedule E.

Copies of the filing were served upon Indiana Municipal Power Agency and the Public Service Commission of Indiana.

Comment date: May 18, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER87-406-000]

Take notice that, on April 27, 1987, Southern California Edison Company ("Edison") tendered for filing Amendment No. 1 to the Edison-Colton Interruptible Transmission Service Agreement ("Amendment") designated Rate Schedule FERC No. 162, which has been executed by Edison and the City of Colton, California ("Colton"):

Amendment No. 1 to the Edison-Colton Interruptible Transmission Service Agreement.

The Amendment provides for an additional interruptible transmission service Point of Receipt at Edison's Vincent Substation 500 kV bus.

The Amendment is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Colton.

Comment Date: May 18, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Union Electric Company

[Docket No. ER87-403-000]

Take notice that on April 27, 1987, Union Electric Company tendered for filing the Sixth Amendment and related revised Schedules to the Interchange Agreement dated July 30, 1968, between Union Electric and Iowa-Illinois Gas and Electric Company.

The Amendment provides for the inclusion in the Interchange Agreement of Term Energy and the rate therefor, and finalizes certain rental charges for Iowa-Illinos' use of Union's facilities.

UE requests that the filing be permitted to become effective March 1, 1987.

Comment date: May 18, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Public Service Corporation

[Docket No. ER87-400-000]

Take notice that Wisconsin Public Service Corporation ("the company") on April 24, 1987, tendered for filing an executed service agreement to transfer, effective July 1, 1987, its all requirements customer, the Alger Delta Electric Association, Michigan, from all requirements service under a contract (FERC Rate Schedule Number 36, and the currently effective amendment thereto) to the same service under the company's all requirements tariff, Original Voume No. 2. The filing does not affect the rate charged to the Alger Delta Electric Association nor the revenues paid by the customer to the company. The company makes this change sot hat service will be under a tariff which is generally applicable to all customers.

Copies of the filing were served upon the Alger Delta Electric Association and the Michigan Public Service Commission.

Comment date: May 18, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-10544 Filed 5-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 10300-000 et al.]

Hydroelectric Applications (Skagit River Hydro 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: Preliminary Permit.

b. Project No.: 10300-000.

c. Date Filed: January 30, 1987.

d. Applicant: Skagit River Hydro.

e. Name of Project: Nookachamps Creek Project.

f. Location: On the East Fork Nookachamps Creek, near the town of Mt. Vernon, Skagit Country, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Lawrence J. McMurtrey, 12122—196th NE., Redmond, WA 98053, (206) 885-3986.

i. Comment Date: June 4, 1987.

j. Competing Application: Project No. 10129-000, Date Filed 10/22/86.

k. Description of Project: The proposed project would consist of: (1) Two diversion structures with inlet elevations of 1,250 feet msl; (2) a bifurcated penstock 8,000 feet long and 24 inches in diameter leading to: (3) a powerplant at elevation 250 feet msl containing a single turbine/generator unit with a capacity of 1,765 kW operating at 1,000 feet of hydraulic head; and (4) a one-mile-long, 115-kV transmission line. The applicant estimates the average annual energy production to be 7.70 GWh. The approximate cost of the studies under the permit would be $40,000.

l. Purpose of Project: The applicant intends to sell the power generated at the proposed facility.

m. This notice also consists of the following standard paragraphs: A8, A10, B, C, and D2.

2 a. Type of Application: Minor License.

b. Project No: 10028-000.

c. Dated Filed: July 3, 1986.

d. Applicant: Tultex Corporation.

e. Name of Project: Mayo Dam Hydro Power Project.

f. Location: On the Mayo River in the town of Mayodan, Rockingham County, North Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contract Person: Mr. John Miller, Synergics, Inc., 410 Severn Avenue, Suite 313, Annapolis, MD 21403, (301) 268-8820.

i. Comment Date: June 4, 1987.

j. Description of Projects: The proposed run-of-river project would consist of: (1) An existing 560-foot-long stone masonry dam including a 380-foot-long, 18-foot-high uncontrolled spillway with a crest elevation of 585.4 feet MSL; (2) an existing headgate structure containing five wooden lift gates and trash racks; (3) an existing 10-acre reservoir with a storage capacity of approximately 85 acre-feet at a normal water surface elevation of 585.4 feet MSL; (4) a proposed levee approximately 30 feet long; (5) a proposed 38.5-foot by 20-foot reinforced concrete open flume powerhouse containing one generation unit rated 330 kW at an average head of 14 feet and a hydraulic capacity of 360 cfs; (6) a proposed 50-foot-long by 25-foot-wide tailrace excavated in ledge, discharging into the Mayo River at a normal tailwater elevation of 571.4 feet MSL; (7) a proposed control house containing switchgear, project metering and a programmed controller; (8) a proposed 200-foot-long, 4.16-kV transmission line connecting to a Duke Power Company distribution line; and (9) appurtenant facilities.

The estimated annual energy production is 1.6 GWh. Project power would be sold to Duke Power Company. The existing facilities are owned by the applicant.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, & Dl.

3 a. Type of Application: Preliminary Permit.

b. Project No.: 10142-000.

c. Date Filed: October 30, 1986.

d. Applicant: Sauk River Hydro.

e. Name of Project: Marten Creek.

f. Location: In Snoqualmie—Mt. Baker National Forest, on Marten Creek, Snohomish County, Washington. T29N, R9E & T30N, R9E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122—196th, NE., Redmond, WA 98052, (206) 885-3986.

i. Comment Date: June 3, 1987.

j. Description of Project: The proposed project would consist of: (1) A 3-foot-high, 35-foot-long diversion structure at elevation 2,640 feet msl; (2) an 18-inch-diameter, 6,000-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 1,540-kW; and (4) a 3-mile-long transmission line tying into the existing Puget Sound Power and Light Company's system. The applicant estimates an 8.1 GWh average annual energy production. The approximate cost of the studies under the permit would be $40,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, & D2.

4 a. Type of Application: Preliminary Permit.

b. Project No.: 10143-000

c. Date Filed: October 30, 1986.

d. Applicant: Skykomish River Hydro.

e. Name of Project: Proctor Creek.

f. Location: In Snoqualmie—Mt. Baker National Forest, on Proctor Creek, Snohomish County, Washington. T29N, R 9E & T30N, N9E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122— 196th, NE., Redmond, WA 98052, (206) 885-3986.

i. Comment Date: June 3, 1987.

j. Description of Project: The proposed project would consist of: (1) A 3-foot-high, 20-foot-long diversion structure at elevation 1,600 feet msl; (2) a 36-inch-diameter, 7,000-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 2,300-kW; and (4) a 1-mile-long transmission line tying into the existing Puget Sound Power and Light Company's system. The applicant estimates a 10.1 GWh average annual energy production. The approximate cost of the studies under the permit would be $40,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, & D2.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 10181–000

c. Date Filed: November 24, 1986.

d. Applicant: Sauk River Hydro.

e. Name of Project: White Chuck Tributaries.

f. Location: In Snoqualmie—Mt. Baker National Forest, on White Chuck Tributaries, Snohomish County, Washington. T31N, R11E & T31N, R12E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122— 196th, NE., Redmond, WA 98052, (206) 885–3986.

i. Comment Date: June 3, 1987.

j. Description of Project: The proposed project would consist of: (1) A 3-foot-high, 20-foot-long diversion structure at elevation 2,800 feet msl; (2) a 24-inch-diameter, 7,000-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 2,786-kW; and (4) a 14-mile-long transmission line tying into the existing Puget Sound Power and Light Company's system. The applicant estimates a 12.2 GWh average annual energy production. The approximate cost of the studies under the permit would be $40,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, & D2.

6 a. Type of Application: Preliminary Permit.

b. Project No.: 10182–000

c. Date Filed: November 24, 1986.

d. Applicant: Skykomish River Hydro.

e. Name of Project: West Fork Miller River

f. Location: In Snoqualmie—Mt. Baker National Forest, on West Fork Miller River, King County Washington. T39N, R11E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122— 196th, N.E., Redmond, WA 98052, (206) 885–3986.

i. Comment Date: June 3, 1987.

j. Description of Project: The proposed project would consist of: (1) A 3-foot-high, 35-foot-long diversion structure at elevation 1,900 feet msl; (2) a 72-inch-diameter, 1,500-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 5,960-kW; and (4) a 2-mile-long transmission line tying into the existing Puget Sound Power and Light Company's system. The applicant estimates a 26.1 GWh average annual energy production. The approximate cost of the studies under the permit would be $40,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, & D2.

7 a. Type of Application: Preliminary Permit.

b. Project No.: 10183–000

c. Date Filed: November 24, 1986.

d. Applicant: Skykomish River Hydro.

e. Name of Project: Silver Creek

f. Location: In Snoqualmie—Mt. Baker National Forest, on Silver Creek, Snohomish County, Washington. T28N, R11E & T29N, R11E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122— 196th, N.E., Redmond, WA 98052, (206) 885–3986.

i. Comment Date: June 3, 1987.

j. Description of Project: The proposed project would consist of: (1) A 3-foot-high, 30-foot-long diversion structure at elevation 2,400 feet msl; (2) a 48-inch-diameter, 10,000-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 3,410-kW; and (4) a 10-mile-long transmission line tying into the existing Puget Sound Power and Light Company's system. The applicant estimates a 14.9 GWh average annual energy production. The approximate cost of the studies under the permit would be $40,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, & D2.

8 a. Type of Application: Preliminary Permit.

b. Project No.: 10185–000.

c. Date Filed: November 24, 1986.

d. Applicant: Skykomish River Hydro.

e. Name of Project: Duffy Creek.

f. Location: In Snoqualmie-Mt. Baker National Forest, on Duffy Creek, Snohomish County, Washington T29N, R9E & T30N, R9E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122—196th, N.E., Redmond, WA 98052, (206) 885–3986.

i. Comment Date: June 3, 1987.

j. Description of Project: The proposed project would consist of: (1) A 3-foot-high, 15-foot-long diversion structure at elevation 2,000 feet msl; (2) a 24-inch-diameter, 8,000-foot-long penstock; (3) a powerhouse containing a generating unit with a rate capacity of 3,100-kW; and (4) a 1-mile-long transmission line tying into the existing Puget Sound Power and Light Company's system. The applicant estimates a 13.45 GWh average annual energy production. The approximate cost for the studies under the permit would be $40,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, &, D2.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 10222–000.

c. Date Filed: December 30, 1986.

d. Applicant: Baker Mountain Hydro Electric Company.

e. Name of Project: Barometer Creek.

f. Location: On Barometer Creek within the Snoqualmie—Mt. Baker National Forest in T39N, R8E, near Glacier in Whatcom County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122—196th Avenue, NE., Redmond, WA 98052, (206) 885–3986.

i. Comment Date: June 3, 1987.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 3-foot-high concrete diversion structure at elevation 3,200 feet; (2) a 4,000-foot-long, 12-inch-diameter penstock; (3) a powerhouse containing one generating unit with a rated capacity of 1.07 MW; and (4) a 9-mile-long transmission line. Applicant estimates the average annual energy production to be 4.7 GWh and the cost of the work to be performed under the preliminary permit to be $40,000.

k. Purpose of Project: The power produced is to be sold to the local power company.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 10224–000.

c. Date Filed: December 30, 1986.

d. Applicant: Baker Mountain Hydro Electric Company.

e. Name of Project: Cascade Creek.

f. Location: On Cascade Creek within the Snoqualmie—Mt. Baker National Forest in T39N, R7E, near Glacier in Whatcom County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122—196th Avenue, NE., Redmond, WA 98052, (206) 885–3986.

i. Comment Date: June 3, 1987.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 3-foot-high concrete diversion structure at elevation 2,100 feet; (2) a 2,500-foot-long, 12-inch-diameter penstock; (3) a powerhouse containing one generating unit with a rated capacity of 740 kW; and (4) a 4-mile-long transmission line. Applicant estimates

the average annual energy production to be 3.22 GWh and the cost of the work to be performed under the preliminary permit to be $40,000.

k. Purpose of Project: The power produced is to be sold to the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

11 a. Type of Application: Major License (5 MW or Less).

b. Project No: 10253–000.

c. Date Filed: January 20, 1987.

d. Applicant: Soft Care Apparel, Inc.

e. Name of Project: Pelzer Mills Lower Hydroelectric Project.

f. Location: On the Saluda River in Anderson and Greenville Counties, South Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Glenn J. Berger, Skadden, Arps, Slate, Meagher & Flom, 919 Eighteenth Street, N.W., Washington, DC 20006, (202) 463–8700.

i. Comment Date: June 4, 1987.

j. Description of Project: The existing dam is owned by the applicant. The proposed project would consist of: (1) A granite masonry dam whose components consist of: a 310-foot-long spillway section surmounted with four-foot-high flashboards, a 40-foot-long overflow section, a 110-foot-long powerhouse, and a 236-foot-long non-overflow section. The powerhouse contains five existing generating units rated at 750 kW each; (2) an existing reservoir with a surface area to 80 acres and a storage capacity of 400- acre-feet at powerpool elevation of 693 feet m.s.l.; (3) an existing 600-foot-long tailrace; (4) two existing, 3 miles long and 1.2 miles long, respectively, transmission lines; and (5) appurtenant facilities. The estimated average annual energy output is 11,400,000 kWh.

k. Purpose of Project: Energy produced at the project would be utilized at the applicant's textile mills, with any excess sold to a public utility company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

12 a. Type of Application: Major License (5MW or Less).

b. Project No.: 10254–000.

c. Date Filed: January 20, 1987.

d. Applicant: Soft Care Apparel, Inc.

e. Name of Project: Pelzer Mills Upper Hydroelectric Project.

f. Location: On the Saluda River in Anderson and Greenville Counties, South Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C 791(a)–825(r).

h. Contact Person: Mr. Glenn J. Berger, Skadden, Arps, Slate, Meagher & Flom, 919 Eighteenth Street, NW., Washington, DC 20006, 202–463–8700.

i. Comment Date: June 4, 1987.

j. Desecription of Project: The existing dam is owned by the applicant. The proposed project would consist of: (1) A granite masonry dam whose components consist of: a 150-foot-long non-overflow section, a 280-foot-long overflow spillway section surmounted with four-foot-high flashboards, and a 75-foot-long gated intake section; (2) an existing reservoir with a surface area of 25 acres and a storage capacity of 200 acre-feet at powerpool elevation of 718.7 fet m.s.l.; (3) an existing 260-foot-long by 50-foot-wide forebay; (4) an existing concrete powerhouse containing two generating units rated at 750 kW each; (5) an existing mills building containing one generating unit rated at 500 kW; (6) two existing tailraces extending from the powerhouse and mills building; respectively; (7) an existing 2.7-miles-long, 3.3-kV transmission line; and (8) appurtenant facilities. The estimated average annual energy output for the project is 7,000,000 kWh.

k. Purpose of Project: Energy produced at the project would be utilized at the applicant's textile mills, with any excess sold to a public utility company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

13 a. Type of Application: Preliminary Permit.

b. Project No.: 10257–000.

c. Date Filed: January 22, 1987.

d. Applicant: Washington Hydro Development Company.

e. Name of Project: Boulder Creek.

f. Location: In Snoqualmie—Mt. Baker National Forest, on Boulder Creek, Whatcom County, Washington. T37N, R8E, T37N, R9E, T38N, R83, and T38N, R9E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122—196th, NE., Redmond, WA 98052, (206) 885–3986.

i. Comment Date: June 3, 1987.

j. Desecription of Project: The proposed project would consist of: (1) A diversion structure at elevation 2,200 feet msl; (2) a 18-inch-diameter, 12,000-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 1,571-kW; and (4) a 5-mile-long transmission line tying into the existing Puget Sound Power and Light Company's System. The applicant estimates a 6.9 GWL average annual energy production. The approximate cost of the studies under the permit would be $40,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

14 a. Type of Application: Preiminary Permit.

b. Project No.: 10279–000.

c. Date Filed: January 28, 1987.

d. Applicant: Suiattle River Hydro.

e. Name of Project: Circle Creek.

f. Location: On Circle Creek within the Snoqualmie—Mt. Baker National Forest in T32N, R11E, near Darrington in Snohomish County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C 791(a)–825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122—196th Avenue NE., Redmond, WA 98052, (206) 885–3986.

i. Comment Date: June 3, 1987.

j. Desecription of Project: The proposed run-of-the-river project would consist of: (1) A 36-inch-wide concrete ditch intake structure buried in the stream at elevation 2,800 feet; (2) a 7,000-foot-long, 30-inch-diameter penstock; (3) a powerhouse containing one generating unit with a rated capacity of 4.4. MW; and (4) a 12-mile-long transmission line. Applicant estimates the average annual energy production to be 19.68 GWh. The applicant estimates that the cost of the work to be performed under the preliminary permit would be $40,000.

k. Purpose of Project: The power produced is to be sold to the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

15 a. Type of Application: Preiminary Permit.

b. Project No.: 10281–000.

c. Date Filed: January 29, 1987.

d. Applicant: Georgetown Hydro Associates.

e. Name of Project: Georgetown.

f. Location: C&O Canal, Washington, DC.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Craig M. Lussi, 4105 Aspen Street, Chevy Chase, MD 20815, (301) 656–8814.

i. Comment Date: June 5, 1987.

j. Desecription of Project: The proposed project would use flows from the Chesapeake & Ohio Canal National Historical Park and would consist of: (1) Existing headgates on the canal, within the National Historical Park; (2) an existing concreate headrace approximately 60 feet long; (3) an existing powerhouse 18 feet wide, 23 feet long, and housing a proposed turbine-generator unit of 650 kW capacity at a net hydraulic head of 36 feet; (4) an existing concrete tailrace 160

feet long; (5) a proposed 2.14-kV transmission line 300 feet long; and (6) appurtenant facilities. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $50,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

16 a. Type of Application: Preliminary Permit.

b. Project No: 10322-000.

c. Date Filed: February 11, 1987.

d. Applicant: City of Elkhart, Indiana.

e. Name of Project: Elkhart Water Power Project.

f. Location: On the Elkhart (St. Joseph) River, Elkhart, Elkhart County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Gary Gilot, City of Elkhart, Municipal Building, 229 South Second Street, Elkhart, IN 46516, (219) 294-5471.

i. Comment Date: June 5, 1987.

j. Description of Project: The proposed project would consist of: (1) An existing 150-foot-long and 8-foot-high concrete and masonry dam; (2) a 3-acre reservoir with normal water surface elevation at 729 msl and having an estimated storage capacity of 15 acre-feet; (3) a new powerhouse that would house two 250-kW generators for a total installed capacity of 500 kW; (4) a proposed tailrace; (5) a new 480-foot-long, 4.16-kV transmission line; and (6) appurtenant facilities. Applicant estimates that the average annual generation would be 2,400 MWh. The applicant is the owner of all existing facilities. All energy would be sold to a local utility company. Applicant estimates that the cost of the work under the term of the preliminary permit would be $40,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

17 a. Type of Application: Exemption Under 5 MW.

b. Project No: P-10127-000.

c. Date Filed: October 22, 1986.

d. Applicant: Pineland Industries.

e. Name of Project: Pineland.

f. Location: On the Branch Brook in Oxford County, Maine.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2709.

h. Contact Person: Mr. James D. Sysko, Small Hydro East, Star Route 240, Bethel, ME 04217, (207) 824-3244.

i. Comment Date: June 5, 1987.

j. Description of Project: The proposed project would consist of: (1) A new concrete inlet structure at elevation 1,140 feet msl; (2) a proposed 10-inch-diameter penstock approximately 2,750 feet long; (3) a proposed concrete powerhouse to contain one turbine/generator with an installed capacity of 25 kW with flows discharging into the brook; (4) a new transmission line extending 500 feet in length; and (5) appurtenant facilities. The applicant owns all the property on which the project is planned to be constructed. The estimated average annual energy produced by the project would be 109,500 kWh operating under a net hydraulic head of 230 feet.

k. Purpose of Project: Project power will be sold to the Central Maine Power Company.

l. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit of license applicants that would seek to take or develop the project.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3a.

18 a. Type of Application: Exemption from Licensing.

b. Project No: 10172-000.

c. Date Filed: November 19, 1987.

d. Applicant: Mr. James C. Hansen and Mr. John J. Lupien.

e. Name of Project: North Troy Project.

f. Location: On the Mississippi River in Orleans County, Vermont.

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. James C. Hansen, 114 Monument Hill Road, Springfield, VT 05156, (802) 885-5785.

i. Comment Date: June 5, 1987.

j. Description of Project: The proposed project would consist of: (1) An existing 12-foot-high, 90-foot-long dam; (2) an impoundment having a surface area of 17 acres with negligible storage, and a normal water surface elevation of 536.7 feet msl; (3) an existing intake structure; (4) repairing the existing 225-foot-long, 6-foot-diameter steel penstock; (5) the existing powerhouse containing two proposed generating units having a total installed capacity of 460-kW; (6) the existing tailrace; (7) the existing 60-foot-long, 13.2-kV transmission line; and (8) appurtenant facilities. The applicant estimates the project would generate 1,400,000 kWh annually and would be sold to a local utility.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3a.

19 a. Type of Application: Declaration of Intention.

b. Project No: EL87-15.

c. Date Filed: February 11, 1987.

d. Applicant: Cordova Electric Cooperative, Inc.

e. Name of Project: Humpback Creek.

f. Location: On Humpback Creek, near the town of Cordova, Alaska within Chugach National Forest.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Contact Person: Mr. Douglas Bechtel, General Manager, Cordova Electric Cooperative, Inc., P.O. Box, Cordova, Alaska 99574.

i. Comment Date: June 5, 1987.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high wood crib diversion dam at an elevation of 415 feet; (2) a 36-inch-diameter, 6,600-foot-long flume; (3) a 30-inch-diameter, 700-foot-long penstock; (4) a powerhouse containing two generating units with a total rated capacity of 800 kW operating under a head of 350 feet; (5) a 20-foot-long concrete tailrace; and (6) a 12.4-kV transmission line tying into the Cordova Electric Cooperative's existing line. The average annual energy output would be 3,296 MWh.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

k. Purpose of Project: Project power would be utilized by the Cordova Electric Cooperative, Inc.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

20 a. Type of Application: Declaration of Intention.

b. Project No: EL87-24

c. Date Filed: June 23, 1986.

d. Applicant: James M. Knott.

e. Name of Project: Riverdale Mills.

f. Location: On the Blackstone River in Worcester County, Village of Riverdale, Massachusetts.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Contact Person: James M. Knott, 130 Riverdale Street, Northbridge, MA 01534 (617) 234–8715.

i. Comment Date: June 5, 1987

j. Description of Project: the proposed run-of-river project would consist of: (1) An existing 142-foot-long and 14-foot-high concrete and steel dam with crest elevation of 262.35 feet mean sea level owned by the Applicant: (2) an impoundment with a surface area of 11.8 acres; (3) existing sluicegates; (4) an existing 8-foot-high and 16-foot-wide sluiceway, 115 feet long; (5) an existing 150-kW unit within a mill building; (6) an existing 231-foot-long tailrace; and (7) other appurtenances. The Applicant estimates an average annual generation of 919,800 kWh. The Applicant plans to install 2 additional similar generating units in the future using existing facilities. The project is not operating at present.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

k. Purpose of Project: Project energy would be used in the Applicant's Riverdale Mills Corporation manufacturing activities.

l. This notice also consists of the following standards paragraphs: B, C, and D2.

21 a. Type of Application: Declaration of Intention.

b. Project No: EL87–26.

c. Date Filed: March 10, 1987.

d. Applicant: Mike Munsey.

e. Name of Project: Munsey Brown Bear.

f. Location: On a unnamed stream which flows into Uyak Bay on Kodiak Island, Alaska.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Contact Person: Mike Munsey, Amook Pass, Kodiak, Alaska 99615.

i. Comment Date: June 5, 1987.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 10-foot-long and 3-foot-high wood dam with a crest elevation of 63-feet mean sea level; (2) a 10-inch-diameter 500-foot-long pensock; (3) a powerhouse containing one generating unit with capacity of 7.5 kW; (4) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

k. Purpose of Project: The proposed project would furnish electric power for domestic use on the owner's land.

l. This notice also consists of the following standards paragraphs: B, C, and D2.

Standard Paragraph 5

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, or 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. Peliminary 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 sections 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", "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 National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting recommendations, in order to comply with the requirements in section 313(b) of the Federal Power Act, 16 U.S.C. 8251 (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 representatives.

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 purpose 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 the 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 purpose set forth in section 30 of the Federal Power, 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 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 the 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 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: May 5, 1987.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–10545 Filed 5–7–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-186-001]

Arkansas Power & Light Co.; Filing

May 5, 1987.

Take notice that Arkansas Power & Light Company (AP&L) filed on March 16, 1987, revisions to a proposed First Amendment to Peaking Power Agreement amending the Peaking Power Agreement dated September 16, 1985 which is a supplement to the Power Coordination, Interchange & Transmission Agreement between City of Osceola, Arkansas and Arkansas Power & Light Company, dated December 22, 1982. The revisions were

in response to a deficiency letter from the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests shall be filed on or before May 12, 1987. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-10546 Filed 5-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-481-000]

Colony Natural Gas Corp.; Application

May 4, 1987.

Take notice that on April 13, 1987, Colony Natural Gas Corp. (Colony), 600 West Illinois, Suite 901, Midland, Texas 79701, filed in this proceeding an application pursuant to sections 4 and 7 of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting blanket certificate authorization for (1) self-implementing sales for resale of certain natural gas in interstate commerce, without market restriction, by Colony; (2) self-implementing sales of certain natural gas by others to Colony for resale in interstate commerce, without market restriction and (3) self-implementing sales for resale of certain natural gas in interstate commerce, without market restriction, by producers through Colony acting as their agent. Colony also seeks pre-granted abandonment of all sales for resale for which sales certificate authority is sought herein.

Colony states that the purpose of its application is to enable Colony to make sales in interstate commerce for resale of gas which is available for sale to new markets, but is still subject to the certificate and abandonment provisions of the Natural Gas Act. Finally, Colony requests that the Commission declare in its order issuing the authorizations that the Commission's NGA jurisdiction over the activities and operations of Colony is limited to the transactions for which authorization is sought in the Application.

Any person desiring to be heard or to make any protest with reference to said filing should on or before May 18, 1987, 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 385.214 or 385.211). 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 conference or hearing therein must file a motion to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-10547 Filed 5-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL87-30-000]

Connecticut Light and Power Co., Western Massachusetts Electric Co. Holyoke Water Power Co., and Holyoke Power and Electric Co.; Order Instituting Complaint and Establishing Hearing Procedures

Issued: May 5, 1987.

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

Northeast Utilities (NU) is a holding company comprised of Connecticut Light and Power Company (CL&P), Western Massachusetts Electric Company (WMECO), Holyoke Water Power Company (HWP), and Holyoke Power and Electric Company (HP&E) (collectively the NU companies). The NU companies have on file with the Commission numerous formula rates that include various rates of return on equity. Of those formula rates, three sets include rates of return on equity between 14% and 17%. The first set includes formula rates by HWP and HP&E for Mount Tom Unit sales.[1] These rates, which were approved by the Commission in Docket No. ER84-574-000,[2] utilize a 17.3% equity return. The second set includes rates between various NU companies and the Connecticut Municipal Electric Energy Cooperative (CMEEC) for entitlements in units owned by the NU companies and for transmission service related to other entitlements.[3] The last set arises out of the NU Generation & Transmission (NUG&T) Agreement, which establishes the framework for the NU system and which utilizes rate mechanisms to equalize the system's generation and transmission costs among the NU companies.[4]

During the last year, the cost of capital has decreased significantly.[5] As a result, the Commission believes that the equity returns in the rate schedules identified above may result in unjust and unreasonable rates. The Commission believes that it is appropriate to institute a proceeding under section 206 of the Federal Power Act, 16 U.S.C. 824e (1982), to determine whether the rates are unjust and unreasonable and, if so, to establish just and reasonable rates.

Because any change in the equity return component is possible only on a prospective basis, we shall direct the presiding judge to expedite the hearing and briefing so that an initial decision may be issued no later than August 14, 1987. We shall also direct Commission trial staff to file its direct testimony within 10 days of issuance of this order. A prehearing conference to establish all other procedural dates by the presiding judge shall be held within 5 days of the filing of staff's testimony. We shall also direct the parties to submit briefs on exceptions within 14 days of the initial decision and briefs opposing exceptions within 14 days from the filing of briefs on exceptions. Finally, we note that once the record is before the Commission, it is our intent to expedite our review of the issues raised in order that a final resolution of this case can be made at the earliest date possible.

Under current Commission precedent, formula rates may be designed to automatically track all cost changes, except changes in the equity return, without the necessity of a filing pursuant to Part 35 of the Commission's regulations. 18 CFR Part 35 (1986). Automatic changes in the equity return component have not been allowed because this aspect of a utility's rates requires an assessment of market conditions.[6] However, this results in

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[1] HWP Rate Schedule FPC No. 2 and HP&E Rate Schedule FPC Nos. 1,2, and 3.

[2] Holyoke Water Power Company and Holyoke Power and Electric Company, 37 FERC ¶ 61,223 (1986).

[3] CL&P Rate Schedule Nos. 217, 221-229, 231, 232 and 256; WMECO Rate Schedule No. 180; HWP Rate Schedule No. 31.

[4] CL&P Rate Schedule FPC No. 40; WMECO Rate Schedule FPC No. 52; HWP Rate Schedule FPC No. 13; and HP&E Rate Schedule FPC NO. 22.

[5] For example, the Commission's Generic Rate of Return on Common Equity has decreased from 13.68% to 11.2%.

[6] *See* New England Power Company, 31 FERC ¶ 61,378 (1985); Southwestern Electric Power Company, 31 FERC ¶ 61,389 (1985).

formula rates not properly tracking equity costs. In view of this and of the fact that rate relief with respect to the equity return component of formula rates is available only on a prospective basis under section 206 of the Federal Power Act, a modification in formula rates may be appropriate. Since formula rates require waiver of the notice and review provisions of the Federal Power Act, the Commission wishes to consider, in the hearing ordered herein, whether it should henceforth condition the use of the NU companies' formula rates upon a requirement that the utilities periodically justify the equity return component under a procedure which affords refund protection. Accordingly, the parties shall also address this issue.

Any person desiring to be heard should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., 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 (1986). All such protests or motions should be filed within 10 days of issuance of this order.

The Commission Orders

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particulary section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act, 18 CFR Chapter I, a public hearing shall be held concerning the justness and reasonableness of the formula rates discussed herein.

(B) The Commission's trial staff shall file testimony concerning the appropriate rates of return on common equity and appropriate modifications to the formula rates discussed herein regarding the periodic filings described above within 10 days of the date of this order.

(C) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding within approximately 5 days of the date of the filing of staff's testimony, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The Presiding Judge is authorized to rule on all motions (except motions to dismiss) as provided in the Commission's rules of practice and procedure. The Presiding Judge is hereby directed to establish a procedural schedule which will permit an initial decision to be issued no later than August 14, 1987.

(D) The parties are hereby directed to file briefs on exceptions within 14 days of the initial decision and briefs opposing exceptions within 14 days of the filing of briefs on exceptions.

(E) Subdocket 000 of Docket No. EL87-30 is hereby terminated. Docket No. EL87-30-001 is hereby assigned to the evidentiary proceeding ordered herein.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-10548 Filed 5-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-530-000, CI87-546-000]

Pan Eastern Exploration Co.; Application

May 4, 1987.

Take notice that on April 24, 1987, Pan Eastern Exploration Company ("Pan Eastern" or Applicant), P.O. Box 1330, Houston, Texas 77251-1330, filed in Docket No. CI87-530-000 and CI87-546-000 an application pursuant to section 7(b) of the Natural Gas Act and § 2.77 of the Commission's Regulations for authorization to abandon service. Additionally Pan Eastern seeks blanket certificate authority to make new sales with pregranted abandonment under section 7(c) of the Natural Gas Act, all as more fully set forth in the subject application which is on file with the Commission and open to public inspection.

Pan Eastern seeks authorization to abandon service to Panhandle Eastern Pipe Line Company ("Panhandle") from Matagorda Island Block 623, Offshore Texas, certificated in Docket No. 85-169-000. Pan Eastern, as Seller, and Panhandle, as Buyer, entered into that certain Gas Purchase Contract dated May 22, 1984 covering gas production from Matagorda Island Block 623, which is on file with the Commission as Pan Eastern's Rate Schedule 26. Pan Eastern and Panhandle subsequently entered into a Gas Purchase Contract dated September 30, 1986 to replace the Gas Purchase contract dated May 22, 1984. The validity of the September 30, 1986 Gas Purchase Contract has been the subject of dispute between the parties and has not been filed with the Commission. Natural gas from Matagorda Island Block 623 qualifies as section 102(d) gas under the Natural Gas Policy Act of 1978. No natural gas has been purchased or sold pursuant to either gas purchase contract. By letter dated January 26, 1987, Panhandle marketed-out as to the price payable under the May 22, 1984 gas contract as well as the contested September 30, 1986 gas contract. By letters dated February 24, 1987 and April 8, 1987, respectively, Pan Eastern questioned the validity of the $1.35 per MMBTu market-out price proposed by Panhandle and has opted to terminate the contract(s) pursuant to the provisions contained therein rather than accept such price.

Pan Eastern additionally seeks authority for (i) blanket certificate authorization to make new sales for resale in interstate commerce of such gas; (ii) blanket pre-granted authorization to abandon such sales; and (iii) waiver of the regulations under Parts 154 and 271 as to the establishment and maintenance of rate schedules and filing requirements for collection of monthly adjustments and any section 110 allowances, all as described in the application. Pursuant to § 157.7(a) of the Commission's Regulations, Pan Eastern states that it has submitted the subject application in abbreviated form. Pan Eastern requests expedited consideration of the subject application pursuant to Docket No. RM85-1-000 and § 2.77 of the Commission's Regulations. If appropriate, Pan Eastern further requests that the application be handled in conformity with the shortened procedures permitted under Rule 802 of the Commission's rules of practice and procedure.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirement 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 intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-10549 Filed 5-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-498-000]

PeopleService, Inc.; Application

May 4, 1987.

Take notice that on April 15, 1987, PeopleService Inc. ("PSI"), pursuant to section 4 and 7 of the Natural Gas Act, ("NGA"), and § 2.77 and Part 157 of the regulations of the Federal Energy Regulatory Commission ("Commission") filed an application for a blanket certificate of public convenience and necessity: (i) Authorizing, sales for resale of all Natural Gas Policy Act categories of gas by PeopleService and the producers from which PSI purchases gas, and (ii) granting partial abandonment and pregranted abandonment of certain sales for resale as described more fully in PSI's application.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure. All protests filed with the Commission will be considered by it in determining the appropriate actions to be taken but will not serve to make the protestants parties to the proceedings. 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.

Under the procedures 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. 87-10550 Filed 5-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI71-187-001]

Phillips 66 Natural Gas Co.; Application

May 4, 1987.

Take notice that on April 9, 1987, Phillips 66 Natural Gas Company (P66NG) as successor to Phillips Petroleum Company, of 990-G Plaza Office Building, Bartlesville, Oklahoma 74004, filed an application pursuant to section 7 of the Natural Gas Act and Part 157 of the Commission's Regulations for an amendment to the certificate of public convenience and necessity issued in Docket No. CI71-187, authorizing P66NG to provide through its facilities known as Spearman Booster which were installed pursuant to an Amendment to Supplemental Gas Exchange Agreement dated July 1, 1981 with Natural Gas Pipeline Company of America (Natural) and ANR Pipeline Company (ANR). This application is on file with the Commission and open to public inspection.

In Docket No. CI71-187 the Commission authorized the exchange of gas among P66NG, Natural and ANR in the Hugoton-Anadarko Area in Gray and Hansford Counties, Texas. On May 10, 1982, P66NG filed an amendment dated July 1, 1981, providing for the installation and operation of facilities to dehydrate and compress natural gas to quality and pressure conditions necessary to enter Natural's system at the Hansford Delivery Point located in Section 32, Block 4-T, T&NO Svy., Hansford County, Texas. The compression and other equipment installed has been designated as the Spearman Booster.

Use of the P66NG's Spearman Booster is necessary to effect deliveries of gas to Natural from a point of interconnection between pipelines of ANR and Natural. The Spearman Booster has previously been used to make deliveries under the existing certificate exchange agreements. P66NG states that it has received requests for compression services using the Spearman Booster from other parties desiring to use the ANR-Natural interconnection point for their gas transportation transactions. P66NG advises that it is willing to perform such compression for others on a nondiscriminatory basis to facilitate broader use of the interconnection, but desires to do so only in accordance with any necessary regulatory authority. Therefore, P66NG seeks this amendment to the certificate exchange to broaden the permissible use of the Spearman Booster to include dehydration and compression services for others.

The booster is a post-NGPA installation. Only one qualified state of compression is necessary to effect deliveries from ANR to Natural. P66NG proposes to charge a rate for compression services equal to the compression rate that would apply under section 110(a)(1) of the NGPA for a similar service under a regulated sale-six cents (6 cents) plus recovery of fuel costs, together with a fee not to exceed the cost of service for dehydration, all calculated pursuant to 18 CFR 271.1104.

P66NG requests authorization allowing for reimbursement of the cost of compression which would permit P66NG to charge fees in accordance with § 271.1104(d)(iv) of the Commission's regulations. P66NG states that reimbursement of the cost of fuel would be based on the actual fuel costs incurred to compress the volumes of gas delivered through the facility and would be allocated back to the various owners of the gas. P66NG also requests a waiver of rate schedule filing requirements for individual compression transactions and suggests a periodic reporting requirement in lieu of rate schedules. P66NG seeks waiver of the Commission's regulations as necessary to enable approval of its proposal.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest 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 in any 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 unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-10551 Filed 5-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C187-497-000]

Reliance Gas Marketing Co.; Application for Certificate of Public Convenience and Necessity and for Pre-Granted Abandonment

May 4, 1987.

Take Notice that on April 14, 1987, Reliance Gas Marketing company (Reliance), pursuant to section 7 of the Natural Gas Act (NGA), and Part 157 of the Commission 's regulations, applied for a blanket certificate of public convenience and necessity to permit the sale, and pregranted abandonment of the sale, of natural gas which remains subject to the Commission's jurisdiction under the NGA for which producers receive abandonment authority under section 7(b) of the NGA.

Reliance states that it is seeking authority to resell, and abandon sales of natural gas abandoned pursuant to the Commission's recent orders allowing producers to abandon gas with a miximum lawful price equal to or below the maximum lawful price for NGPA

section 109 gas. Reliance seeks such authority for a period of three years. Reliance is not seeking such authority with regard to any gas not proviously abandoned by Commission order, nor is it seeking any transportation authority.

Reliance states that a grant of certificate and pregranted abandonment authority will promote competition by enabling Reliance to offer a complete range of gas supplies to its customers. Reliance submits that, in view of the benefits of competition, the authority sought in its application is consistent with the public convenience and necessity.

Reliance further requests expedited consideration of its application and, accordingly, requests omission of any intermediate decision procedrue and waives its right to an oral hearing and its opportunity to file exceptions to the Commission's decision, if the Commisson utilizes the expedited procedure under Rule 802 of the Rules of Practice and Procedure.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest 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 in any 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 unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-10552 Filed 5-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-376-000]

San Diego Gas & Electric Co.; Notice of Filing

May 5, 1987.

Take notice that on March 21, 1987, San Diego Gas & Electric Company (SDG&E) tendered for filing a Notice of Termination of the Loop Flow Agreement between the Western Systems Coordinating Council and its participating members and SDG&E, FERC Rate Schedule No. 53.

SDG&E requests termination of said Agreement as of August 31, 1985, pursuant to its terms and a waiver of the Commission's prior Notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests shall be filed on or before May 14, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-10553 Filed 5-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-258-000]

Utah Power & Light Co.; Amended Filing

May 4, 1987.

Take notice that on March 13, 1987, Utah Power & Light Company (UP&L) submitted for filing an amendment to its initial filing of a Transmission Service Agreement and an Interconnected Operation Agreement for wheeling services to be provided to the City of Provo, Utah. The amendment provides additional explanation of certain charges contained in the Interconnected Operation Agreement. UP&L requests that these agreements be made effective either on May 12, 1987 or on the date service is requested by Provo, whichever occurs first. UP&L requests a waiver of the Commission's notice requirements as provided in 18 CFR 35.11 and states that no other customer will be adversely affected by the granting of a waiver. Copies of this amended filing have been served upon Provo and the Utah Public Service Commission.

Any person desiring to be heard or to protest said Application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with § 385.211 and § 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 8, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-10554 Filed 5-7-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of April 3 Through April 10, 1987

During the Week of April 3 through April 10, 1987, the appeals and applications for exception or other relief listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 1, 1987.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

Week of April 3 through April 10, 1987

Date	Name and location of applicant	Case No.	Type of submission
Apr 3, 1987	David Rodriquez Soler, Cranbury, New Jersey	KFA-0095	Appeal of An Information Request Denial. If granted: The February 6, 1987 Freedom of Information Request Denial issued by the Chicago Operations Office would be rescinded, and David Rodriquez Soler would receive access to requested information.
Apr 4, 1987	J.D. McBride Oil Company, Corunna, Michigan	KEE-0137	Exception to the Reporting Requirements. If granted: J.D. McBride Oil Company would not be required to file Form EIA 782-B, "Resellers/Retailers Monthly Petroleum Product Sales Report".
Apr 6, 1987	TVC Marketing, Hohenwald, Tennessee	KFA-0094	Appeal of An Information Request Denial. If granted: The March 30, 1987 Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded, and TVC Marketing would receive information pertaining to Ms. Lucille Watson.
Apr 7 1987	Union Texas Petroleum Corporation, Houston, Texas	KFX-0031	Supplemental Order. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures to distribute crude oil overcharge monies pursuant to 10 CFR Part 205, Subpart V, in connection with the Consent Order (Case No. 6E0S00075) entered into with Union Texas Petroleum Corporation.
Apr 9, 1987	Southeastern Oil, Dothan, Alabama	KEE-0136	Exception to the Reporting Requirements. If granted: Southeastern Oil would no longer be required to file Form EIA 782-B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report".

REFUND APPLICATIONS RECEIVED

WEEK OF APRIL 3 TO APRIL 10, 1987

Date Received	Name of refund proceeding/ name of refund applicant	Case No.
4/03/87 thru 4/10/87	Getty Refund Applications	RF265-982 thru RF265-1019
4/03/87 thru 4/10/87	Cranston Refund Applications	RF276-115 thru RF276-147
4/06/87	O-AT-KA Milk Products Coop, Inc	RF272-414
4/28/86	S.T Anderson	RF225-10727
4/28/86	S.T. Anderson	RF225-10728
4/28/86	S.T. Anderson	RF225-10729
5/19/87	Ryder Oil Company	RF225-10726
4/10/87	Joe Murphy	RF40-3686
8/04/86	E.E. Holub	RF225-10730
8/04/86	E.E. Holub	RF225-10731
5/19/86	Zupin Oil	RF225-10732
5/12/86	Alden Oil Company	RF225-10733
5/05/86	Grawey Industries	RF225-10734
5/02/86	J&S Service & Station	RF225-10735
5/02/86	T.A. Wiseman	RF225-10736
4/28/86	Prior Oil Company	RF225-10737
7/18/86	Colebrook Oil Company, Inc.	RF225-10738
5/02/86	Somerset Oil Company, Inc.	RF225-10739
6/30/86	Evett Oil Company	RF225-10740
5/05/86	Capitol Oil Company	RF225-10741
5/02/86	Martin Oil Company	RF225-10742
5/15/86	Johnson Oil Company	RF225-10743

REFUND APPLICATIONS RECEIVED—Continued

WEEK OF APRIL 3 TO APRIL 10, 1987

Date Received	Name of refund proceeding/ name of refund applicant	Case No.
5/02/86	Marsh Oil Company	RF225-10744
4/25/86	Kukawich Oil Company	RF225-10745
5/02/86	Knittel Oil Company	RF225-10746
4/09/87	The Goodyear Tire & Rubber Co.	RF272-415
4/09/87	Denisply International, Inc.	RF272-416
4/10/87	Temmen Transport	RF272-417
4/10/87	E. Kentucky Power Cooperative	RF272-418
4/10/87	Basic American Foods	RF272-419
4/10/87	Jacksonville Elec. Authority	RF272-420
4/10/87	The Eastern Company	RF272-421
4/10/87	Central Okla Transportation	RF272-422

[FR Doc. 87-10500 Filed 5-7-87; 8:45 am]

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Cases Filed; Week of April 10 Through April 17, 1987

During the Week of April 10 through April 17, 1987, the applications for relief listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 1, 1987.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

Week of April 10 through April 17, 1987

Date	Name and location of applicant	Case No.	Type of submission
Apr 13, 1987	National Helium/New Jersey, Newark, New Jersey	RM3-62	Request for Modification/Rescission in the National Helium Second Stage Refund Proceeding. If granted: The October 3, 1986 Decision and Order (Case No. RQ3-287) issued to New Jersey would be modified regarding the state's application for refund submitted in the National Helium second stage refund proceeding.
Apr 13, 1987	Ohio, Columbus, Ohio	KEG-0007	Petition for Special Redress. If granted: The Office of Hearings and Appeals would review the proposed expenditures for the Stripper Well funds which were disapproved by the Assistant Secretary for Conservation and Renewable Energy.
Apr 14, 1987	La Jet, Inc. et al, Washington, DC	KRD-0470	Motion for Discovery. If granted: Discovery would be granted to La Jet, Inc. et al in connection with the Statement of Objections submitted in response to the January 22, 1987 Proposed Remedial Order (Case No. KRO-0470) issued to La Jet, Inc., et al.
Apr 14, 1987	Texas American Oil Corporation, Washington, DC	KRD-0360 & KRJ-0360	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the statement of objections submitted by Texas American Oil Corporation in response to the September 30, 1986 Proposed Remedial Order (Case No. KRO-0360) issued to Texas American Oil Corporation.

Date received	Name of refund proceeding/ name of refund applicant	Case No.
1/24/86	Church Oil Company	RF225-10754
4/24/86	Bauer Service Inc	RF225-10755
8/13/86	MacIntyre Fuels, Inc	RF225-10753
1/20/87	The Hertz Corporation	RF225-10751
3/18/87	Hensley's Consumers Oil Co	RF225-10751
3/31/87	Cochran Oil Company	RF225-10752
4/10/87 thru 4/17/87	Getty Refund Applications	RF265-1020 thru RF265-1078
4/13/87	Pima County Government	RF272-423
4/13/87	Village of Freeport	RF272-424
4/13/87	Nicholas DeDisto	RF276-148
4/13/87	Margaret Capareo	RF276-149
4/13/87	Camillo Papa	RF276-150
4/13/87	John Mandarini	RF276-151
4/13/87	Haines & Kibblehouse, Inc	RF272-425
4/13/87	Burlington Electric Dept	RF272-426
4/13/87	Frank Iozzi	RF276-153
4/14/87	Garland Bros. Pet. Products	RF225-10747
4/14/87	Garland Bros. Pet. Products	RF225-10748
4/14/87	Garland Bros. Pet. Products	RF263-34
4/14/87	Anna Antenucci	RF276-152
4/14/87	Lyman A Royal	RF276-154
4/15/87	NGL Supply, Inc	RF220-487
4/15/87	NGL Supply, Inc	RF225-10749
4/15/87	Robert Antonelli	RF276-155
4/15/87	Alton A. Martin	RF276-156
4/15/87	NGL Supply Inc	RF64-4
4/15/87	NGL Supply, Inc	RF192-22
4/16/87	York International Corporation	RF272-427
4/16/87	Keith Smith	RF225-10756
4/16/87	Merrill Creighton Oil Co	RF225-10757
4/16/87	Merrill Creighton Oil Co	RF225-10758
4/16/87	Merrill Creighton Oil Co	RF225-10759

[FR Doc. 87-10501 Filed 5-7-87; 8:45 am]

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Issuance of Decisions and Orders; Week of April 13 Through April 17, 1987

During the week of April 13 through April 17, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Committee To Bridge The Gap, 4/17/87; KFA-0091

The Committee To Bridge The Gap filed an Appeal from a partial denial by the Principal Deputy Assistant Secretary for Nuclear Energy of a Request for Information which the organization had submitted under the Freedom of Information Act. The Committee had requested copies of all SP-100 Technical Notes (SPTN) published after SPTN-113. In considering the Appeal, the DOE determined that the Technical Notes (numbered 114-123) were properly withheld pursuant to 5 U.S.C. 552(b(5) (Exemption 5) as pre-decisional, deliberative documents. Accordingly, the Appeal was denied.

Government Accountability Project, 4/17/87; KFA-0088

On April 2, 1987 the Government Accountability Project (GAP) filed an Appeal under the Freedom of Information Act (FOIA) of a determination issued to the organization on March 10, 1987 by the Acting Deputy Assistant Secretary for Reactor Systems, Development and Technology (Deputy), Office of Nuclear Energy. The Appeal pertained to a document withheld in its entirety by the Deputy pursuant to the deliberative process privilege of Exemption 5 of the FOIA. In considering the Appeal, the DOE found that the document contained internal agency recommendations relating to an export license application, which was precisely the sort of material which the deliberative process privilege of Exemption 5 was intended to protect. The DOE concluded that the Deputy's determination was correct and that GAP's Appeal should be denied.

Lonnie Rosenwald, 4/17/87; KFA-0092

Lonnie Rosenwald filed an Appeal from a second denial by the Assistant Manager for Administration, Richland Operations Office (Authorizing Official) of a Request for Information which she had submitted under the Freedom of Information Act. In her Appeal of the first denial, the DOE held that the Authorizing Official had properly withheld the requested documents pursuant to Exemption 5. The Authorizing Official, however, failed to address the issue of whether release of the documents to a DOE contractor waived the DOE's Exemption 5 privilege. The DOE, therefore, remanded the Appeal to the Authorizing Official, who subsequently issued a new determination. In considering the Appeal from the new determination, the DOE found that the release of the documents to a DOE contractor was necessary to effectuate the valid governmental purpose of managing the plants run by the contractor and was limited to those needing the document's information. Accordingly, the DOE held that this disclosure did not waive the Exemption 5 privilege.

Peter T. Torrell, 4/13/87; KFA-0084

Peter T. Torell filed an Appeal from a partial denial, by the Director of the Office of Remedial Action and Waste Technology, of a Request for Information which the Appellant had submitted under the Freedom of Information Action Act (the FOIA). In considering the Appeal, the DOE found that the requested draft settlement offer document was exempt from mandatory disclosure under Exemption 5. Important issues that were considered in the Decision and Order were (i) whether a draft settlement offer that the DOE submitted to an opposing party is protected by the privilege for deliberative documents, and (ii) whether a discrete privilege exists under Exemption 5 for settlement papers.

The Hartford Courant, 4/17/87; KFA-0093

Warren Froelich, a journalist for *The Hartford Courant*, filed an Appeal from a denial by the Special Assistant to the Deputy Director of the Naval Nuclear Propulsion Program, of a Request for Information which he had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Request failed to provide an adequate description of the records sought, as is required by the FOIA. 5 U.S.C. 552(a)(3). Accordingly, the Appeal was denied.

The Rio Grande Sun, 4/17/87; KFA-0090

The Rio Grande Sun filed an Appeal from a denial by the Director of the Albuquerque Operations Office of a request which the newspaper had submitted under the Freedom of Information Act. The Sun sought information pertaining to a suit against Los Alamos National Laboratory and the University of California which operates the Laboratory under contract with the DOE. The DOE found that itemized invoices for legal work performed by an outside law firm in connection with the suit were properly withheld by the Director pursuant to the Exemption 5 work-product privilege, since they could reveal the law firm's legal strategy. The DOE also found that the Director had properly determined that University documents pertaining to changes in internal University practices resulting from the suit were not "agency documents" subject to the FOIA. In this regard, the DOE noted that the University is not an "agency" for FOIA purposes and that the documents in question, if they exist, were never in the custody of or used by the DOE. Accordingly, the Sun's Appeal was denied.

TVC Marketing, 4/17/87; KFA-0094

TVC Marketing (TVC) filed an Appeal from a denial by the Privacy Act Officer of the Oak Ridge Operations Center for a Request for Information which TVC submitted under the Privacy Act. In considering the Appeal, the DOE found that TVC, which sought the records of a third party, did not meet the criteria set forth in 10 CFR 1008.17 for the release of such records. Accordingly, the DOE denied TVC's Appeal.

Remedial Orders

L.B. White, Brio Petroleum, Inc., 4/16/87; HRO-0266

The DOE issued a final Remedial Order jointly to Brio Petroleum, Inc. and L.B. White. Brio did not file a Notice of Objection or Statement of Objections in this proceeding. In the Proposed Remedial Order (PRO), ERA alleged that during the period May 1, 1978 through December 31, 1979, Brio committed violations of the crude oil reseller "layering regulation," 10 CFR 212.186. ERA also sought to hold White personally liable for the pricing violations which occurred after August 1, 1978, when he became the "central figure" controlling Brio's activities.

The OHA found no merit in White's arguments that the proceeding was barred by the Texas Statute of Limitations, the equitable doctrines of laches, and estoppel or the procedural inadequacy of the PRO. The OHA rejected White's contentions that the layering regulation was not validly promulgated. The OHA held that the layering regulation required crude oil resellers to provide evidence of some tangible service which facilitated the movement of crude oil from the producer to the refiner or some other function of economic benefit to the crude oil market, and that Brio had not provided evidence that it performed such functions. The OHA also rejected White's argument that he could not be held personally liable for the full amount of overcharges that occurred during the period he participated in and benefitted from Brio's illegal pricing activities. The OHA found further that

restitution in this case did not constitute a penalty and White was not relieved of liability because of his reliance upon the advice of outside counsel concerning compliance with the price regulations.

Accordingly, Brio was directed to refund $1,093,548 and White was directed to refund $849,570 plus interest, for ultimate distribution under 10 CFR Part 205, Subpart V.

Ted True, Inc., Ted W. True, G. Michael Curran, Trustee for the Estate in Bankruptcy of Ted True, Inc., Dean M. Gandy, Trustee for the Estate in Bankruptcy of Ted True, 4/13/87; KRO-0270, KRR-0018, KRR-0019, KRZ-0058, KRZ-0059

The DOE issued a final Remedial Order to Ted True, Inc. and Ted True (the Respondents). In that Order, the DOE found that the Respondents had engaged in the practice of miscertifying a substantial volume of the crude oil. The Remedial Order found that in each month the Respondents purchased substantially more barrels of lower tier crude oil than they sold. The finding was based on third party documentation because Ted True had intentionally destroyed all or most of the Respondents' business records. The only parties to contest the underlying PRO in the case were the Trustees for the Respondents' respective Estates in Bankruptcy. The Remedial Order found that the Trustees' participation did not change the facts that the Respondents remained the primary parties to the proceeding, and that the ERA was required to provide the allegations in the PRO by a "preponderance of the evidence." Finally, the Order found that the submission of evidence before OHA is not controlled by the Federal Rules of Evidence. Accordingly, Respondents were directed to refund $1,744,849 including interest to the DOE for ultimate distribution pursuant to 10 CFR Part 205, Subpart V.

Petition for Special Redress

Iowa, 4/17/87; KEG-0006

The DOE issued a Decision concerning a Petition for Special Redress submitted by the State of Iowa. The State sought approval to use Stripper Well funds for a project found by the DOE's Assistant Secretary for Conservation and Renewable Energy to be inconsistent with the terms of the Stripper Well Settlement. After considering Iowa's Petition, the DOE decided to disapprove the State's proposal to use $1.7 million for the Petroleum Fuel Leak and Spill Prevention Program. The program involved focuses more on health and environmental concerns than on reducing the energy costs incurred by injured consumers. Accordingly, Iowa's Petition for Special Redress was denied.

Requests for Exception

Atlantic Oil and Heating Co., 4/14/87; KEE-0107

Atlantic Oil and Heating Company filed an Application for Exception from the requirement that it submit Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." Atlantic asserted that it should be relieved of the reporting requirement because (1) it has a small clerical staff, and (2) its bookkeeping month ends after the Form is due. In considering the firm's request, the DOE found that neither Atlantic's size nor its accounting methods constitute evidence that it is more burdened by the reporting requirement than other survey respondents. Accordingly, the DOE denied Atlantic's request for exception relief.

B & R Oil Co., Inc., 4/17/87; KEE-0108

B & R Oil Company, Inc. filed an Application for Exception from the requirement that it submit Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." B & R asserted that it should be relieved from the survey requirement because (1) it is understaffed, and (2) it cannot obtain necessary data from its accounting firm in time to prepare the Form. In considering the firm's request, the DOE found that the small size of B & R's staff was an insufficient basis for approving exception relief. In addition, the DOE found that B & R could eliminate the difficulties in obtaining its data by devising a careful method of estimating the necessary figures. Consequently, the DOE denied B & R's request for exception relief.

Tribal Negotiating Team, 4/17/87; KEE-0002

The Tribal Negotiating Team filed a Petition for Special Redress Relief with the Office of Hearings and Appeals (OHA) seeking OHA intervention into its negotiations on behalf of 26 sovereign Indian tribes with the government of Washington over the determination of an equitable share of the State's oil overcharge refunds. Upon receipt of the petition, the OHA informed the Governor of Washington of the tribes' contentions and invited his comments on them. The Governor responded by explaining the State's position concerning the funds. The Governor indicated that the state had proposed to allocate four percent of oil overcharge funds to the tribes even though the tribes' population comprised one percent of the total state population. The OHA then informed the Tribal Negotiating Team of the Governor's comments whereupon the Team informed the OHA that it had reached an agreement with Washington accepting the proposal outlined by the Governor for the State's oil overcharge funds with the tribes. Consequently, the petition was dismissed.

Implementation of Special Refund Procedures

A. Tarricone, Inc., et al., 4/15/87; KEF-0049, et al.

The DOE issued a Decision and Order implementing procedures for the distribution of $373 million (plus accrued interest) in crude oil overcharge funds obtained from 42 separate settlements. The DOE determined that the funds should be distributed in accordance with the Department's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986). Accordingly, 80 percent of the money in these cases was divided between the state and federal governments. Twenty percent of the funds was reserved for direct restitution to injured parties submitting claims to the OHA under 10 CFR Part 205, Subpart V. The specific information to be included in applications for refund and the standards by which Subpart V crude oil claims will be evaluated are set forth in the Decision.

Pyrofax Gas Corp., 4/14/87; HEF-0157

The DOE issued a Decision and Order implementing a plan to distribute $2,750,000 received as a result of a DOE consent order with Pyrofax Gas Corporation (Pyrofax). The DOE decided to distribute the funds to both identified and as yet unidentified customers who purchased propane from Pyrofax between November 1, 1973 and Janaury 27, 1981. The Decision describes the specific information required in refund applications.

Refund Applications

Advance Transportation Co., 4/14/87; RF270-1135

The DOE issued a Decision and Order analyzing a company's Application for Surface Transporter Refund based on its operation of trucks, company cars, forklifts, and an airplane. The DOE approved the company's claim for refunds based on its trucks and company cars and disapproved the airplane and forklift portion of the claim. The DOE determined that airplanes and forklifts are not eligible Surface Transportation vehicles. The DOE determined that company cars used for sales, maintenance and executive transportation are eligible vehicles.

C.K. Smith & Co., Inc./City of Worcester et al., 4/16/87; RF284-8 et al.

The DOE issued a Decision and Order concerning an Application for Refund filed by the City of Worcester, Massachusetts, Radio Oil Company and the Defense Logistics Agency from a consent order fund made available by C.K. Smith & Company, Inc. The DOE found that Worcester and the Defense Logistics Agency as governmental entities, were end user of Smith No. 2 heating oil during the consent order period. They were therefore not required to submit proof that they were injured as a result of their purchases from Smith. Radio, a Smith No. 2 heating oil reseller elected to limit its refund to the $5,000 small claims presumption and therefore was also not required to submit proof of injury. Accordingly, all three refund claims were granted. The total refunds granted in this proceeding were $37,913, representing $20,494 in principal and $17,399 in accrued interest.

Consolidated Distributing Co., Inc., et al., 4/17/87; RF270-1772 et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the gallonages of refined petroleum products claimed by seven trucking companies as a basis for the refund that will ultimately be issued to the seven firms. The DOE stated that because the size of a surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amounts of the firms' refunds will be determined at a later date.

Daum Over-Nite Express, et al., 4/14/87; RF270-1121, et al.

The DOE issued a Decision and Order approving 19 transportation companies for Surface Transporter refunds. Three of the companies operated trucks, nine operated buses, three operated taxicabs, two operated limousines, and two operated a combination of these vehicles. The DOE approved each company's application.

Gary Energy Corp./Chevron U.S.A. Inc., 4/14/87; RF47-8

Chevron U.S.A. Inc. filed an Application for Refund, seeking a portion of funds remitted by Gary Energy Corporation, pursuant to a consent order with the DOE. Chevron purchased 27,285,621 gallons of propane, butane and natural gasoline from Gary during the consent order period. The DOE found that Gary's prices exceeded market average prices for over 80% of the products the firm sold to Chevron. As a result, Chevron suffered a competitive disadvantage. The DOE therefore, granted Chevron a refund of $88,951.12, which equals Chevron's purchase volume times the per gallon refund money available. In addition, Chevron will receive interest of $22,902.49.

Gulf Oil Corp./Clopper Oil Co., 4/15/87; RF40-935, RF40-998

The DOE issued a Decision and Order concerning the Applications for Refund filed on behalf of Clopper Oil Company, with the Gulf Oil Corporation refund proceeding. Clopper was a reseller, a consignee, and a by-pass consignee of Gulf refined petroleum products. Following the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), Clopper demonstrated that it purchased 2,342,443 gallons of Gulf middle distillates and that it would not have been required to reduce its selling prices to pass through the amount of the refund claimed for this volume. Clopper also demonstrated that it lost potential sales as a consignee of Gulf motor gasoline and therefore claimed it was injured by Gulf's allegedly uncompetitive prices. The DOE determined that Clopper was not injured, however, in receiving middle distillates on consignment from Gulf because Clopper's 100 percent sales decline was attributable to its direct transfer from consignee status to reseller status. Finally, the DOE found that Clopper was not injured as a by-pass consignee because the firm undertook significantly less responsibility in this role than it did as a traditional consignee. Accordingly, a refund totaling $4,103 in principal and $975 in interest was approved for Clopper based on the firm's distillate purchases and gasoline consignments.

Gulf Oil Corp./Matter Inc. et al., 4/16/87; RF40-3669 et al.

The DOE issued a Decision and Order concerning eight Applications for Refund filed by retailers and end-users of Gulf refined petroleum products. The claimants applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). After examining the evidence and supporting documentation submitted by the applicants, the DOE concluded that the claimants should receive refunds totalling $61,244 ($49,483 principal plus $11,761 interest).

Gulf Oil Corp./Sterling Garage, 4/14/86; RF40-1727

On April 13, 1987, the DOE issued a Decision and Order concerning the Application for Refund filed by Sterling Garage, a consignee of Gulf motor gasoline and middle distillates. Following the method outlined in *Gulf Oil Corp./C.F. Canter Oil Co.*, 13 DOE ¶ 85,388 (1986), Sterling demonstrated that it had been injured as a consignee by showing that its total volume of consigned product had declined to a much larger extent than had overall gasoline consumption in the state in which it is located. The DOE therefore determined that Sterling was injured in its role as a consignee by Gulf's allegedly uncompetitive prices. The total refund granted in this case is $201 ($162 in principal plus $39 in interest).

Marathon Petroleum Company/Barrett Paving, Allied Chemical Corporation, Rex Oil Station Number 31, 4/13/87; RF250-2530, RF250-2531, RF250-2532, RF250-2533, RF250-2534, RF250-2584

The DOE issued a Decision and Order concerning six Applications for Refund filed on behalf of three purchasers of products covered by the consent order with Marathon Petroleum Company. The applicants demonstrated the volume of their Marathon purchases, and none requested a refund greater than the $5,000 small claims amount. The sum of the refunds approved in this Decision is $2,217 in principal and $190 in interest.

Marathon Petroleum Company/Ellingsen MacLean Oil Co., Inc., 4/13/87; RF250-971, RF250-972

The DOE issued a Decision and Order concerning an Application for Refund filed by Ellingsen MacLean Oil Co., Inc. (Ellingsen), a purchaser and reseller of products covered by the consent order with Marathon Petroleum Company. Under the refund procedures established for Marathon applicants, Ellingsen's purchase volume corresponded to a volumetric share exceeding the $5,000 small claims threshold level. However, because the firm did not attempt to demonstrate that it absorbed the alleged Marathon overcharges, Ellingsen was eligible for a refund of either $5,000 or 35% of its volumetric share. In this case, 35% of the firm's volumetric share was less than the small claims threshold. Accordingly, the DOE granted Ellingsen a refund of $5,000 in principal and $440 in interest.

Marathon Petroleum Company/Tauber Oil Company, 4/14/87; RF250-2393

Tauber Oil Company (Tauber) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order with Marathon Petroleum Company (Marathon). Tauber demonstrated that it purchased 9,513,788 gallons of refined petroleum covered products from Marathon during the consent order period. Using a volumetric methodology, the DOE determined that Tauber's claim was below the presumption of injury threshold refund level of $5,000. The DOE therefore granted Tauber a refund of $3,995.79 in principal and $280.92 in accrued interest for a total refund of $4,276.71.

Marathon Petroleum Company/Thornton Oil Corporation, 4/13/87; RF250-2387, RF250-2388

The DOE issued a Decision and Order concerning Application for Refund filed by Thornton Oil Corporation (Thornton), a reseller of Marathon covered products. Although the firm's purchase of diesel and motor gasoline from Marathon during the consent order period exceeded the threshold refund level established in Marathon Petroleum Co., Thornton elected to file its refund applications in accordance with procedures for filing claims based upon the 35 percent presumption of injury outlined in the Marathon decision. After examining evidence and supporting data submitted by the firm, the DOE concluded that Thornton should receive a refund of $21,282.87 in principal and $1,493.33 in accrued interest for a total refund of $22,776.20.

Mobil Oil Corporation, A.G. Birrell Co. et al., 4/16/87; RF225-6382

The DOE issued a Decision and Order granting 51 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in *Mobil Oil Corporation*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $25,951.

Mobil Oil Corporation/Aluminum Company of America et al., 4/17/87; RF225-3374 et al.

The DOE granted 27 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to their full allocable shares based on the volumetric methodology set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985) (*Mobil*). The total amount of the refunds granted was $14,696, representing $12,104 in principal plus $2,592 in interest.

Southern Union Company/McCormick and Sons Oil Co., 4/14/87; RF182-3

The DOE issued a Decision and Order granting a refund to McCormick and Sons Oil Co. from the Southern Union Company escrow account. McCormick and Sons was a retailer of Southern diesel fuel. McCormick's refund totalled $412.

DISMISSALS

Name	Case No.
A. Borinstein, Inc	RF270-1430
Ace Oil Co	RF225-2241, RF225-2242, and RF225-2243
Al Auto Parts & Accessories	RF225-6992, RF225-6993
Albert W. Hammill	RF225-4540, RF225-4541
Bass Enterprises	RF95-1

DISMISSALS—Continued

Name	Case No.
Cauthen Oil, Inc	RF239-19
Charlton Mobil	RF225-10020
Clarkston Community Schools	RF270-860
Coffield Pipeline	RF92-1
Cooper & Brain-Brea	RF90-1
Cotton Petroleum	RF81-1
Diamond Shamrock	RFRF93-2
Diamond Shamrock	RF93-1
Ernest Allercamp	RF85-1
Farmers Petroleum Cooperative, Inc	RF250-1043, RF250-1044
Gary Public Transportation Corp	RF270-452
Glen M. Castleschouldt	RF225-6987, RF225-6988
Glen S. Morrison	RF225-1654
Halstead Oil Co	RF225-2191, RF225-2192
Hewitt & Dougherty	RF86-1
Houston Oil & Minerals	RF87-1
Indiana University	RF270-544
Jack E. Kert	RF225-1659
Jason M. Cook	KFA-0086
Jimmy Lee Hanson	RF225-6964, RF225-6966
Kudlow Mobil	RF225-10021
Laverne Pease	RF225-6907, RF225-6909
M.L. and D.C. Murray	RF225-7422
Max Petroleum	RF84-1
Mcalister Enterprises, Inc./ Kyle S. Mcalister	KRO-0450
McCall Oil Company	RF225-7419, RF225-7420
National Cooperative	RF94-1
Nationafl Cooperative	RF94-2
North Penn Transfer, Inc	RF225-10115
Oglesby Oil Co	RF225-2151, RF225-2154
Olson Bros. Garage, Inc	RF225-7415, RF225-7416, and RF225-7417
Oskaloosa Oil Company	RF225-4509, RF225-4512
Panhandle Eastern	RF88-1
Panley Petroleum	RF91-1
Philip J. Wolcott	RF225-6940, RF225-6942
Production Operators, Inc	RF225-6269
Ray Harvey, Inc	RF225-6960, RF225-6961
Ray M. Huffington	RF89-1
Service Petroleum, Inc	RF275-2
Sonoco Products	RF225-5367
Southwest Forest Industries, Inc	RF225-164
Superior Oil Company	RF103-2
Toco Corp	RF106-1
Txo Oil Company	RF107-1
U.S. Tool & Cutter Co	RF225-4563
W.A. Moncrief	RF96-1
Wasserman Realty Service	RF243-1
Wyatt Industries, Inc	RF225-6268

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forestal Building, 1000 Independence Avenue SW, Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 1, 1987.

[FR Doc. 87-10502 Filed 5-7-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of April 20 Through April 24, 1987

During the week of April 20 through April 24, 1987, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Motion for Discovery

Texaco Inc., 4/20/87; KRD-0021

The OHA issued a decision approving in part a Motion for Discovery filed by Texaco Inc. The discovery requests at issue relate to certain recalculations of overcharges that were performed by the ERA and submitted to the OHA on November 5, 1986 (Case No. KRX-0024). The ERA was directed to make those recalculations in a final Remedial Order that was issued to Texaco on August 7, 1986, in which OHA sustained allegations that Texaco had violated the crude oil producer price regulations, 10 CFR Part 212, Subpart D. *Texaco Inc.*, DOE ¶ 83,037 (1986). In the November 5, 1986 submission, ERA alleges that Texaco should be required to refund additional overcharges amounting to $119,653,603, plus interest. The discovery requests considered involve: (i) The manner in which the alleged overcharges were recalculated; (ii) the source documents used by ERA in making the recalculations; and (iii) the factual differences between evidence which ERA accepts as demonstrating official recognition of separate reservoirs for purposes of the amended property definition, and evidence of that type which ERA rejects.

Implementation of Special Refund Procedures

Inman Oil Co., Leo's-Winstead's, Inc., 4/24/87; HEF-0097, HEF-0114

The DOE issued a Decision and Order implementing a plan for the distribution of $134,874 received pursuant to a consent orders with Inman Oil Company, Inc. and Leo's Winstead's, Inc. The DOE determined that the Inman consent order fund should be distributed to customers that purchased motor gasoline from Inman between January 1, 1979 and July 31, 1979. Similarly, the DOE determined that the Leo's consent order fund should be distributed to customers that purchased motor gasoline or fuel oil from Leo's between November 1, 1973 and April 30, 1974. The specific information to be included in Applications for Refund is set forth in the Decision.

Tresler Oil Co., 4/24/87; KEF-0019

The Department of Energy issued a Decision and Order implementing a plan to distribute $150,000 (plus accrued interest) obtained pursuant to a consent order with Tresler Oil Company. The DOE determined that the funds will be distributed to refund applicants who purchased motor gasoline from Tresler during the period covered by the consent order, May 1975 through April 1980. Specific information to be included in refund applications is set forth in the Decision.

Refund Applications

Beverly Hills Transfer and Storage Co., et al., 4/23/87; RF270-1799 et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the gallonages of refined petroleum products claimed by five trucking companies and will use those gallonages as a basis for the refund that will utlimately be issued to the five firms. The DOE stated that because the size of a surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amounts of the five firms' refunds will be determined at a later date.

Conoco Inc./Five Minit Wash and Gas Wynn-Fowler Trading Company, 4/23/87; RF220-431, RF220-481

The DOE issued a Decision and Order concerning two Applications for Refund filed by purchasers of Conoco refined products. Both customers filed for refunds based upon the small claims procedures outlined in *Conoco Inc.*, 13 DOE ¶ 85,316 (1985). After examining the claims, the DOE concluded that both applicants should receive refunds based on the volumetric refund amount established in *Conoco*. The total amount of refunds granted was $817.

Getty Oil Co./Abington Getty, et al., 4/23/87; RF265-755, et al.

The DOE issued a Decision and Order concerning 42 Applications for Refunds from the Getty Oil Company deposit escrow fund filed by 33 reseller-retailers of Getty petroleum products. All of the applicants received refunds based upon the small claims presumption of injury, under which an applicant need only supply a record of its monthly purchases of Getty product(s) in order to qualify for a refund. The refunds ordered totaled $172,985, representing $88,467 in principal and $84,518 in accrued interest.

Getty Oil Co./John Adams Service Center, 4/20/87; RF265-1049

The DOE issued a Supplemental Order concerning an Application for Refund from the Getty Oil Company deposit escrow fund filed by John Adams Service Center (John Adams). The Supplemental Order stated that the refund amount ordered for John Adams in our April 8, 1987 Decision and Order, *Getty Oil Company/Barone Brothers Auto Service, Inc.*, 15 DOE ¶ ——— (RF265-291, *et al.*) was incorrect. The proper refund amount of $11,680, representing $5,973 in principal and

$5,707 in interest, was approved in the Supplemental Order.

Husky Oil Co./Crestview Service et al., 4/22/87; RF161-12 et al.

The DOE issued a Decision and Order concerning fourteen Applications for Refund filed in the Husky Oil Company special refund proceeding. Each of the applicants had purchased refined petroleum products from Husky Oil Company, and each sought a portion of the settlement fund obtained by the DOE through a consent order entered into with Husky. Eleven of the fourteen firms applied for refunds based upon the procedures for filing small claims outlined in *Husky Oil Company*, 13 DOE ¶85,045 (1985). The three remaining applicants were eligible to apply for refunds greater than $5,000, but elected to limit their claims to $5,000. After examining the evidence and supporting information submitted by the firms, the DOE concluded that each of the fourteen firms should receive a refund, based on its volumetric per gallon refund amount, as described in the Appendix to the Decision. The refunds granted total $50,769, representing $35,291 in principal and $15,478 in interest.

Little America Refining Co./Rio Vista Oil, Ltd., 4/23/87; RF112-199

The DOE issued a Decision and Order granting a refund from the Little America Refining Company (Larco) deposit escrow account to Rio Vista Oil, Ltd., a reseller of Larco gasoline. Based on the principles established for evaluating Larco refund applications, the DOE concluded that Rio Vista was injured in those months in which it maintained cost banks during the regulation period. The DOE also found that the applicant was injured in the months preceding and following the banking regulation period because Larco's prices exceeded market average prices during those times. Accordingly, Rio Vista was granted a refund of $15,887, representing $10,263 in principal and $5,624 in interest from the Larco deposit escrow account.

Marathon Petroleum Co./Blue and White Service, Inc., 4/24/87; RF250-2680 RF250-2681

The DOE issued a Decision and Order concerning two Applications for Refund filed by Blue & White Service, Inc. (B&W), a reseller of Marathon covered products. Although the firm's purchase of diesel and motor gasoline from Marathon during the consent order period exceeded the threshold refund level established in *Marathon Petroleum Co.*, B&W elected to file its refund applications in accordance with procedures for filing claims based upon the 35 percent presumption of injury outlined in the Marathon decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that B&W should receive a refund of $19,424.80 in principal and $1,393.12 in accrued interest for a total refund of $20,817.92.

Marathon Petroleum Co./Huffy Oil Co. RF250-2278 The Huffman Oil Co., 4/20/87, RF250-2717

The DOE issued a Supplemental Decision and Order concerning Applications for Refund filed by two owners of a company which purchased products covered by a consent order that the agency entered into with Marathon Petroleum Company. On the basis of new information, Huffy Oil Company (Huffy) had reduced its claim to only a portion of the refund it had been granted in a previous Decision and Order, *Marathon Oil Co./Blue Grass Oils, Inc.*, 15 DOE ¶85,347 (1987), in case number RF250-2435 on February 20, 1987. The DOE granted Huffy its amended refund claim, and the balance of the refund previously granted to Huffy has been granted to the Huffman Company, a previous owner of Huffy Oil Company. The refund granted to Huffy in the February 20, 1987 Decision was rescinded. In this Decision, Huffy Oil Company was granted a refund of $149 in principal and $13 in interest. The Huffman Company was granted a refund of $4,490 in principal and $396 in interest.

Marathon Petroleum Co./Kean Oil Co., 4/24/87; RF250-2265

The DOE issued a Decision and Order concerning an Application for Refund filed by Kean Oil Company (Kean), a reseller of Marathon covered products. Although the firm's purchase of motor gasoline from Marathon during the consent order period exceeded the threshold refund level established in *Marathon Petroleum Co.*, Kean elected to file its refund application in accordance with procedures for filing claims based upon the 35 percent presumption of injury outlined in the Marathon decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that Kean should receive a refund of $8,059.38 in principal and $577.82 in accrued interest for a total refund of $8,637.20.

Marathon Petroleum Company/Meijer, Inc. 4/23/87; RF250-2277

The DOE issued a Decision and Order concerning an Application for Refund filed by Meijer, Inc. (Meijer), a retailer of Marathon covered products. The firm's purchase of motor gasoline from Marathon during the consent order period exceeded the threshold refund level established in *Marathon Petroleum Co.* and the applicant attempted to show but failed to prove that it fully absorbed the alleged overcharges. Accordingly, the OHA considered refund applications in accordance with procedures for filing claims based upon the 35 percent presumption of injury outlined in the Marathon decision. After examining the evidence and supporting data submitted by the firm the DOE concluded that Meijer should receive a refund of $14,030.05 in principal and $1,005.89 in accrued interest for a total refund of $15,035.95.

Marathon Petroleum Company/Neumann Oil and Tire, Inc., 4/24/87; RF250-2311, RF250-2312

The DOE issued a Decision and Order concerning an Application for Refund filed by Neumann Oil & Tire, Inc. (Neumann), a reseller of motor gasoline and distillates. Although the firm's pruchase of motor gasoline and distillates from Marathon during the consent order period exceeded the treshold refund level established in *Marathon Petroleum Co.*, Neumann elected to file its refund applications in accordance with procedures for filing small claims and based upon the presumption of injury outlined in the Marathon decision. After examining the evidence and supporting data submitted by the firm, the DOE Concluded that Neumann should receive a refund of $5,000 in principal and $358.49 in accrued interest for a total refund of $5,358,49.

Marathon Petroleum Company/Thoni Oil Company, 4/21/87; FR250-1716 thru FR 250-1806

The DOE issued a Decision and Order concerning 91 Application for refund filed by Thoni Oil Company (Thoni), a retailer or Marathon covered products. Although the firm's purchase of diesel and motor gasoline from Marathon during the consent order period exceeded the threshold refund level established in *Marathon Petroleum Co.*, Thoni elected to file its refund applications in accordance with procedures for filing claims based upon the 35 percent presumption of injury outlined in the Marathon decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that Thoni should receive a refund of $49,798.92 in prinicipal and $3,492.32 in accrued interest for a total refund of $53,291.24.

Marathon Petroleum Company/Williams Oil Company, 4/24/87; FR250-2880, RF250-238

The DOE issued a Decision and Order concerning two Applications for Refund filed by Williams Oil Company (Williams), a reseller of motor gasoline and diesel. Although the firm's purchase of motor gasoline and diesel from Marathon during the consent order period exceeded the threshold refund level established in Marathon *Petroleum Co.*, Williams elected to file its refund applications in accordance with procedures for filing small claims and based upon the presumption of injury outlined in the Marathon decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that Williams should receive a refund of $5,000 in prinicipal and $358.49 in accrued interest for a total refund of $5,358.49

Mobil Oil Corporation/Allan Wutkee et al., 4/24/87; RF 225-5461 et al.

The DOE issued a Decision granting 43 Application for Refund from the Mobil Oil Corporation escrow account filed by retailers, resellers, and end-users of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp., 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $58,892 ($48,541 principal plus $10,378 interest).*

Mobil Oil Corporation/American Teachers Associates et al., 4/22/87; RF 225-2214 et al

The DOE granted 38 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who pruchased directly or indirectly from Mobil and

therefore were eligible for refunds equivalent to their allocable shares based on the volumetric methodology set forth in Mobil Oil Corp., 13 DOE ¶ 85,339 (1985) *(Mobil)*. The total amount of the refunds granted was $20,614, representing $16,982 in principal plus $3,632 in interest.

Mobil Oil Corporation/Arlington Disposal Co., Inc. et al., 4/22/87; RF225-4885 et al.

The DOE granted 26 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to their full allocable shares based on the volumetric methodology set forth in Mobil Oil Corp., 13 DOE ¶ 85,339 (1985) (*Mobil*). The total amount of the refunds granted was $3,614, representing $2,978 in principal plus $636 in interest.

Mobil Oil Corporation/Bailey's Service Station, et al., 4/24/87; RF225-3726 et al.

The DOE issued a Decision granting 23 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobile Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $9,149 ($7,537 principal plus $1,612 interest).

National Helium Corp./New Jersey, 4/23/87; RM3-62

The DOE issued a Decision approving the State of New Jersey's Application for Modification of the state's second-stage refund plan for use of funds from the National Helium Corp. escrow account. That plan, a ridesharing/vanpooling proposal, was approved by the DOE in *National Helium Corp./New Jersey*, 15 DOE ¶ _____ (Case No. RQ3-361, April 3, 1987) (*New Jersey*). In its Application for Modification, New Jersey requested that funding for the ridesharing/vanpooling program be reduced by $154,794, from $344,794 to $190,000. In approving the proposed modification, the DOE found that $190,000 was sufficient to implement a ridesharing/vanpooling that would provide indirect restitution to injured consumers of refined petroleum products and that New Jersey could submit a proposal for use of its remaining *National Helium* funds at a later date. Because no disbursements had been made pursuant to *New Jersey*, New Jersey was granted $190,000 ($96,447 principal plus $93,553 interest) for the program.

Tenneco Oil Co./Ecno Oil, Inc. et al., 4/24/87; RF-162, et al.

The DOE issued a Decision concerning five Applications for Refund filed in the Tenneco Oil Company special refund proceeding. Each of the five applicants was a retailer or reseller of Tenneco petroleum products. Two of the five applicants claimed purchase volumes which were below the 50,000 gallons per month small claims threshold. The three other applicants purchased more than 50,000 gallons in various months, but elected to limit their claims to the threshold amount in lieu of making a detailed showing of injury. In its Decision, the DOE granted the Applications under the standards specified in *Office of Special Counsel*, 9 DOE ¶ 82,538 (1982). The refunds granted total $3,871.98, representing $3,124.14 in principal and $747.84 in interest.

Dismissals

The following submissions were dismissed:

Name and Case No.

Marclay Oil Company; RF250-995
Mobil Oil Corp; RF286-04
NGL Supply, Inc.; RF64-4
School District of the City of Ferndale; RF270-584
South Lyon Community Schools; RF270-717
Southern Bakeries, Inc. d/b/a Tatum Bakers; RF270-433
Southwestern Film Service; RF270-2477
Southwestern Gulf Petroleum Co./J. Buford Langston; KRO-0200
Superior Tire Co.; RF270-2294
Transit Authority of Northern Kentucky; RF270-825
Willeck Bros. Oil Co.; RF265-817

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 1, 1987.

[FR Doc. 87-10503 Filed 5-7-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3197-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 20, 1987 through April 24, 1987 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act (CAA) and section 102(2)(c) of the National Environmental Policy Act (NEPA) as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 24, 1987 (52 FR 13749).

Draft EISs

ERP No. D-AFS-J82008-MT, Rating EC2, 1987 Deerlodge Nat'l Forest Noxious Weed Control Program, MT. SUMMARY: EPA has concerns with the draft EIS based on insufficient analysis of the impacts of multiple herbicide applications. EPA believes a management plan that will provide for pre-application screening and post-application monitoring needs to be developed. Further, a spill response and pesticide handling plan needs to be developed.

ERP No. DS-BLM-L61165-OR, Rating EC2, Oregon Statewide Wilderness Study Areas, Wilderness Designation, Additional Lands, OR. SUMMARY: EPA identified Alternative 1, All wilderness, as the environmentally preferable alternative at both the draft EIS and supplemental draft EIS stages. This alternative would result in the greatest water quality protection. EPA expressed concerns about the balancing of cattle and mining interests against the total resource needs of future generations. EPA also recommended expansion of some of the wilderness study areas (WSA's) and consideration of the Bowden Hills WSA for wilderness status.

ERP No. D-COE-J28014-CO, Rating EU3, Metropolitan Denver Water Supply, Two Forks Dam and Reservoir and Williams Fork Gravity Collection System, Construction, 404 Permit, CO. SUMMARY: EPA found the draft EIS to be environmentally unsatisfactory and inadequate. The mitigation package offered in the draft EIS did not include an adequate mitigation plan, nor did the document fully address water quality standard violations and degradation of existing high quality waters which would result from implementation of various alternatives. EPA is concerned that the alternative analysis is incomplete and is biased in favor of the proposed Two Forks alternative. EPA recommends a supplement to the draft EIS be issued to address mitigation and water quality deficiencies. If issues of concern of EPA are not resolved in a supplemental or the final EIS, EPA may consider this matter a candidate for referral to CEQ or higher level review under section 404 of the Clean Water Act.

ERP No. D-FHW-E40704-TN, Rating EC2, Nonconnah Parkway Construction, I-240 to TN-57, 404 and 10 Permits, TN. SUMMARY: EPA's main concern was the potential for both direct and secondary development wetland impacts. Additional information regarding wetlands secondary impacts, noise, air quality, hydrogeology, and alternatives was requested.

ERP No. DA-NRC-A06162-PA, Rating LO, Three Mile Island Nuclear Power

Station, Unit 2, Decontamination/Disposal of Radioactive Wastes Resulting From March 28, 1979 Accident, Disposal of Accident Generated Water, PA. SUMMARY: EPA does not believe any of the proposed alternatives have a significant environmental impact. EPA recommended a number of improvements in the supplemental draft EIS, including better use of existing data, minor changes in the risk model, and better explanation of the calculation of radiation doses. EPA would prefer that the alternatives involving release to the River not be selected because of EPA's concerns with environmental protection of the Chesapeake Bay.

ERP No. D-USN-K11030-CA, Rating 2, San Francisco Bay Battleship Battlegroup and Cruiser Destroyer Group Homeporting, Construction and Operation, Naval Station Treasure Island, Hunters Pt. Annex, Naval Air Station Alameda, CA. SUMMARY: Based on EPA's review of the draft EIS, EPA believes there is insufficient information to determine whether adverse environmental impacts will result from the dredging and disposal of sediments required by the homeporting action. EPA expressed concern about some deficiencies in the Navy's analysis of sediment chemistry; additional testing of sediments was requested. EPA also asked that the Navy describe its plan for cleaning up onshore contaminants and explain how it will comply with the requirements of the Comprehensive Environmental Response, Compensation and Liability Act (Superfund). EPA also requested more information about several other concerns (groundwater impacts, water quality impacts, hazardous waste handling, etc.).

Final EISs

ERP No. FS-AFS-F65008-IN, Hoosier Nat'l Forest, Land and Resource Mgmt. Plan, Off-Road Vehicle Use Area, IN. SUMMARY: EPA made no formal comments. EPA deemed no comments were necessary because off-road vehicle use would not be permitted by the Forest Service.

ERP No. F-BLM-J61049-MT, Dillon Resource Area, Wilderness Recommendation, Designation or Nondesignation, MT. SUMMARY: EPA made no formal comments. EPA has no objections to or comments on the final EIS.

ERP No. F-BLM-K61057-NV, Tonopah Resource Area, Wilderness Recommendations, NV. SUMMARY: EPA noted that BLM did not adequately address two concerns EPA had raised in its 1982 draft EIS letter. They are: (1) Potential mining impacts in areas not recommended for wilderness designation, particularly on the quality and quality of groundwater and local springs dependent on groundwater; and (2) mitigation measures for projects that could disturb six watersheds with high erosion potential. EPA requested that BLM address these remaining concerns in its Record of Decision.

ERP No. F-CGD-E50282-FL, Blount Island Channel Coal Conveyor Bridge, Construction, Operation, Bridge Permit Application, St. Johns River, FL. (Adoption of EPA final EIS, filed 6-4-82) SUMMARY: EPA believes that the proposed project will not produce environmental impacts, if wetland impacts mitigation and erosion controls agreed to between EPA and applicant are implemented and maintained.

ERP No. FS-IBR-J34009-UT, Bonneville Unit, Central Utah Project Municipal and Industrial Water System, Construction and Modifications, 404 Permit Issuance, Updated Information, UT. SUMMARY: EPA's primary concerns have been satisfactorily addressed in the supplemental final EIS. EPA has requested that the final wetland mitigation plan and the Environmental Commitment contained in the EIS be included in the Record of Decision.

Dated: May 5, 1987.

Barbara Bassuener,

Acting Deputy Director, Office of Federal Activities.

[FR Doc. 87-10542 Filed 5-7-87; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3197-6]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed April 27, 1987 Through May 2, 1987 Pursuant to 40 CFR 1506.9.

EIS No. 870145, Draft, FHW, MD, MD-5 Branch Avenue Improvement, I-97 to US 301, Prince Georges County, Due: June 22, 1987, Contact: Edward Terry (301) 962-4010

EIS No. 870146, Final, HUD, NY, Metrotech Site Development Project, Construction and Rehabilitation, UDAG, Kings County, Due: June 8, 1987, Contact: Ann Weisbrod (212) 619-5000

EIS No. 870147, Draft, MMS, MXG, SEV, 1988 Central Eastern and Western Gulf of Mexico, Outer Continental Shelf (OCS) Oil and Gas Sale Nos. 113, 114, and 116, Lease Offerings, Due: June 22, 1987, Contact: Archie Melancon (202) 343-6264

EIS No. 870148, Report, COE, FL, North Haulover Beach Park, Beach Erosion Control and Hurricane Protection, Use of Aragonite for Fill and Periodic Renourishment, Dade County, Contact: Richard Makinen (202) 272-0166

EIS No. 870149, Final, FHW; GA, GA-316 Extension, GA-316 to GA-10/US 78, Improvement, Due: June 8, 1987, Contact: Louis Papet (404) 347-4751

EIS No. 870150, Final, FHW, MN, WI, US 10 Improvement, St. Croix River Bridge Replacement, MN-61 to WI-29/WI-10, Due: June 8, 1987, Contact: Michael Moravec (608) 264-5947

EIS No. 870151, Draft, DOE, SC, Savannah River Plant, Hazardous/Low-Level Radioactive and Mixed Waste, Management Activities for Groundwater Protection, Modifications, Due: June 30, 1987, Contact: S.R. Wright (803) 725-3093

EIS No. 870152, Draft, COE, CA, Coyote and Berryessa Creeks Flood Control Improvements, Santa Clara County, Due: June 22, 1987, Contact: Ruth Brodie (415) 974-0379

EIS No. 870153, Final, SFW, CA, OR, Southern Sea Otters Translocation Plan, Recovery Research, San Nicolas Island, Ventura County, Due: June 8, 1987, Contact: Wilbur Ladd (916) 978-4873

EIS No. 870154, Final, FHW, FL, Business US 41 Bridge/Edison Bridge Repalcement and Upgrading, Market Street to Mariana Avenue, Caloosahatchee River, Lee County, Due: June 8, 1987, Contact: D.B. Luhrs (904) 681-7239

EIS No. 870155, Final BLM, AZ, Lower Gila South Resource Area, Wilderness Study Areas, Wilderness Designation, Due: June 8, 1987, Contact: Henri Bisson (602) 863-4464

EIS No. 870156, Final, BLM, AZ, NM, Safford District Wilderness Study Area, Wilderness Designation, Due: June 8, 1987, Contact: Ray Brady (602) 428-4040

EIS No. 870157, DSuppl, BLM, CA, AZ, Devers—Palo Verde #2, 500kV Transmission Line Project, Construction and Operation, Right-of-Way Grant, Additional Alternatives, Due: July 8, 1987, Contact: William Haigh (714) 351-6428

Dated: May 5, 1987.

Barbara Bassuener,

Acting Deputy Director, Office of Federal Activities.

[FR Doc. 87-10541 Filed 5-7-87; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3197-5]

Intent To Prepare an Environmental Impact Statement; Mayaguez Tuna Cannery Processing Sludges, Ocean Disposal Site; Designation; Puerto Rico

AGENCY: U.S. Environmental Protection Agency, Region II.

ACTION: Preparation of a draft Environmental Impact Statement (EIS) on the designation of an ocean disposal site for the tuna cannery processing sludges generated by the Mayaguez Water Treatment Co., Mayaguez, Puerto Rico.

PURPOSE: In accordance with the Environmental Protection Agency (EPA) procedures for voluntary preparation of environmental impact statements (39 FR 37119, October 21, 1974), the EPA will prepare an EIS on the designation of an ocean disposal site for tuna cannery processing sludges. This notice of intent is issued pursuant to 40 CFR Part 1500 (Council on Environmental Quality regulations implementing the National Environmental Policy Act), section 102 of the Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA), and 40 CFR Part 228 (Criteria for the Management of Disposal for Ocean Dumping).

FOR FURTHER INFORMATION CONTACT: William P. Lawler, P.E., Environmental Impacts Branch, U.S. Environmental Protection Agency—Region II, 26 Federal Plaza, Room 702, New York, New York 10278, Telephone (212/FTS) 264-5391.

SUMMARY:

Description of Proposed Action

Need For Action

The Mayaguez Water Treatment Company, (MWIC) is proposing to develop an environmentally acceptable disposal method for tuna processing waste sludge generated at its facility in Mayaguez, Puerto Rico. MWIC treats tuna cannery waste streams generated by Star-Kist Caribe, Inc., Bumble Bee Tuna, Neptune Packing and Integrated Industries.

The material to be disposed of is tuna cannery waste sludge which is generated during the physical treatment of cannery process wastewaters. This sludge consists of organic solids, oils, grease, washdown detergents, aluminum sulfate (alum) and anionic polymers (methylene blue active substances). The treated wastewater is discharged through a National Pollutant Discharge Elimination System (NPDES) permitted outfall into Mayaguez Bay (NPDES No. PR0023043).

The EPA action is to evaluate the environmental impacts associated with the designation of a site for ocean disposal of tuna waste sludges generated by the Mayaguez Water Treatment Company, Mayaguez, Puerto Rico. Various alternative actions will also be evaluated.

It should be emphasized that if a site is designated for ocean disposal of the tuna waste sludges, such designation would not constitute approval of the actual disposal of material at that site. Compliance with EPA's criteria for the evaluation of permit applications (40 CFR Part 227) would still need to be demonstrated in order to receive an ocean disposal permit from EPA.

Alternatives

No-action (the no-action alternative is defined as not designating an ocean disposal site for the tuna cannery sludge in the absence of other acceptable alternatives), continued use of the Lajas interim disposal site, use of a composting facility currently being planned by the Puerto Rico Aqueduct and Sewer Authority to dispose of sludges from the Mayaguez and Aguadilla Regional Wastewater Treatment facilities and use of other land-based disposal methods.

Scoping

As part of the EIS scoping process, interested parties may submit comments on the proposed scope (e.g., issues, alternatives to be addressed) of the EIS within 45 days of the date of this notice. If sufficient interest is shown, EPA will conduct a formal scoping meeting as defined in the CEQ regulations. All comments should be addressed to Chief, Environmental Impacts Branch at the above address.

Public Participation in the EIS Process

Full public participation by interested federal, state and local agencies, as well as other interested organizations and the general public is invited. All interested parties are encouraged to submit their name and address to the designated EPA contact person for inclusion on the distribution list for the EIS and related public notices. A more detailed notice is available from EPA, Region II at the above address.

Dated: May 5, 1987.

Barbara Bassuener,

Acting Deputy Director, Office of Federal Activities.

[FR Doc. 87-10543 Filed 5-7-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59816; FRL-3198-1]

Aliphatic Polyester Urethane; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of one such PMN and provides the summary.

DATE: Close of Review Period:

Y 87-144—May 18, 1987.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the exemption received by EPA. The complete non-confidential documents are available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 87-144

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyester urethane.

Use/Production. (G) Used in coatings applied by industrial manufacturers. Prod. range: Confidential.

Dated: May 1, 1987.

James A. Combs,

Acting Division Director, Information Management Division.

[FR Doc. 87-10506 Filed 5-7-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59241A; FRL-3197-9]

Certain Chemical; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-87-12. The test marketing conditions are described below.

EFFECTIVE DATE: April 27, 1987.

FOR FURTHER INFORMATION CONTACT: Robert Wright, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M St. SW., Washington, DC 20460, (202)-382-7800)

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-87-12. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. The production volume must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-87-12. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T 87-12

Date of receipt: March 16, 1987.

Notice of receipt: March 27, 1987 (52 FR 9931).

Applicant: Confidential.

Chemical: (G) An ester of alkenyl succinic anhydride.

Use: (G) Alkaline sizing agent in paper processing.

Production volume: Confidential.

Worker exposure: Confidential.

Test marketing period: One year.

Commencing on: April 27, 1987.

Risk assessment: EPA identified potential human health concerns for mutagenicity and oncogenicity if the substance is inhaled. Due to negligible vapor pressure no inhalation exposure is expected. Therefore, EPA has determined that the estimated exposures will not present any unreasonable risk of injury to health. EPA has identified no environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to the environment.

Public comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: April 27, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87-10507 Filed 5-7-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59241B, FRL-3197-8]

Certain Chemical; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-87-13. The test marketing conditions are described below.

EFFECTIVE DATE: April 27, 1987.

FOR FURTHER INFORMATION CONTACT: Robert Wright, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M St. SW., Washington, DC 20460, (202-382-7800).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-87-13. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. The production volume must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-87-13. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T 87-13

Date of receipt: March 19, 1987.

Notice of receipt: March 27, 1987 (52 FR 9931).

Applicant: Confidential.

Chemical: (G) An alkenylamide ploymer with methylheteromonoacyclic alkene.

Use: (G) Industrial paper polymer.

Production volume: Confidential.

Worker exposure: Low.

Test marketing period: Three years.

Commencing on: April 27, 1987.

Risk assessment: EPA identified no human health concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health. EPA identified potential environmental concerns. However, EPA has determined that the estimated exposures will not present any unreasonable risk of injury to the environment.

Public comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: April 27, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87-10509 Filed 5-7-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3197-1]

Environmental Engineering Committee of the Science Advisory Board; Open Meeting; Correction

This notice is a supplement to a previous notice (52 FR 13749) announcing a two-day meeting of the Environmental Engineering Committee of the Science Advisory Board on May 11-12, 1987. This supplementary notice announces an addition to the agenda. The location of the meeting remains the Environmental Protection Agency, Conference Room #1 (on the Ground Floor, north of the EPA Washington Information Center), Waterside Mall, 401 M Street SW., Washington, DC. The meeting will begin at 9:00 a.m. and last until 5:00 p.m. on May 11, and begin at 9:00 a.m. and last until 3:00 p.m. (a new time) on May 12.

In addition to the previously announced agenda, the meeting will include a discussion of the Office of Research and Development's *Waste Minimization Strategy*. Copies of this document can be obtained from Mr. Kurt Jakobson, U.S. EPA (RD-681), 401 M St., SW., Washington, DC 20460 (202/382-5748). Technical questions on the document should be directed to Mr. Harry Freeman, Office of Research and Development, U.S. EPA, 26 West St. Clair, Cincinnati, OH 45268 (513/569-7529).

Public comment will be accepted at the meeting. Written comments will be accepted in any form, and there will be opportunity for oral statements. For parties interested in waste minimization, please note that the Committee is interested in the presentation of technical views on ORD's waste minimization strategy.

Anyone wishing to make oral or written comments must contact Mr. Eric Males (202/382-2552) prior to close of business on May 8, 1987 in order to be placed on the agenda. Any member of the public wishing to attend should contact Mrs. Brenda Browne at 202/382-2552.

Dated: April 29, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87-10511 Filed 5-7-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Lottery Rankings of 900 MHz SMRS Applicants for the New York, Los Angeles, Chicago, Philadelphia, San Francisco-Sacramento, and Milwaukee Designated Filing Areas

On April 24, 1987, the Federal Communications Commission conducted its first lotteries to select applicants to provide 900 MHz Specialized Mobile Radio (SMR) Service. These lotteries were used to rank applications in each of the following Designated Filing Areas (DFAs):

#1 New York
#2 Los Angeles
#3 Chicago
#4 Philadelphia
#5 San Francisco-Sacramento
#24 Milwaukee

Lists of the forty top-ranked applications in each of these Designated Filing Areas are attached to this Public Notice. The top 20 selectees in each DFA will be granted authorizations to provide SMR service. The next 20 ranked applicants will be alternate selectees should it be determined that any of the winners are not qualified to be licensees, or if any of the winners fail to provide the Commission with required transmitter site information within the specified time period.

Any allegations not previously raised regarding an applicant's qualifications to be a Commission licensee must be filed with the Commission, and a copy of such allegations must be served on the applicant in question by first class mail, within 30 days of the publication of this Public Notice in the **Federal Register**. Failure to file such allegations with the Commission and to serve the applicant with a copy thereof within the 30-day period will result in dismissal of the allegations. The applicant involved has 30 days from the date of service in which to respond to the allegations. Allegations pertaining to tentative selectees will be investigated and resolved prior to issurance of any license to that applicant. Individual applications may be examined at the Private Radio Bureau's Public Reference Room in Gettysburg, PA. Copies of individual applications may be ordered from the Commission's copy contractor, International Transcription Services, at (717) 337-1433.

All applications ranked below number 40 are hereby dismissed and will not be returned to the applicants. There will be no individual notices of dismissal mailed to applicants. The Lottery Notices of February 27, 1987 (New York, Philadelphia and San Francisco-Sacramento DFAs), and March 25, 1987 (Los Angeles, Chicago and Milwaukee DFAs), contain the names and addresses of lottery participants. The Public Notice of April 22, 1987 contained the names and file numbers of the 25 additional applications included in the lotteries.

For further information regarding the selection procedures, consult the November 4, 1986 Public Notice (1 FCC Rcd 543 (1986), 52 FR 1302 (January 12, 1987)) or contact Harold Salters of the Land Mobile and Microwave Division at (202) 632-7597.

Federal Communications Commission.

William J. Tricarico,

Secretary.

900 MHzSMR Applications in the New York DFA

Rank and Applicant Name	Lottery Code	File No.
Winners		
1. Maynord, Charles V	2645	010272
2. Dworaczyle, Susan	1185	004068
3. Rawlinson, Carey L	3431	016042
4. Grimm, Stephen G	1646	012767
5. Kleine Hog Farms	2244	004053
6. Backe, Joan	0194	006624
7. Schuette, Daniel	3749	003020
8. Wood, Lisa K	4597	006744
9. Schrol, Lawrence C	3747	003201
10. Environmental Exploration Corp	1288	004240
11. Chesney, Candy	0712	006295
12. Tyler Business Services, Inc	4305	012001
13. Kelley, Paul	2188	003953
14. Walter, Roxanne	4421	003008
15. R. T. Enterprises	3384	017165
16. Walker, Jarrell H	4406	007993
17. Wellington, Winston	4474	003221

900 MHzSMR Applications in the New York DFA—Continued

Rank and Applicant Name	Lottery Code	File No.
18. Coit Drapery & Carpet Cleaners, Inc.	0783	017158
19. Turner, A. Wayne	4296	002942
20. Network Consultants, Inc.	2975	008238
Alternates		
21. Emerine, Richard	1245	008799
22. Francis Communications	1418	008424
23. Decastello, Sharon	0972	007211
24. Channel One Communications, Inc.	0694	004625
25. Ball, S. J.	0212	012022
26. Zenner, Carolyn	4662	002968
27. Citywide Systems Corp	0737	016343
28. Hilbers, Leroy E	1859	008011
29. Robbins, Craig Douglas	3522	012866
30. Boeding, Donald R	0397	006634
31. Coyote Radio, Inc	0899	016826
32. Davis, Britt D	1013	013979
33. Kelly, John A	2193	011094
34. Moore, John A	2856	013376
35. Shuman Communications	3864	016589
36. Harding, Henry	1734	004918
37. Crawford, George W., Jr	0909	017414
38. Fox, Falvey J., Jr	1413	008651
39. Advance Mobile Phone Co	0030	005562
40. Maguire, George	2559	006638

900 MHz SMR Applications in the Los Angeles DFA

Rank and Applicant Name	Lottery Code	File No.
Winners		
1. Combined Technologies, Inc	0787	004669
2. Collins, Raymond L	0780	001091
3. Price, James Leslie, III	3255	009491
4. Kallas, Tom A	2089	001864
5. Brunner, Joseph	0515	001920
6. Walker, Barry	4280	000578
7. Jenks, Charles T	2013	007672
8. Mock, Randolph T	2766	012892
9. Walker, William	4287	007443
10. Robinson, Jack	3452	011234
11. Button, Susan M	0564	001701
12. Bachman, Michael Lynn	0192	001523
13. Mitchell, Michael	2754	005307
14. Daniel, Burl B	0953	013251
15. Haskey, Richard R	1727	011412
16. Stevens, Roger	3966	002737
17. Renegar Communications	3370	000957
18. Abel, E.B., Jr	0017	011744
19. Johnson, Mary S	2044	005584
20. Harris, Stanley W	1701	017277
Alternates		
21. Bane Coal and Oil Co	0212	011700
22. McClain, Bill	2604	002375
23. J. L. Howard Sanitation	1970	011733
24. O'Grady, Patrick	2956	002142
25. Ayers, William R	0179	001521
26. Wills, John A	4418	006899
27. Arie, Joyce A	0141	010618
28. Massaponax Sand & Gravel Corp	2553	012436
29. Albright, Francis T	0055	014813
30. Dennis A. Derry, Inc	1037	001563
31. Frank, Jerome	1371	008837
32. Lewis, Robert P	2361	017270
33. Saunders, Mike	3601	002360
34. Coates, Dawn	0754	005884
35. Miller, Lee H	2729	013725
36. Massey Concrete Corp	2554	011777
37. Parker, David T	3068	015144
38. Turner, Joanne	4180	010437
39. Johnson, Two Way	2036	013291
40. Slater, Jay T	3810	002537

900 MHz SMR Applications in the Chicago DFA

Rank and Applicant Name	Lottery Code	File No.
Winners		
1. Thess, Pat	2341	010960
2. Weidlein, Mimi C	2477	009062
3. Vanmeter, A.G	2422	011696
4. Forsythe, Levane M	0774	015980
5. Maestrelli Communications	1419	008335
6. Portnoy, Hyman	1840	005388
7. Bergum, Donald J	0182	006755
8. Williamson, Todd	2530	006942
9. Brake, Harold L	0255	011242
10. Seibert, William F	2107	011209
11. Burlingame, James M., IV	0307	009119
12. Nuckols, Gus	1680	006856
13. Kelly, Edward J	1209	015216
14. Domencich, Thomas A	0610	015308
15. Volden, Jeff	2435	017190
16. Allegro Communications Co	0037	013949
17. Taricska, Joseph K	2326	010112
18. Shankland, John	2128	000913
19. Jameson, Gene L	1127	008654
20. Glassman, Steven B	0859	004577
Alternates		
21. Powell, Charles A	1848	011165
22. Jones, J.H	1167	004425
23. McCaleb, Donald L	1487	014800
24. Dreher, Darrell L	0622	015945
25. McElroy Electronics Corp	1496	013694
26. WKH Cell, Inc	2553	015013
27. Action Communications, Inc	0016	013309
28. Carpentier, Nicholas	0352	014080
29. O'Brien, Raymond E	1685	000118
30. J.L. Howard Sanitation	1112	012176
31. Chesney, Candy	0400	006688
32. Oliver, Tom	1696	013399
33. Berger, David L	0177	009635
34. Cline, John E	0425	011207
35. Rapley, Donald	1913	000936
36. Howard, Steve	1056	008196
37. Trimble, J. Montjoy	2387	010244
38. Houdeshell, Neil	1054	008460
39. Sackett, Robert E	2039	005937
40. Jacobson, Michael	1122	016368

900 MHz SMR Applications in the Philadelphia DFA

Rank and Applicant Name	Lottery Code	File No.
Winners		
1. Harris, Stanley W	0780	016553
2. K & R Industries, Inc	0943	009380
3. Lunda, Charles M	1120	013027
4. Kapilow, Jay	0952	014523
5. Moser, Gregory S	1298	012413
6. Sporer, Michael	1767	011814
7. McGee Communications Electronics	1205	016610
8. Roberts, Curtis	1573	005571
9. Mutter, Sharon	1316	010356
10. Montgomery, Charlotte A	1275	015333
11. Caprio, Dennis M	0275	015079
12. Young, John Paul	2039	014646
13. Roth, Alan	1593	014484
14. United States Sugar Corp	1901	004456
15. Carwile, Barbara L	0265	009834
16. Holker, Judy A	0832	007054
17. Meyer, Norman E	1233	007221
18. Trixler, Dennis	1887	007748
19. Moore, Robert S	1281	007641
20. Doke, Daniel W	0487	008885
Alternates		
21. Radio Dispatch Corp	1511	005229
22. Anderson, David W	0048	017783
23. Minear, William J	1259	013207
24. Selgrad, Robert W	1669	003717
25. Atlantic Coast Communication, Inc	0071	016035
26. Deweese, Hugh O	0472	016712
27. Fern Becker Co	0586	015699
28. Dashcom	0443	011801
29. Samuel P. Pardoe	0629	008229
30. Barrett, Edward C	0104	016762
31. Hoffman Construction Corp	0829	007737
32. Bender, Sally L	0133	007357
33. Madsen, Janice	1140	007046

900 MHz SMR Applications in the Philadelphia DFA—Continued

Rank and Applicant Name	Lottery Code	File No.
34. Mitchell, Sandra K	1267	014709
35. Prestin, Blair D	1480	016958
36. Ducote, Robert D	0502	010905
37. A. M. Chesky Paving Co., Inc	0005	012155
38. Williams, Paul	1989	007600
39. Qualicom Systems, Inc	1494	013184
40. Groome, Harold V., Jr	0736	011896

900 MHz SMR Applications in the San Francisco-Sacramento DFA

Rank and Applicant Name	Lottery Code	File No.
Winners		
1. Arceneaux, Yvette L	0067	014112
2. Swartzbaugh, Marc L	2063	012256
3. MacDermott, William J	1288	009022
4. Progressive Communications, Inc	1699	014674
5. Drumright, David	0559	012380
6. Dufour, Mary	0565	000657
7. Pillsbury, Michael	1660	007249
8. Carrboro Communications	0309	016686
9. Hart, Richard J	0879	010724
10. ICR Electrical Contractors	0991	001819
11. Toomey, Ameen W., Jr	2110	002199
12. Fisher, Jeffrey M	0673	015437
13. Ratelco, Inc	1739	004942
14. Cliff Brown Enterprises, Inc	0372	004936
15. Mang, Beverly J	1304	008789
16. Connelly, Barry	0412	000352
17. Lancaster, Jimmie E	1173	014349
18. Crowley, Tom	0453	016940
19. Yandell, William M., III	2293	017504
20. Hathaway, J. E	0886	001176
Alternates		
21. Industrial Lift Truck Co., Inc	0994	016155
22. Browne, Edward P	0255	000332
23. Corcoran, Nancy H	0424	016525
24. Coffey, David L	0385	000347
25. Lacalamita, James	1163	010679
26. Goedecke, David S	0791	012919
27. Krauss, Stephen R	1154	010869
28. Enterprise Electronics	0614	015664
29. Stapleton, William H., Jr	2009	017511
30. Barak, Andrew P	0107	007926
31. Mutter, Sharon	1500	010355
32. Lacey Automotive Parts Co., Inc	1164	017514
33. Springer, Richard B	2001	006148
34. Fontacom	0691	007572
35. Medaris, Joe	1390	014931
36. Brier, Daniel S	0236	006460
37. Guerard, Rich	0827	006095
38. Coates, Dawn	0380	005880
39. Cecil, Karen K	0331	009101
40. Hilton, Richard D	0921	014403

900 MHz SMR Applications in the Milwaukee DFA

Rank and Applicant Name	Lottery Code	File No.
Winners		
1. Stein, Dennis	1250	004607
2. Bonasso, Russell P	0125	008070
3. Roseman, David C	1115	012519
4. Simoneaux, Audrey L	1214	006976
5. Looper, Fred B	0769	013053
6. Amerman, Rodney	0028	014985
7. Fulton, Keith A	0461	013191
8. Wahl Communication Ventures	1353	014062
9. IMR International, Inc	0758	004523
10. Bates, Jim	0076	015081
11. Guinn, Ross W	0513	005742
12. Schnatz, Diane E	1159	013716
13. Communications Research Co	0245	009689
14. Hanson, Walter G	0531	005369
15. Air Mobil Systems	0013	005988
16. Thornton, Paul R	1311	010387
17. Goot, Stephen	0499	010984
18. Shotey, Michael J	1201	013608
19. Galland, Mason	0465	012890

900 MHz SMR APPLICATIONS IN THE MILWAUKEE DFA—Continued

Rank and Applicant Name	Lottery Code	File No.
20. Hoversen, Paul	0585	013450
Alternates		
21. English, Darren W	0378	015432
22. Zurilgen, William E	1449	012386
23. Kall, Kenneth E	0663	010104
24. Polokoff, John G	1022	012673
25. Kroff, Jack J	0708	009211
26. Drumright, David	0344	005743
27. Gibbs, Gary W	0484	005851
28. Holmes, Charles C	0578	015965
29. Nunan, Thomas A., III	0947	004810
30. Carter, Lydia F	0194	015695
31. White, Stephen E	1386	009371
32. Schiefele, James F	1154	013522
33. Hebert, Jamie E	0543	009767
34. Fleming, Skip	0425	007146
35. Bentley, Carol L	0092	005840
36. Dal Bello, Paul G	0294	017560
37. Wilson, David F	1407	012304
38. Sound Electronics	1238	006019
39. Thomas, Jayne M	1302	017673
40. High Tech Controls	0558	009353

[FR Doc. 87-10516 Filed 5-7-87; 8:45 am]

BILLING CODE 6712-01-M

Travel Reimbursement Program; Publication of Report

AGENCY: Federal Communication Commission.

ACTION: Publishing of Report on Travel Reimbursement Program.

SUMMART: In Pub. L. 99-272 the Congress authorized the Federal Communications Commission to accept reimbursement from non-government organizations for travel of employees of the Commission. The Federal Communications Commission must keep records of reimbursable travel by event and prepare a report of all reimbursements allowed. Copies of each report will be provided to the Senate Committee on Appropriations, House Committee on Appropriations, Senate Committee on Commerce, Science and Transportation, and the House Committee on Energy and Commerce. In addition, the Federal Communications Commission must publish each report in the **Federal Register.**

DATE: This report is for the period January 1, 1987 through March 31, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert Myers, Office of the Managing Director, (202) 632-6900.

SUPPLEMENTARY INFORMATION: The report for the priod January 1, 1987 through March 31, 1987 is as follows:

Federal Communications Commission, Travel Reimbusement Program, January 1, 1987—March 31, 1987 Summary

Total Number of Sponsored Events	18
Total Number of Sponsoring Organizations	16
Total Number of Commissioners/Employees Attending	38
Total Amount of Reimbursement Expected:	
Transportation	$10,555.00
Subsistence	14,117.10
Other expenses	1,418.71
Total	26,090.81

Federal Communication Commission Travel Reimbursement Program, Individual Event Report

Sponsoring Organization: Association of Independent Television Stations, Inc., 1200 Eighteenth Street, NW., Washington, DC 20036
Date of the Event: January 7, 1987
Description of the Event: To participate in Independent Television Station Convention in Los Angeles, California.
Commissioners Attending: Commissioners—Patricia Dennis and Dennis Patrick
Other Employee(s) Attending: Dale Brown, Legislative Affairs Officer-Office of Congressional and Public Affairs, Carol Melton. Attorney Advisor-Mass Media Bureau, David L. Donovan, Attorney Advisor-Office of Commissioner Quello

Amount of Reimbursement:

Transportation	$1,402.00
Subsistence	2,149.60
Other expenses	165.32
Total	3,716.92

Sponsoring Organization: Pacific Telesis, 444 North Capitol Street, NW., Suite 718, Washington, DC 20001
Date of the Event: January 27-28, 1987
Description of the Event: To conduct a two-day training session in San Francisco, California on Part 61 rules for filing tariffs for Pacific Telesis
Commissioners Attending: N/A
Other Employee(s) Attending: Kathie Kneff, Public Utilities Specialist-Common Carrier Bureau

Amount of Reimbursement:

Transportation	$238.00
Subsistence	285.00
Other expenses	50.00
Total	573.00

Sponsoring Organization: NATPE International, 342 Madison Avenue, Suite 938, New York, New York 10173
Date of the Event: January 21-24, 1987
Description of the Event: To attend the 24th Annual NATPE International Program Conference in New Orleans, LA
Commissioners Attending: N/A
Other Employee(s) Attending: Dale Brown, Legislative Affairs Officer-Office of Congressional and Public

Amount of Reimbursement:

Transportation	$235.00
Subsistence	255.00
Other expenses	109.37
Total	599.37

Sponsoring Organization: Illinois Bell, 225 West Randolph Street, Chicago, IL 60606
Date of the Event: January 16, 1987
Description of the Event: To speak at the Annual Operations Meeting in Chicago, IL
Commissioners Attending: N/A
Other Employee(s) Attending: Thomas C. Spavins, Deputy Chief—Office of Plans and Policy

Amount of Reimbursement:

Transportation	$390.00
Subsistence	105.00
Other expenses	25.00
Total	520.00

Sponsoring Organization: Cellular Telecommunications Industry Association, 1150 17th Street, NW., Suite 607, Washington, DC 20036
Date of the Event: January 19-21, 1987
Description of the Event: To attend the Winter Meeting and Exposition of the Cellular Telecommunications Industry Association in Phoenix, AZ
Commissioners Attending: N/A
Other Employee(s) Attending: Kevin Kelly, Supervisory Attorney Advisor—Common Carrier Bureau

Amount of Reimbursement:

Transportation	$296.00
Subsistence	333.00
Other expenses	42.57
Total	671.57

Sponsoring Organization: American SMR Network Association, Inc., 1700 N. Moore Street, Suite 910, Rosslyn, VA 22209
Date of the Event: January 22-23, 1987
Description of the Event: To attend American SMR Network Association regional meeting in Boca Raton, FL
Commissioners Attending: N/A
Other Employee(s) Attending: Thomas P. Stanley-Chief Engineer

Amount of Reimbursement:

Transportation	$256.00
Subsistence	200.00
Other expenses	50.00
Total	506.00

Sponsoring Organization: U.S. Telecommunications Suppliers Association, 1500 N. Michigan Avenue, Suite 600, Chicago, IL 60601-7524

Date of the Event: February 17, 1987
Description of the Event: To participate in a panel discussion "FCC Watch" in South Bend, IN
Commissioners Attending: N/A
Other Employee(s) Attending: Jerald Fritz, Chief of Staff—Office of Chairman

Amount of Reimbursement:

Transportation	$109.00
Subsistence	7.50
Other expenses	47.00
Total	163.50

Sponsoring Organization: National Exchange Carrier Association (NECA), 100 South Jefferson Road, Whippany, NJ 07981
Date of the Event: February 3, 1987
Description of the Event: Meeting with representatives of NECA and local telephone companies to discuss pending FCC rule making in Whippany, New Jersey.
Commissioners Attending: N/A
Other Employee(s) Attending: Daniel Grosh, General Attorney-Common Carrier Bureau

Amount of Reimbursement:

Transportation	$138.00
Subsistence	12.50
Other expenses	24.45
Total	174.95

Sponsoring Organization: Texas Cable TV Association, P.O. Box 13518, Austin, Texas 78711
Date of the Event: February 18–20, 1987
Description of the Event: To speak at Texas Cable TV Association's 27th Annual Trade Show and Convention in San Antonio, Texas
Commissioners Attending: N/A
Other Employee(s) Attending: Stephen Ross, Supervisory General Attorney-Mass Media Bureau

Amount of Reimbursement:

Transportation	$279.00
Subsistence	300.00
Other expenses	30.00
Total	609.00

Sponsoring Organization: Communications Magazine, 6300 S. Syracuse Way, Suite 650, Englewood, Colorado 80111
Date of the Event: April 8, 1987
Description of the Event: To participate in the Land Mobile Expo' 87 in Dallas, Texas
Commissioners Attending: N/A
Other Employee(s) Attending: Vincent Galbraith, Program Manager—Private Radio Bureau; Michael Fitch, Chief, Private Radio Bureau; Ralph Haller, Program Manager—Mass Media Bureau

Amount of Reimbursement:

Transportation	$810.00
Subsistence	642.00
Other expenses	90.00
Total	1,542.00

Sponsoring Organization: United States Telephone Association (USTA), 900 19th Street NW., Suite 800, Washington, DC 20006–2102
Date of the Event: February 19, 1987
Description of the Event: To speak on the topic of Joint Common Costs at the United States Telephone Association's Eastern Telecommunications Showcase in Indianapolis, Indiana
Commissioners Attendings: N/A
Other Employee(s) Attending: Jane Jackson, Attorney Advisory—Common Carrier Bureau

Amount of Reimbursement:

Transportation	$250.00
Subsistence	75.00
Other expenses	30.00
Total	355.00

Sponsoring Organization: United States Telephone Association (USTA), 900 19th Street, NW., Suite 800, Washington, DC 20006–2102
Date of the Event: February 17, 1987
Description of the Event: To participate on a panel for the USTA Convention on "NTS" Cost Recovery in Indianapolis, Indiana
Commissioners Attending: N/A
Other Employee(s) Attending: Colleen Boothby, Attorney Advisor-Common Carrier Bureau

Amount of Reimbursement:

Transportation	$218.00
Subsistence	12.50
Other expenses	30.00
Total	260.50

Sponsoring Organization: Allen-Bradley Company, 1201 S. Second Street, Milwaukee, Wisconsin 53704
Date of the Event: February 19, 1987
Description of the Event: To attend conference of Radio Frequency Devices in Milwaukee, Wisconsin
Commissioners Attending: N/A
Other Employee(s) Attending: Charles Turner, Supervisor Electronics Engineer-Private Radio Bureau

Amount of Reimbursement:

Transportation	$268.00
Subsistence	76.00
Other expenses	40.00
Total	384.00

Sponsoring Organization: Electronic Mail Association, 1919 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20006
Date of the Event: February 24, 1987
Description of the Event: To speak at Electronic Mail Association's Quarterly Meeting in Houston, Texas
Commissioners Attending: N/A
Other Employee(s) Attending: John Copes, Attorney Advisor-Common Carrier Bureau

Amount of Reimbursement:

Transportation	$278.00
Subsistence	93.00
Other expenses	30.00
Total	401.00

Sponsoring Organization: United States Telephone Association (USTA), 900 19th Street, NW., Suite 800, Washington, DC 20006–2102
Date of the Event: March 24, 1987
Description of the Event: To attend the 12th Annual Seminar for Institutional Investment Analysts in New York City
Commissioners Attending: N/A
Other Employee(s) Attending: Thomas Sugrue, Chief, Policy and Program Planning Division-Common Carrier Bureau

Amount of Reimbursement:

Transportation	$150.00
Subsistence	126.00
Other expenses	30.00
Total	306.00

Sponsoring Organization: World Economic Forum Foundation, 53 Chemin Des Hauts-Crets, Ch–1223 Cologny, Geneve
Date of the Event: February 3–5, 1987
Description of the Event: To participate in the World Economic Forum in Davos, Switzerland
Commissioners Attending: N/A
Other Employee(s) Attending: Albert Halprin, Chief, Common Carrier Bureau

Amount of Reimbursement:

Transportation	$908.00
Subsistence	875.00
Other expenses	100.00
Total	1,883.00

Sponsoring Organization: Hannover Fairs USA Inc, 103 Carnegie Center, Princeton, New Jersey 08540
Date of the Event: March 4–6, 1987
Description of the Event: To attend a Telecommunications Conference in Hannover, Germany
Commissioners Attending: Commissioner Patricia Dennis
Other Employee(s) Attending: N/A

Amount of Reimbursement:

Transportation	$523.00
Subsistence	545.00
Other expenses	100.00
Total	1,168.00

Sponsoring Organization: National Association of Broadcasters (NAB) 1771 N Street, NW., Washington, DC 20036
Date of the Event: March 26, 1987
Description of the Event: To participate in NAB Convention in Dallas, Texas

Commissioners Attending: Mark Fowler, Patricia Dennis, James Quello, Dennis Partick and Mimi Weyforth Dawson
Other Employee(s) Attending: William Hassinger, Electronics Engineer-Mass Media Bureau
James McKinney, Chief, Mass Media Bureau
Edward Minkel, Managing Director
Thomas P. Stanley, Chief Engineer
Larry Eads, Chief, Audio Services Division-Mass Media Bureau
Bradley Homles, Supervisory Attorney Advisor-Mass Media Bureau
Robert Cleveland, Physical Scientist—Office of Engineering and Technology
Roy Stewart, Chief, Video Services Division-Mass Media Bureau
Charles Kelly, Chief, Enforcement Division-Mass Media Bureau
Richard Smith, Chief, Field Operations Bureau

Amount of Reimbursement:

Transportation	$3,807.00
Subsistence	8,025.00
Other expenses	425.00
Total	12,257.00

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 87-10517 Filed 5-7-87; 8:45 am]
BILLING CODE 6712-01-M

[MM Docket No. 87-119; File Nos. BPH-840503IC, et al]

Applications for consolidated Hearing; Breeze Broadcasting Co. Ltd., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Breeze Broadcasting Co., Ltd	Gulf Breeze, FL	BPH-840503IC	87-119
B. Timothy Paul Woodward	Gulf Breeze, FL	BPH-840921IA	
C. Gail Rose Schroeder	Gulf Breeze, FL	BPH-841214MD	
D. Delta Broadcasting Corp	Gulf Breeze, FL	BPH-850109ME	
E. Barbara Brelsford, Michael Brelsford & Benchmark Communications Corp. d/b/a Gulf Breeze Wireless Co.	Gulf Breeze, FL	BPH-850301MB	
F. Sherry Ann Scott	Gulf Breeze, FL	BPH-850313MA	
G. Timothy L. Chisholm & Lisa Chisholm	Gulf Breeze, FL	BPH-850709ME	
H. Gulf Breeze FM Group Partnership Ltd	Gulf Breeze, FL	BPH-850711MU	
I. Maranatha Broadcasting Co., Inc	Gulf Breeze, FL	BPH-850712ME	
J.J. McCarthy & June J. Miller	Gulf Breeze, FL	BPH-850712NT	
K.S. Pepper-Wrenn/D. Wrenn, a Partnership	Gulf Breeze, FL	BPH-850712NU	
L. Dee Wetmore	Gulf Breeze, FL	BPH-850712NY	
M. J-4 Broadcasting, Ltd	Gulf Breeze, FL	BPH-850712NZ	
N. Harold S. Schwartz	Gulf Breeze, FL	BPH-850712OC	
O. Gulf Radio, Ltd	Gulf Breeze, FL	BPH-850712OD	
P. Gulf Breeze Broadcasting Co	Gulf Breeze, FL	BPH-850712OE	
Q. Gaynell L. Fordham d/b/a	Gulf Breeze, FL	BPH-850322MK	(Dismissed)

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading	Applicants
1. Main Studio	E,I
2. Air Hazard	D,H
3. Comparative	All
4. Ultimate	All

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,
Assistant Chief, Audio Services Division, Mass Media Bureau.
[FR Doc. 87-10519 Filed 5-7-87; 8:45 am]
BILLING CODE 6712-01-M

[MM Docket No. 87-110; File Nos. BR-840201 WQ and BP-840430AC

Applications for Consolidated Hearing; Empire State Broadcasting Corp. and Bursam Communications Corp.

1. The Commission has before it the following mutually exclusive applications for a new AM station:

Applicant	City State	File No.	MM Docket No.
A. Empire State Broadcasting Corp.	Buffalo, NY	BR-840201WQ	87-110
B. Bursam Communications Corp.	Mineola, NY	BP-840430AC	

2. Pursuant to section 309(e) of the Communication Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading	Applicant(s)
1. 307(b)	All applicants.
2. Contingent Comparative	All applicants.
3. Ultimate	All applicants.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to whch it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may

also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau

[FR Doc. 87-10520 Filed 5-7-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-83; File No. BPCT-86-1216 KF, et al.]

Applications for Consolidated Hearing; Thaddeus Bishop, et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant	City/State	File No.	MM Docket No.
A. Thaddeus Bishop	Monroe, GA	BPCT-861216KF	87-83
B. Anne C. Roney and James H. Roney, A General Partnership	Monroe, GA	BPCT-8612163L	
C. New Georgia Broadcasting, Ltd	Monroe, GA	BPCT-8612164L	
D. Walton Television Partners, Inc	Monroe, GA	BPCT-8612165L	
E. Monroe Television, Inc	Monroe, GA	BPCT-8612166L	
F. Vernice Boozer	Monroe, GA	BPCT-8612167L	
G. Overview Communications, Ltd	Monroe, GA	BPCT-8612168L	
H. Walton World Communications	Monroe, GA	BPCT-861216IH	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading	Applicant(s)
1. Site Availability	F,G
2. Air Hazard	A,B,D,E,F,G,H,
3. Comparative	A,B,C,D,E,F,G,H
4. Ultimate	A,B,C,D,E,F,G,H

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87-10518 Filed 5-7-87-8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 87-526]

Calculation of the Average Return on Assets of Institutions Insured by the Federal Savings and Loan Insurance Corp.

Dated: April 30, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Federal Home Loan Bank Board ("Board") as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is publishing its calculation of the 1986 average return on assets of all insured institutions the accounts of which are insured by the FSLIC ("insured institutions"). This calculation, and notice thereof, are required by the Board's revised capital regulation.

EFFECTIVE DATE: April 30, 1987.

FOR FURTHER INFORMATION CONTACT: Richard C. Pickering, Deputy Director, Office of Policy and Economic Research, (202) 377-6770, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the Board's calculation of the calendar year 1986 aggregate annual rate of return on the aggregate average level of assets ("average return on assets") of all insured institutions. This calculation, referred to as the April calculation, is required by the Board's revised capital regulation, adopted on August 15, 1986. Board Res. No. 86-857, 51 FR 33565, 33585 (Sept. 22, 1986) (to be codified at 12 CFR 563.13). The capital regulation generally requires insured institutions to increase their capital on their existing liabilities on January 1, 1987, to 6 percent of those liabilities over a period largely determined by the average return on assets of all insured institutions over the phase-in period. Thus, the length of the phase-in period is in part determined by the feasibility of insured institutions achieving capital equal to 6 percent of total liabilities before risk adjustment under the economic circumstances of the coming years.

The capital regulation requires the Board to calculate and to publish the average return on assets of all insured institutions for the prior calendar year as well as the revised liability factors for institutions with initial liability factors of 3 percent ("standard group") or less than 3 percent ("lower group"). In general, an insured institution's liability factor is the percentage rate applied at the end of each quarter to its January 1, 1987, total liabilities to determine the capital required for such liabilities.

The average aggregate return on assets earned by all insured institutions during calendar year 1986 was 0.09 percent of assets. Accordingly, insured institutions in the standard group must increase their liability factors by 75 percent of this rate (.068 of one percent). The regulation requires one-half of this increase (.03 of one percent after rounding off) on July 1 of the calendar year in which the calculation is made and one-half on January 1 of the following year. Consequently, the standard group's liability factor will be 3.03 percent on July 1, 1987, and 3.06 percent on January 1, 1988. Institutions in the lower group must increase their initial liability factors by the higher of (1) 90 percent of 0.09 percent (.081 of one percent) or (2) 90 percent of the institution's own return on assets. Accordingly, lower group institutions that had a return on assests in 1986 of less than or equal to 0.09 percent would increase their liability factors by .04 of

one percent (after rounding off) on July 1, 1987 and January 1, 1988.

The average return on assets of all FSLIC-insured institutions was low last year because large losses by approximately one-fifth of all insured institutions offset the substantial profits of the rest of the industry.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-10580 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-612]

Abraham Lincoln Federal Savings Bank, Dresher, PA; Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 10, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Abraham Lincoln Federal Savings Bank, Dresher, Pennsylvania for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Pittsburgh, 20 Stanwix Street, One Riverfront Center, Pittsburgh, Pennsylvania 15222-4893.

The Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10581 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-611]

American Federal Savings and Loan Association of Duval County, Jacksonville, FL; Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 12, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of American Federal Savings and Loan Association of DuVal County, Jacksonville, Florida for permission to convert to the stock form of organization. Following the conversion the Association will be known as American Federal Savings Bank of DuVal County, Jacksonville, Florida. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, Post Office, Box 105565, Atlanta, Georgia 30348.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10582 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-609]

Cottage Savings Association, Cincinnati, OH; Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 12, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Cottage Savings Association, Cincinnati, Ohio for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Cincinnati, P.O. Box 598, Cincinnati, Ohio 45201.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10583 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-602]

Crestmont Federal Savings and Loan Association, Springfield, NJ; Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 13, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Crestmont Federal Savings and Loan Association, Springfield, New Jersey for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10584 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-601]

The Federal Savings Bank, New Britain, CT; Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 12, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of The Federal Savings Bank, New Britain, Connecticut for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Boston, Post Office 9106 GMF, Boston, Massachusetts 02205-9106.

The Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10585 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-607]

The Federal Savings and Loan Association of Alabama, Jasper, AL: Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 12, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Alabama, Jasper, Alabama, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atalanta, P.O. Box 56527,

Peachtree Center Station, Atlanta, Georgia 30343

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10586 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-603]

First Federal Savings Bank, San Juan, PR; Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 5, 1986, the Office of General Counsel of the Federal Home Bank Loan Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings Bank, San Juan, Puerto Rico for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10587 Filed 5-6-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-604]

Guaynabo Federal Savings Bank, Guaynabo, PR; Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 13, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Guaynabo Federal Savings Bank, Guaynabo, Puerto Rico, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10588 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-605]

Lakeland Savings and Loan Association, Succasunna, NJ;, Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 5, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Lakeland Savings and Loan Association, Succasunna, New Jersey, for permission to convert to the stock of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10589 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-610]

Regional Federal Savings and Loan Association, New Albany, IN, Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 12, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Regional Federal Savings and Loan Association, New Albany, Indiana for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Indianapolis, Post Office Box 60, Indianapolis, Indiana 46206.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10590 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-606]

Sunrise Federal Savings and Loan Association, Newport, KY; Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 12, 1986, the Office of General Counsel of the Federal Home Bank Loan Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Sunrise Federal Savings and Loan Association, Newport, Kentucky, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Cincinnati, Post Office Box 598, Cincinnati, Ohio 45201.

The Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10591 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-598]

The Talman Home Federal Savings and Loan Association of Illinois, Chicago, IL; Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 19, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of The Talman Home Federal Savings and Loan Association of Illinois, Chicago, Illinois for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10592 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-608]

Tolland Bank, F.S.B., Tolland, CT; Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 12, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Tolland Bank, F.S.B., Tolland, Connecticut for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Boston, Post Office Box 9106 GMF, Boston, Massachusetts 02205-9106.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secreatary.

[FR Doc. 87-10593 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-600]

Vermillion Savings and Loan Association, Abbeville, LA, Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 12, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Vermillion Savings and Loan Association, Abbeville, Louisiana for permission to convert to the stock of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank, of Dallas, 500 E. John Carpenter Freeway, P.O. Box 619026, Dallas/Ft. Worth, Texas 75261-9026.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10594 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-599]

Western Permanent Savings and Loan Association, Baltimore, MD; Approval of Conversion Application

Dated: April 27, 1987.

Notice is hereby given that on November 12, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Western Permanent Savings and Loan Association, Baltimore, Maryland for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552 and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Atlanta, 1475 Peachtree Street NE., Atlanta, Georgia 30309.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-10595 Filed 5-7-87; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

Noboru Tom Nakamura dba TN Forwarding, 2623 28th Street, Santa Monica, CA 90405

Direct Import-Export Transportation Services, Inc., 100 Cavenpoint Road, P.O. Box 5209, Jersey City, NJ 07305, Officers: Richard H. Lazaroff, President, Beth C. Penalba, Vice President

Seacon Express N.Y. Corp., 17 Battery Place, Suite 2143, New York, NY 10004, Officers: Young San Chung, President, Manuel Voight, Vice President

Nik and Associates, 5758 W. Century Blvd., S-203, Los Angeles, CA 90045, Officers: Miodrag Nikolic, President, Slobodan Todorovic, Export Manager

CFI Cargo, Inc., 1722 Eye Street, NW, Lower Concourse, Washington, DC 20006, Officers: Valente Raymundo, President/Director, Arnie Clark, Vice President/Director, Rudolfo Regala, Treasurer/Director, Susano Fernandez, Secretary/Director

Neptune International Shipping Corp., 212 S. California Street, San Gabriel, CA 91776, Officer: John Nai-Chung Ngai, President

Allports Forwarding, Inc., 3125 N.E. 69th, Portland, OR 97213, Del G. Allen, Jr., President/Director, Kathleen Marie Portwaood, Director

International Freight Transport, Inc., 74 Trinity Place, Suite 1215, New York, NY 10006, Juergen Lantzsch, President/Director, Claus-Carsten Ertel, Vice President/Secretary/Treasurer

I.T.E.C. Corporation, 165 Harrington Avenue, Warwick, Rhode Island 02888, Officers: Joseph Edward McWilliams, Jr., President/Director, Patricia Marian McWilliams, Vice President

Continental Freight Forwarders, Inc., 401 Broadway, Suite 1612, New York, NY 10013, Officer: Ali Hakim, President

Air & Ocean International Forwarding, Inc., 1245 17th Street, Hermosa Beach, CA 90254, Officers: Anthony Chien, President/Director, Joseph Chen, CFO/Director

Tradelink International, Inc., 8474 Underwood Lane, Maplewood, MN 55369, Officers: Steve Hall, Vice President Sales, Michael Lampert, President, Thomas Harlan, Vice President/Secretary, Warren Brown, Vice President Finance/CFO

Con Services International, Inc., 2075 S.W. 122nd Avenue, #117, Miami, FL 33175, Officers: Nasri Benedeck, President, R. Mabel Encinas, Vice President/Secretary, Sonia Vijil, Treasurer

Rogelio G. Gonzalez dba Gonzalez International Services, 1225 N. Loop West, Suite 427, Houston, TX 77008

Denise Zappola, 260 Staten Island, New York, NY 10306

Jong Ghak Kim, 14455 S. Broadway, #1, Gardena, CA 90248

Dated: May 5, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-10521 Filed 5-7-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Central Bancshares of the South, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are

considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 29, 1987.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Central Bancshares of the South, Inc.*, Birmingham, Alabama; to acquire 100 percent of the voting shares of Central Bank of Shelby County, Shelby County, Alabama, a *de novo* bank.

2. *E.C.S.B. Holding Company, Inc.*, Mary Esther, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Emerald Coast State Bank, Mary Esther, Florida, a *de novo* bank.

3. *Jefferson Bancorp, Inc.*, Miami Beach, Florida; to merge with Broward Bancorp, Lauderdale Lakes, Florida, and thereby indirectly acquire The Broward Bank, Lauderdale Lakes, Florida.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Butler Point, Inc.*, Catlin, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Catlin, Catlin, Illinois.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Greenfield Bancshares, Inc.*, Greenfield, Tennessee; to become a bank holding company by acquiring at least 80 percent of the voting shares of Greenfield Banking Company, Greenfield, Tennessee.

D. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Central Bank Corporation*, Sault Ste. Marie, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Central Savings Bank, Sault Ste. Marie, Michigan. Comments on this application must be received by May 27, 1987.

2. *First BancShares, Inc. of Cold Spring*, Cold Spring, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Cold Spring, Cold Spring, Minnesota.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *National Security Bank Holding Company*, Newport, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of National Security Bank, Newport, Oregon.

2. *United Valley Financial*, Lemoore, California; to become a bank holding company by acquiring 66.4 percent of the voting shares of Farmers State Bank, Farmersville, California.

Board of Governors of the Federal Reserve System, May 4, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-10447 Filed 5-7-87; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 22, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *B.D. Fairchild*, Tonkawa, Oklahoma; to acquire 6.33 percent of the voting shares of Service Bancshares Limited, Inc., Tonkawa, Oklahoma, and thereby indirectly acquire The Service Bank of Tonkawa, Tonkawa, Oklahoma.

Board of Governors of the Federal Reserve System, May 4, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-10488 Filed 5-7-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMG) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on May 1, 1987.

Public Health Service (PHS)

(Call Reports Clearance Officer on 202-245-2100 for copies of Package)

Alcohol, Drug Abuse and Mental Health Administration

Subject: Confidentiality of Alcohol and Drug Abuse Records—NPRM—Reinstatement—(0930-0099)
Respondents: Federal agencies or employees; Non-profit institutions; Small businesses or organizations
Subject: Annual Census of Patient Characteristics in State and County Mental Hospital Inpatient Services—Reinstatement—(0930-0093)
Respondents: State or local governments

National Institutes of Health

Subject: Factors Associated with Premature Births: Missouri Followback Survey—NEW—
Respondents: Individuals or households; State or local governments

Assistant Secretary for Health

Subject: 1988 National Maternal and Infant Health Survey and 1987 Pretest—NEW—
Respondents: Individuals or households; Businesses or other for-profit; Non-profit institutions
OMB Desk Officer: Shannah Koss

Health Care Fanancing Administration

(Call Reports Clearance Officer on 301-594-8650 for copies of package)

Subject: Monthly Contractor Financial Report Contractor Draws on letter of Credit—Extension—(0938-0361)-HCFA-1522-1521

Respondents: Businesses or other for-profit; Non-profit institutions
Subject: Medicare Contractor Administrative Budget and Cost Reporting System—Revision—(0938-0350)-HCFA-1523/1524
Respondents: Businesses or other for-profit; Non-profit institutions
Subject: Request for Information—Medicare Payment for Services to Patients now Deceased—Reinstatement—(0938-0020)-HCFA-1660
Respondents: Individuals or households; Businesses or other for-profit
Subject: Intermediary Benefit Payment Report—Extension—(0938-0371)-HCFA-456
OMB Desk Officer: Allison Herron

As mentioned above, copies of the information collection clearance packages can be obtained by calling the Reports Clearance Officer, on one of the following numbers:

PHS: 202-245-2100
HCFA: 301-594-8650

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

ATTN: (name of OMB Desk Officer)

Dated: May 4, 1987.

James F. Trickett,

Deputy Assistant Secretary, Administrative and Management Services.

[FR Doc. 87-10491 Filed 5-7-87; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 87F-0086]

McNeil Specialty Products Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that McNeil Specialty Products Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sucralose as a non-nutritive sweetener in food.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7A3987) has been filed by McNeil Specialty Products Co., Division of McNeilab, Inc., a wholly owned subsidiary of Johnson & Johnson, P.O. Box 3000, Grandview Rd., Skillman, NJ 08558-3000, proposing the issuance of a food additive regulation providing for safe use of sucralose, 1,6-dichloro-1,6-dideoxy-*beta*-D-fructofuranosyl-4-chloro-4-deoxy-*alpha*-D-galactopyranoside, as a non-nutritive sweetener in food, where standards of identity do not preclude such use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: May 1, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-10471 Filed 5-7-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87E-0095]

Determination of Regulatory Review Period for Purposes of Patent Extension; Atrovent

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) had determined the regulatory review period of Atrovent and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fihsers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael W. Cogan, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under the act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase market with the initital submission of an application to market the human drug product and continues until FDA grants permission to start the drug product. Although only a portion of a regulatory review period may count toward the actural amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B)

FDA recently approved for marketing the human drug product Atrovent, an inhalation aerosol drug indicated as a bronchodilator for maintenance treatment of bronchospasm associated with chronic obstructive pulmonary disease, including chronic bronchitis and emphysema. Folloiwng FDA's approval, Boehringer Ingelheim International GmbH filed a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated April 7, 1987, FDA advised the Patent Office that the product had undergone a regulatory review period and that Atrovent represented the first commercial marketing or use of its active ingredient, ipratropium bromide. Shortly thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Atrovent is 4,942 days. Of this time, 3,695 days occurred during the testing phase of the regulatory review period, while 1,247 days occurred during the approval phase. These periods of time were derived from the folloiwng dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug,*

and Cosmetic Act became effective: June 20, 1973. FDA has verified that the investigational new drug application became effective on June 20, 1973 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)).

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* August 1, 1983. FDA has verified that the new drug application (NDA 19-085) was initially submitted on August 1, 1983.

3. *The date the application was approved:* December 29, 1986. FDS has verified that NDA 19-085 was approved on December 29, 1986.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actural period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 7, 1987, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested peson may petition FDA, on or before November 4, 1987, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 1, 1987.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 87-10469 Filed 5-7-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87E-0071]

Determination of Regulatory Review Period for Purposes of Patent Extension; Unasyn

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Unasyn and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael W. Cogan, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Unasyn, an injectable antibacterial combination drug for treatment of infections due to susceptible strains of designated microorganisms in skin and suture infections, intra-abdominal infections, and gynecological infections. Following FDA's approval, Pfizer Inc. field a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated April 2, 1987, FDA advised the Patent Office that the product had undergone a regulatory review period and that Unasyn represented the first commercial marketing or use of one of its active ingredients, sulbactam sodium. Shortly thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Unasyn is 3,310 days. Of this time, 2,687 days occurred during the testing phase of the regulatory review period, while 623 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 507(i) of the Federal Food, Drug, and Cosmetic Act became effective:* December 10, 1977. FDA has verified that the investigational new drug application became effective on December 10, 1977 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)).

2. *The date the application was initially submitted with respect to the human drug product under section 507(b) of the Federal Food, Drug, and Cosmetic Act:* April 18, 1985. FDA has verified that the new drug application (NDA 50,608) was initially submitted on April 18, 1985.

3. *The date the application was approved:* December 31, 1986. FDA has verified that NDA 50,608 was approved on December 31, 1986.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 7, 1987, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 4, 1987, for a determination regarding whether the applicant for extension acted with due diligence during the regualtory review period. To meet its burden, the petition

must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 1, 1987.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 87–10470 Filed 5–7–87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 77N-0240; DESI 12836]

Dipyridamole; Drugs for Human Use; Drug Efficacy Study Implementation; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) amends a notice of opportunity for hearing which proposed to withdraw approval of new drug applications (NDAs) for drug products containing dipyridamole. As amended, the proposal names three more products. FDA also amends a notice withdrawing approval of products for which a hearing was not requested.

EFFECTIVE DATE: May 8, 1987.

FOR FURTHER INFORMATION CONTACT: Judy O'Neal, Center for Drugs and Biologics (HFN–366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8041.

SUPPLEMENTARY INFORMATION:

A. Amendment to Notice of Opportunity for a Hearing

In a notice published in the **Federal Register** of January 15, 1987 (52 FR 1663) and amended February 23, 1987 (52 FR 5501), FDA revoked the temporary exemption that has allowed drug products containing dipyridamole to remain on the market beyond the time limits scheduled for implementation of the Drug Efficacy Study. FDA reclassified the drug to lacking substantial evidence of effectiveness for long term therapy of chronic angina pectoris, proposed to withdraw approval of the new drug applications insofar as they provide for the indication reclassified to lacking substantial evidence of effectiveness, and offered an opportunity for a hearing on the proposal.

The notice listed products that had been permitted to continue marketing under the terms of the exemption. The following conditionally approved abbreviated new drug applications (ANDA's) should have been included in the list:

1. ANDA 86–884; Dipyridamole Tablets containing 25 milligrams (mg) of the drug per tablet; Chelsea Laboratories, Inc., 428 Doughty Blvd., Inwood, NY 11696.

2. ANDA 87–583; Dipyridamole Tablets containing 25 mg of the drug per tablet; Mylan Pharmaceuticals, Inc., P.O. Box 4293, Morgantown, WV 26505.

3. ANDA 87–719; Dipyridamole Tablets containing 25 mg of the drug per tablet; Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, CO 80020.

The products identified above are subject to the provisions of the notice published January 15, 1987. The manufacturers have already submitted hearing requests in response to that notice.

B. Amendment to Withdrawal of Approval

In a notice published in the **Federal Register** of April 10, 1987 (52 FR 11753), FDA withdrew approval of NDAs and ANDAs for products containing dipyridamole, insofar as they provide for the indication lacking substantial evidence of effectiveness, because no hearing was requested or the hearing request was withdrawn. The holder of the following three products has rescinded its hearing request withdrawal, thereby reinstating its original hearing request:

1. ANDA 87–676; Dipyridamole Tablets containing 25 mg of the drug per tablet; Mylan Pharmaceuticals, Inc., P.O. Box 4293, Morgantown, WV 26505.

2. ANDA 87–882; Dipyridamole Tablets containing 50 mg of the drug per tablet; Mylan Pharmaceuticals.

3. ANDA 87–883; Dipyridamole Tablets containing 75 mg of the drug per tablet; Mylan Pharmaceuticals.

The withdrawal of approval published on April 10, 1987, no longer applies to the three products listed above. The hearing request is under review and will be the subject of a future **Federal Register** notice. Marketing of these products may continue pending a ruling on the hearing request.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under authority delegated to the Director of the Center for Drugs and Biologics (21 CFR 5.70 and 5.82).

Dated: May 1, 1987.

Paul Parkman,

Acting Director, Center for Drugs and Biologics.

[FR Doc. 87–10466 Filed 5–5–87; 10:51 am]

BILLING CODE 4160-01-M

[Docket No. 87N-0078]

E.R. Squibb and Sons; Rescission of Proposal To Withdraw Approval of Certain New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is rescinding a notice of opportunity for hearing proposing to withdraw approval of certain new drug applications (NDA's) held by E.R. Squibb & Sons, Inc. (Squibb). Squibb has amended its applications to delete a certain manufacturing site for its products.

DATE: The rescission is effective May 8, 1987.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Center for Drugs and Biologics (HFN–366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8041.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the **Federal Register** of March 10, 1987 (52 FR 7311), FDA proposed to withdraw approval of the NDA's and new animal drug applications (NADA's) for sterile injectable drug products manufactured by Kanasco, Ltd. and J. D. Copanos and Sons, Inc. (affiliated corporations hereinafter referred to collectively as Kanasco). The basis for the proposal was that the methods used in, and the facilities and controls used for, the manufacture, processing, and packaging of the sterile injectable drugs were inadequate to assure their identity, strength, quality, and purity, and were not made adequate within a reasonable time after receipt of written notice specifying the inadequacies. The notice listed the following NDA's, among others, as providing for products manufactured by Kanasco:

NDA 60–100; Penicillin G procaine; "Crysticillin;" E. R. Squibb & Sons, Inc., P.O. Box 191, New Brunswick, NJ 08903.

NDA 60–362; Penicillin G potassium; E. R. Squibb & Sons, Inc.

By letters dated March 20, 1987, Squibb supplemented the above listed NDA's to delete Kanasco as a manufacturing site for its products.

Accordingly, the Acting Director of the Center for Drugs and Biologics hereby rescinds the March 10, 1987 notice of opportunity for hearing with respect to the above listed NDA's.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 505, 52 Stat. 1052 as amended (21 U.S.C. 355)) and under authority delegated to the Director of the Center for Drugs and Biologics (21 CFR 5.82).

Dated: May 1, 1987.

Paul Parkman,

Acting Director, Center for Drugs and Biologics.

[FR Doc. 87-10468 Filed 5-7-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86N-0256]

Searle, Division of G.D. Searle and Co., et al.; Withdrawal of Approval of New Drug Applications; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is correcting a previously published **Federal Register** notice withdrawing approval of 58 new drug applications (NDA's). Only portions of one NDA should have been withdrawn.

FOR FURTHER INFORMATION CONTACT: Ron Lyles, Center for Drugs and Biologics, Product Information Coordination Staff (HFN-46), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4320.

SUPPLEMENTARY INFORMATION: FDA inadvertently withdrew approval of NDA 6-333 as it pertains to Synophylate Elixir. This is still an approved product. Therefore, in FR Doc. 86-13577, appearing at page 21983 in the **Federal Register** of Tuesday, June 17, 1986, the following corrections are made:

(1) On page 21983, in the second column under NDA 6-333, after "Synophylate Injection, Suppository, Syrup & Tablets" insert "(only those portions of NDA 6-333 that pertain to these products)."

(2) On page 21984, in the first column, second paragraph, seventh line, after the word "above," insert "or pertinent parts thereof".

Dated: May 1, 1987.

Paul Parkman,

Acting Director, Center for Drugs and Biologics.

[FR Doc. 87-10467 Filed 5-7-87; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the Interagency Technical Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute (NHLBI), on June 17, 1987, from 1 p.m. to 4:30 p.m., at the National Institutes of Health (NIH), Building 31 (C-Wing, Conference Room 9), 9000 Rockville Pike, Bethesda, Maryland 20892, (301) 496-5031.

The entire meeting is open to the public. The Coordinating Committee is meeting to discuss drug abuse issues related to areas of interest to the NHLBI. Attendance by the public will be limited to space available.

For the agenda, list of participants, and meeting summary, contact: Ms. Janyce N. Hedetniemi, Chief, Planning and Coordination Branch, NHLBI, NIH, Building 31, Room 5A-03, Bethesda, Maryland 20892, (301) 496-5031.

Dated: April 28, 1987.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 87-10488 Filed 5-7-87; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National Cholesterol Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute, on June 1, 1987, from 9 a.m. to 3 p.m., at the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814, (301) 652-2000.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National Cholesterol Education Program. Attendance by the public will be limited to space available.

For the agenda, list of participants, and meeting summary, contact: Dr. James I. Cleeman, Coordinator, National Cholesterol Education Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, C-200, Bethesda, Maryland 20892, (301) 496-0554.

Dated: April 28, 1987.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 87-10489 Filed 5-7-87; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Request for Establishment of Collaborative Agreement for the Preclinical and Clinical Development of Dideoxyadenosine/Dideoxyinosine as an Anti-Viral Agent Useful in the Treatment of Acquired Immunodeficiency Syndrome (AIDS)

AGENCY: Public Health Service, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) seeks a collaborative agreement with an industrial sponsor for the preclinical and clinical development of dideoxyadenosine/dideoxyinosine as a drug for the treatment of AIDS. Scientists from the National Cancer Institute (NCI) have established that this compound is effective in inhibiting *in vitro* growth of HTLV-III, the etiologic agent of AIDS. In exchange for participation in a collaborative agreement, the Government will grant the selected industrial sponsor an exclusive, royalty-bearing license under U.S. Patent Application Serial No. 769,016, "Inhibition of In Vitro Infectivity and Cytopathic Effect of HTLV-III/LAV by 2',3'-Dideoxyguanosine, or 2',3'-Dideoxyadenosine".

ADDRESSES: Responses should be sent to: Dr. Lowell T. Harmison, Deputy Assistant Secretary for Health, Office of the Assistant Secretary for Health, 200 Independence Ave., SW., Washington, DC 20201.

For further information (including a copy of the patent application) contact: Dr. Eddie Reed, Special Assistant for Pre-Clinical Science, DCT—National Cancer Institute, Building 31, Room 3A49, Bethesda, MD 20892, 301-496-6404.

DATE: In view of the important priority of developing new drugs for the treatment of AIDS, interested parties should submit responses to the Deputy Assistant Secretary for Health within 45 days of the date of this notice.

Late responses will not be considered. Respondees may be provided an additional opportunity to provide additional information, to present an oral statement and to answer questions, if the Department determines that to be necessary. A potential industrial sponsor's failure to submit a timely response to this notice will be considered in the Government's assessment of any objection by that potential sponsor to the grant of an

exclusive patent license to the party selected to collaborate with the PHS.

SUPPLEMENTARY INFORMATION: The Government is seeking "orphan drug" status for dideoxyadenosine/dideoxyinosine. The Government seeks a sponsor who, in accordance with the requirements of the regulations governing the licensing of Government-owned inventions (37 CFR 404.8), presents the most meritorious plan for the development of dideoxyadenosine/dideoxyinosine to New Drug Application (NDA) status with the best terms for the Government. Specifically, respondees are sought who will be able to:

(1) Synthesize bulk pharmaceutical product necessary for the treatment of 500–1,000 patients with HIV infection in Phase I, Phase II, and Phase III developmental studies.

(2) Perform formulation for oral and intravenous use, vialing, quality control bioavailability testing, and distribution of drygs for Phase I and Phase II and, if appropriate Phase III clinical trials both in the intramural program of the NCI and extramural AIDS Treatment Evaluation Units recently established by the National Institutes of Allergy and Infectious Diseases (NIAID). These clinical trials may be performed under the sponsorship of an Investigational New Drug Application (INDA) to be held by the NCI or the NIAID. Prior to being released for commercial distribution, the drug would have to be granted a product license by the Food and Drug Administration (FDA).

(3) The industrial sponsor will be expected to perform clinical studies. In addition, the NIAID may conduct studies of dideoxyadenosine/dideoxyinosine in the AIDS Treatment Evaluation Units. The industrial sponsor will be expected to provide drugs free of charge to the National Institutes of Health (NIH) for studies conducted in the AIDS Treatment Evaluation Units and in the NCI intramural program.

(4) Provide data management support for both intramural and extramural studies of dideoxyadenosine/dideoxyinosine necessary for submission of a NDA to the FDA.

(5) Cost share in intramural and extramural clinical monitoring studies (pharmacokinetics, patient immune profiles and viral outgrowth studies) necessary for the demonstration of clinical efficacy of dideoxyadenosine/dideoxyinosine in the treatment of AIDS.

(6) The United States Government will receive reasonable royalties once the drug is marketed for general use.

Responses will be reviewed by senior scientists from the NCI, NIAID, and the Office of the Assistant Secretary for Health. Criteria for choosing the industrial partner in this collaborative agreement will, in addition to those criteria set forth at 37 CFR and 404.7(a)(1)(ii)–(iv), include:

(1) Experience in preclinical and clinical drug development with special emphasis on the development of antiviral compounds.

(2) Prior manufacturing capabilities for nucleoside analogs and demonstrated experience with such for broad distribution.

(3) Ability to package, market, and distribute antiviral phamaceutical products in a nationwide marketing system at a reasonable price.

(4) Demonstrated competence in oral formulation and sustained-release oral formulations.

(5) Experience in the evaluation, monitoring and interpretation of data from investigational biologic and virologic assays under an INDA.

(6) Experience in the evaluation, monitoring and interpretation of data from Phase I and Phase II clinical studies under an INDA.

(7) Willingness to cooperate with the Public Health Service in collection, evaluation, publication and maintenance of data from clinical trials and tests of investigational biologic assays.

(8) Willingness to cost share in AIDS drug development as outlined above (i.e., bulk drug synthesis, data management, etc.).

(9) Agreement to be bound by DHHS rules involving human/animal subjects.

(10) Prior manufacturing capabilities for nucleoside analogs and demonstrated experience with such drugs for broad distribution.

(11) Demonstrated expertise in monitoring drug levels using state-of-the-art methods for measuring nucleoside drugs in blood, urine, and CSF.

Dated: May 1, 1987.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 87–10526 Filed 5–7–87; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Regional Administrator, Regional Housing Commissioner

[Docket No. D–87–840]

Acting Regional Administrator, Region IV (Atlanta); Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Regional Administrator for Region IV.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303–3388, 404–331–5199.

Designation of Acting Regional Administrator for Region IV

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of, or vacancy in the position of, the Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: Provided, That no official is authorized to serve as Acting Regional Administrator unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Regional Administrator
2. Director, Office of Administration
3. Director, Office of Housing
4. Director, Office of Public Housing
5. Special Assistant to the Regional Administrator
6. Director, Office of Community Planning and Development
7. Regional Counsel
8. Georgia Program Coordinator
9. Director, Office of Fair Housing and Equal Opportunity
10. Director, Program Planning and Evaluation
11. Director, Operational Support Division.

This designation supersedes the designation effective February 27, 1985. (Delegation of Authority by the Secretary effective May 4, 1962, (27 FR 4319, May 4, 1962); Dept. Interim Order II (31 FR 815, January 21, 1966).

This designation shall be effective as of February 25, 1987.

Raymond A. Harris,

Regional Administrator, Region IV (Atlanta).

[FR Doc. 87-10558 Filed 5-7-87 8:45 am]

BILLINC CODE 4210-32-M

[Docket No. D-87-84]

Acting Manager, Region IV (Atlanta); Designation for Birmingham Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Birmingham Office.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303-3388, 404-331-5199.

Designation of Acting Manager for Birmingham Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Manager
2. Director, Housing Development Division
3. Chief Counsel
4. Director, Housing Managmenet Division
5. Director, Fair Housing and Equal Opportunity Division
6. Director, Community Planning and Development Division
7. Director, Administration Division

This designation supersedes the designation effective November 13, 1983, (49 FR 13591, April 5, 1984).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971)).

This designation shall be effective as of February 25, 1987.

Richard W. Compton,

Manager, Birmingham Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator.

[FR Doc. 87-10559 Filed 5-7-87; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-87-842]

Acting Manager, Region IV (Atlanta); Designation for Columbia Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Columbia Office.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303-3388, 404-331-5199.

Designation of Acting Manager for Columbia Office

Each of the officials appointed to the following postions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Manager
2. Chief Counsel
3. Director, Housing Development Division
4. Director, Housing Management Division

This designation supersedes the designation effective Novemberr 13, 1983, (49 FR 13592, April 5, 1984).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971)).

This designation shall be effective as of February 25, 1987.

Ted B. Freeman,

Manager, Columbia Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator.

[FR Doc. 87-10560 Filed 5-7-87; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-87-843]

Acting Manager, Region IV (Atlanta); Designation for Coral Gables Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Undates the designation of officials who may serve as Acting Manager of the Coral Gables Office.

EFFECTIVE DATE: March 30, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia, 30303-3388, 404-331-5199.

Designation of Acting Manager for Coral Gables Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the manager, will all the powers, functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose title precede his/hers in this designation are unable to serve by reason of absence:

1. Chief, Valuation Branch
2. Chief, Loan Management Branch
3. Chief, Property Disposition Branch
4. Chief, Mortgage Credit Branch

This designation supersedes the designation effective January 3, 1984, (49 FR 13592, April 5, 1984).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971)).

This designation shall be effective as of March 30, 1987.

Neil A. Zittrauer,

Acting Manager, Coral Gables Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of Reginal Administrator.

[FR Doc. 87-10561 Filed 5-7-87; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-87-844]

Acting Manager, Region IV (Atlanta); Designation for Greensboro Office

AGENCY: Department of Housing and Urban Development.

ACTION Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Greensboro Office.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban

Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, Georgia 30303–3388, 404–331–5199.

Designation of Acting Manager for Greensboro Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Manager
2. Director, Housing Development Division
3. Director, Housing Management Division
4. Chief Counsel
5. Director, Community Planning and Development Division

This designation supersedes the designation effective November 13, 1983, (48 FR 55519, December 13, 1983.)

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971)).

This designation shall be effective as of February 25, 1987.

Larry J. Parker,

Manager, Greensboro Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator.

[FR Doc. 87–10562 Filed 5–7–87; 8:45 am]

BILLING CODE 4210–32–M

[Docket No. D–87–845]

Acting Manager, Region IV (Atlanta); Designation for Jackson Office

AGENCY: Department of Housing and Urban Development.

ACTION. Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Jackson Office.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, Georgia 30303–3388, 404–331–5199.

Designation of Acting Manager for Jackson Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Manager
2. Director, Housing Management Division
3. Director, Housing Development Division
4. Director, Community Planning and Development Division
5. Special Assistant to Manager

This designation supersedes the designation effective January 1, 1984 (49 FR 13592, April 5, 1984).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971).)

This designation shall be effective as of February 25, 1987.

James S. Roland,

Manager, Jackson Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator.

[FR Doc. 87–10563 Filed 5–7–87; 8:45 am]

BILLING CODE 4210–32–M

[Docket No. D–87–846]

Acting Manager, Region IV (Atlanta); Designation for Jacksonville Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Jacksonville Office.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303–3388, 404–331–5199.

Designation of Acting Manager for Jacksonville Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Manager
2. Director, Housing Development Division
3. Director, Housing Management Division
4. Director, Community Planning and Developing Division
5. Chief Counsel

This designation supersedes the designation effective December 13, 1983, (49 FR 13593, April 5, 1984).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971)).

This designation shall be effective as of February 25, 1987.

James T. Chaplin,

Manager, Jacksonville Office.

Raymond A. Harris,

Regional Administrator, Regional Houseing Commissioner, Office of the Regional Administrator.

[FR Doc. 87–10564 Filed 5–7–87; 8:45 am]

BILLING CODE 4210–32–M

[Docket No. D–87–847]

Acting Manager, Region IV (Atlanta); Designation for Knoxville Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Knoxville Office.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303–3388, 404–331–5199.

Designation of Acting Manager for Knoxville Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Manager

2. Director, Housing Development Division
3. Director, Housing Management Division
4. Chief Counsel
5. Director, Community Planning and Development Division
6. Director, Fair Housing and Equal Opportunity Division
7. Director, Administration Division

This designation supersedes the designation effective December 13, 1983, (49 FR 13593, April 5, 1984).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971)).

This designation shall be effective as of February 25, 1987.

Richard B. Barnwell,

Manager, Knoxville Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator.

[FR Doc. 87-10565 Filed 5-7-87; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-87-848]

Acting Manager, Region IV (Atlanta); Designation for Louisville Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Louisville Office.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303-3388, 404-331-5199.

Designation of Acting Manager for Louisville Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Manager
2. Chief Counsel
3. Director, Housing Management Division
4. Director, Housing Development Division
5. Director, Community Planning and Development Division
6. Director, Administration Division

This designation supersedes the designation effective November 13, 1983, (49 FR 13593, April 5, 184).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971)).

This designation shall be effective as of February 25, 1987.

Joseph G. Schiff,

Manager, Louisville Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator.

[FR Doc. 87-10566 Filed 5-7-87; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-87-849]

Acting Manager, Region IV (Atlanta); Designation for Memphis Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of official who may serve as Acting Manager for the Memphis Office.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management System Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303-3388, 404-331-5199.

Designation of Acting Manager for Memphis Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, will all the powers, functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Chief, Housing Development Branch
2. Chief, Loan Management and Property Disposition Branch

This designation supersedes the designation effective November 13, 1983, (49 FR 13594, April 5, 1984).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971)).

This designation shall be effective as of February 25, 1987.

Joseph P. Garaffa,

Manager Memphiis Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator.

[FR Doc. 87-10567 Filed 5-7-87; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-87-850]

Acting Manager, Region IV (Atlanta); Designation for Nashville Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Nashville Office.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303-3388, 404-331-5199.

Designation of Acting Manager for Nashville Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Director, Housing Management Division
2. Director, Housing Development Division
3. Chief Counsel
4. Chief, Assisted Housing Management Branch

This designation supersedes the designation effective December 13, 1983, (49 FR 13594, April 5, 1984).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971)).

This designation shall be effective as of February 25, 1987.

Joseph G. Hart,

Manager, Nashville Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator.

[FR Doc. 87-10568 Filed 5-7-87; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-87-851]

Acting Manager, Region IV (Atlanta); Designation for Orlando Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Orlando Office.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell, Federal Building, 75 Spring Street SW., Atlanta Georgia 30303-3388, 404-331-5199.

Designation of Acting Manager for Orlando Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Chief, Mortgage Credit Branch
2. Chief, Valuation Branch

This designation supersedes the designation effective December 12, 1983, (49 FR 13594, April 5, 1984).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971))

This designation shall be effective as of February 25, 1987.

M. Jeanette Porter,

Manager, Orlando Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator.

[FR Doc. 87-10569 Filed 5-7-87; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-87-852]

Acting Manager, Region IV (Atlanta); Designation for Tampa Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Tampa Office.

EFFECTIVE DATE: February 25, 1987.

FOR FURTHER INFORMATION CONTACT: Henry E. Rollins, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 634, Richard B. Russell Federal Building, 75 Spring Street SW., Atlanta Georgia 30303-3388, 404-331-5199.

Designation of Acting Manager For Tampa Office

Each of the officials appointed to the following positions is designated to serve as Acting Manger during the absence of, or vacancy in the position of, the Manager, with all the powers, functions, and duties redelegated or assigned to the Manger: *Provided,* That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Chief, Property Disposition Branch
2. Chief, Valuation Branch
3. Chief, Mortgage Credit Branch
4. Chief, Loan Management Branch

This designation supersedes the designation effective January 5, 1984, (49 FR 13594, April 5, 1984).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971))

This designation shall be effective as of February 25, 1987.

George A. Milburn, Jr.,

Manager, Tampa Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator.

[FR Doc. 87-10570 Filed 5-7-87; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Menominee Indian Tribe of Wisconsin; Ordinance Amending Law Relating to Liquor Regulation

April 28, 1987.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Resolution Number 79-58 enacting the Menominee Tribal Liquor Ordinance was duly adopted by the Menominee Tribal Legislature on December 6, 1979. Ordinance Number 79-31 (1987) provides for the incorporation of Chapter 125 of the Wisconsin State Statutes into Menominee law. It amends Ordinance Number 79-31 (1979) which was published in the **Federal Register** on June 24, 1980, 45 FR 42380. The amended Ordinance reads as follows:

Ross O. Swimmer,

Assistante Secretary, Indian Affairs.

Menominee Nation—Menominee Tribal Legislature—Amendment to Ordinance 79-31

Be it ordained by the Legislature of the Menominee Indian Tribe of Wisconsin:

Ordinance 79-31 is amended in its entirety as follows:

Pursuant to applicable federal law, including 25 U.S.C.A. 1302 and 18 U.S.C. 1161, which requires that tribal regulation of liquor on Indian Reservations be in conformity with the laws of the state in which the Reservation is located, the Menominee Indian Tribe, acting through its governing body, the Menominee Tribal Legislature, hereby incorporates into Menominee law, Chapter 125, Wis. Stats, as amended from time to time, substituting where necessary the Tribe and its agents, agencies, for the State and its agents, agencies, or subdivisions.

Certification

The undersigned Officers of the Menominee Trible Legislature hereby certify that at a meeting of the Legislature on December 11, 1986, at which a quorum was present, the above Ordinance Number 79-31 was duly adopted by a vote of five (5) for, three (3) opposed, zero (0) abstentions, and one (1) absent.

The undersigned also certify that the above Ordinance has been posted in accordance with the Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin.

Dated: December 11, 1986.

Gordon Dickie, Sr.,

Chairman, Menominee Indian Tribe of Wisconsin.

James Washinawatok,

Secretary, Menominee Indian Tribe of Wisconsin.

[FR Doc. 87-10449 Filed 5-7-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[FES 87-19]

Availability of Lower Gila South Final Wilderness Environment Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Lower Gila South Final Wilderness Environment Impact Statement.

SUMMARY: The Final Lower Gila South Wilderness Environmental Impact Statement assesses the environmental consequences of managing 12 wilderness study areas as wilderness or nonwilderness. The alternatives assessed include: (1) An "All Wilderness Alternative" for each wilderness study area; (2) a "No Wilderness Alternative" for each wilderness study area, and (3) "Partial Wilderness Alternatives" for eight of the wilderness study areas.

The names of wilderness study areas, their total acreages, and the proposed actions for each are as follows:

New Water Mountains—40,600 acres (21,680 acres suitable; 18,920 nonsuitable)

Little Horn Mountains West—13,800 acres (all nonsuitable)

Little Horn Mountains—91,930 acres (all nonsuitable)

Eagletail Mountains—119,700 acres 78,020 acres suitable; 41,680 nonsuitable)

East Clanton Hills—36,600 acres (all nonsuitable)

Face Mountain—27,575 acres (all nonsuitable)

Signal Mountain—20,920 acres (15,250 acres suitable; 5,670 nonsuitable)

Woolsey Peak—73,930 acres (61,000 acres suitable; 12,930 nonsuitable)

North Maricopa Mountains—75,483 acres (all nonsuitable)

South Maricopa Mountains—72,004 acres (all nonsuitable)

Butterfield Stage Memorial—9,566 acres (all nonsuitable)

Table Top Mountains—39,823 acres (34,400 acres suitable; 5,423 nonsuitable)

The Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior and the President to Congress. The final decision on wilderness designation rests with Congress.

FOR FURTHER INFORMATION CONTACT: Henri R. Bisson, District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027, Telephone (602) 863-4464.

SUPPLEMENTARY INFORMATION: Copies of the environmental impact statement may be obtained from the District Manager, Phoenix District, Bureau of Land Management, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Copies are also available for inspection at the following locations:

Department of the Interior, Bureau of Land Management, 18th and C Streets, NW., Washington, DC 20240

Arizona State Office, Bureau of Land Management, Public Room, 3rd Floor, 3707 North 7th Street, Phoenix, Arizona 85011

Dated: May 1, 1987.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 87-10289 Filed 5-7-87; 8:45 am]

BILLING CODE 4310-84-M

[FES 87-18]

Availability of Safford District Final Wilderness Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: The Safford District Final Wilderness Environmental Impact Statement assesses the environmental consequences of managing nine wilderness study areas (WSA), totalling 135,664 acres, as wilderness. The impacts have been evaluated for each of five wilderness management alternatives ranging from all wilderness to no wilderness. The alternatives include:

1. *Proposed Action*—four WSAs, totalling 38,672 acres, recommended for wilderness.

2. *All Wilderness*—nine WSAs, totalling 135,664 acres, recommended for wilderness.

3. *Enhanced Wilderness*—nine WSAs, totalling 101,291 acres, recommended for wilderness.

4. *Moderate Wilderness*—five WSAs, totalling 48,864 acres, recommended for wilderness.

5. *No Wilderness*—no WSAs, recommended for wilderness.

The names of the wilderness study areas and the acreages recommended suitable and non-suitable under the *Proposed Action* are shown in the following table.

WSA	Acres recommended	
	Suitable	Non-suitable
Needle's Eye	9,201	515
Black Rock	6,590	1,902
Fishhooks	10,883	4,332
Day Mine	0	17,309
Gila Box	0	17,831
Turtle Mountain	0	17,422
Javelina Peak	0	18,853
Peloncillo Mtns	0	12,317
Dos Cabezas Mtns	11,998	6,511
Total	38,672	96,992

The Bureau of Land Management wilderness recommendations will ultimately be forwarded by the Secretary of the Interior and the President to Congress. The final decision on wilderness designation rests with Congress.

FOR FURTHER INFORMATION CONTACT: Ray A. Brady, District Manager, Safford District Office, 425 E. 4th St., Safford, Arizona 85546, telephone (602) 428-4040.

SUPPLEMENTARY INFORMATION: Copies of the environmental impact statement may be obtained from the District Manager at the above address. Copies are also available for inspection at the following locations: Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240; and Arizona State Office, Bureau of Land Management, Public Room, 3rd Flood, 3707 N. 7th St., Phoenix, Arizona 85011.

Dated: May 1, 1987.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 87-10290 Filed 5-7-87; 8:45 am]

BILLING CODE 4310-84-M

[CA-940-07-4212-15; CA 19952]

Filing of State Indemnity Selection Application; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of State indemnity selection application.

SUMMARY: On February 17, 1987, the State of California filed a State Indemnity Selection application under the provisions of sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), to obtain title to the

following described public lands in lieu of school lands lost to the State of California:

Mount Diablo Meridian, California

T. 20 S., R. 43 E.,
Sec. 27, W½;
Sec. 28, All;
Sec. 33, All;
Sec. 34, All.
T. 21 S., R. 43 E.,
Sec. 3, Lot 1 of NE¼, Lot 1 of NW¼;
Sec. 3, Lot 2 of NE¼, and Lot 2 of NW¼.

San Bernardino Meridian, California

T. 16 N., R. 8 E.,
Sec. 9, All;
Sec. 10, All;
Sec. 13, N½, N½ of SW¼, and N½ of SE¼;
Sec. 14, N½, N½ of SW¼, and N½ of SE¼.
T. 8 N., R 19 E.,
Sec. 2, Lots 3 and 4, S½ of NW¼, and SW¼;
Sec. 3, Lots 1, 2, 3, and 4, S½ of NE¼, S½ of NW¼, and S½;
Sec. 4, Lots 1 and 2, S½ of NE¼, and SE¼.
T. 9 N., R. 19 E.,
Sec. 27, S½;
Sec. 34, All.

Therefore, in accordance with § 2091.2-6 of Title 43, Code of Federal Regulations, the above described lands are segregated from settlement, sale, locations or entry under the public land laws, including the mining laws, but not the mineral leasing laws or the Geothermal Steam Act. Any other type of application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant. The segregative effect of this application on the public lands shall terminate upon issuance of a document of conveyance to such lands, or upon publication in the **Federal Register** of a notice of termination of the segregation, or the expiration of 2 years from the date of the filing of this application, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 978-4815.

Inquiries concerning the land should be addressed to the undersigned officer, Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

Dated: April 22, 1987.

Sharon N. Janis,

Chief, Branch of Adjudication and Records

[FR Doc. 87-10450 Filed 5-7-87; 8:45 am]

BILLING CODE 4310-40-M

[AK-932-07-4220-10; F-020174, F-35871, F-35872]

Alaska; Correction to Public Land Withdrawals; Fort Greely Maneuver Area et al.

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This document corrects the legal description published for the Fort Greely Maneuver Area, Fort Greely Drop Area and the Fort Wainwright Maneuver Area in Alaska withdrawn by Pub. L 99-606.

In document 87-3703 beginning on page 5506 in the issue of Monday, February 23, 1987, make the following corrections:

1. On page 5506, in the first column, the third paragraph of the description for the Fort Greely Maneuver Area should read "Thence N. 04°55'47.3" E., 11,997.64 feet to a point being at Latitude 64°01'32.868" N., Longitude 145°43'16.607" W.;"

2. On the same page, in the same column, the 50th line should read "R. 10 E., F.M., to the center section monument".

3. On page 5506, in the third column, the 30th line should read "Sec. 22, E½SE¼;"

4. On page 5507, in the first column, the 17th line should read "Sec. 7, lots 1, 2 and 3, E½, E½NW¼, NE¼SW¼;"

5. On the same page, in the same column, the 51st line should read "Sec. 15, N½, N½SW¼, SW¼SW¼, NW¼SE¼;"

6. On the same page, in the second column, the 4th line should read "246,277.33 acres."

Wayne A. Boden,

Deputy State Director for Lands and Renewable Resources.

[FR Doc. 87-10451 Filed 5-7-87; 8:45 am]

BILLING CODE 4310-JA-M

[WASH-05711; OR-943-07-4220-11: GP-07-170]

Washington; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Geological Survey proposes that a portion of the land withdrawal for the Newport Geophysical Observatory continue for an additional 20 years and requests that the land involved remain closed to mining.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, (Telephone 503-231-6905).

SUPPLEMENTARY INFORMATION: The Geological Survey proposes that the existing land withdrawal made by Public Land Order No. 3852 of 10-12-1965, be continued in part for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The lands involved are located 6 miles northwest of Newport and contains 160 acres within the Kaniksu National Forest, in section 21, T. 32 N., R. 45 E., W.M., Pend Oreille County, Washington.

The purpose of the withdrawal is to protect the Newport Geophysical Observatory. The withdrawal segregates the land from the mining laws. The Geological Survey requests no changes in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: April 29, 1987.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-10452 Filed 5-7-87; 8:45 am]

BILLING CODE 4310-33-M

Bureau of Reclamation

Arroyo Pasajero-California Aqueduct Interim Standard Operational Procedure, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and Notice of Workshop.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (as amended) and § 21002.1 of the California Environmental Quality Act, the Bureau of Reclamation of the Department of the Interior (Bureau) and the California Department of Water Resources (DWR) intend to prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR).

The California Aqueduct's structural integrity is presently at risk during even moderate floods due to the inadequacy of the existing impoundment basin. To assure maximum protection of the canal until completion of the final flood protection facilities, the Bureau and DWR are proposing to adopt an Interim Standard Operational Procedure. The procedure will utilize existing facilities and will delineate the protection steps to be taken during winter storm periods. The objective of the EIS/EIR will be to identify and evaluate the environmental effects of the proposed alternative routing of floodwaters.

A workship has been scheduled to solicit information from interested public entities and persons in determining the scope of the EIS and the significant issues related to the alternatives identified.

DATE: The workshop will be held on Tuesday, May 19, 1987, in Coalinga, California.

ADDRESS: The workshop will be held at: West Hills Community College, Everett Hall, 300 Cherry Lane, Coalinga, California.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Frederick, Environmental Specialist, Mid-Pacific Regional Office, U.S. Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825-1898, telephone (916) 978-5475, or Dale Hoffman-Floerke, California Department of Water Resources, San Joaquin District, 3374 East Shields Avenue, Fresno, CA 93726, telephone (209) 445-5137.

SUPPLEMENTARY INFORMATION: The alternate plans have a four-stage procedure, incorporating use of existing facilities in a sequential order. Implementation of each sequential stage will be triggered by the actual water surface elevation in the westside detention basin. The alternatives to the project are developed by a variation of the sequence of use of the available operational facilities. This variation in sequence represents the alternatives to the project. The Bureau and the DWR must decide which sequence will best dispose of the floodwater in the detention basin. Including the alternative of no action, there are five options for directing the Arroyo Pasajero floodflows:

(1) Fill the existing westside detention basin from the training dike to Gale Avenue.

(2) Open the evacuation culvert allowing floodwater to cross the aqueduct and flow over lands downstream of the culvert.

(3) Allow floodwaters to pass over Gale Avenue, flow southward to and/or pass over Jayne Avenue, and then if necessary, to Avenal Cutoff Road.

(4) Open the Gale Avenue inlet gates to allow floodwater to flow into the California Aqueduct.

(5) Take no action to adopt an Interim Standard Operational Procedure.

The primary impacts which will be evaluated in the EIS/EIR include: The potential effects on water quality from allowing asbestos-laden-floodwaters to enter the California Aqueduct; the effect of potentially flooding private lands both south of Gale Avenue and east of the aqueduct; and the effect on wildlife, particularly threatened and endangered species which might inhabit the area on and adjacent to the aqueduct dike.

Dated: May 1, 1987.

Terry P. Lynott,

Acting Commissioner.

[FR Doc. 87-10315 Filed 5-7-87; 1:26 pm]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Establishment of an Experimental Population of Southern Sea Otters

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The Fish and Wildlife Service (Service) has prepared a Final Environmental Impact Statement (FEIS) for the translocation and establishment of an experimental population of southern sea otters (*Enhydra lutris nereis*). The Service proposes to reintroduce southern sea otters at, and contain them in the immediate vicinity of San Nicolas Island, Ventura County, California for two purposes: (1) To implement a primary recovery action for a federally listed "threatened" species and (2) to obtain data for assessing translocation and containment techniques, population dynamics, the ecological relationships of sea otters and the near-shore community, and the effects on the donor population of removal of individual otters for translocation.

A limited number of individual copies may be obtained from: Office of Sea Otter Coordination, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-1818, Sacramento, California 95825. Copies of the Final EIS will also be available for review in the following public libraries:

Black Gold Cooperative Library System, Ventura County Library Services Agency, P.O. Box 771, Ventura, California 93002

California Polytechnic State University, Robert F. Kennedy Library, San Luis Obispo, California 93407

California State Library, Government Publications Section, P.O. Box 2037, Sacramento, California 95809

California State University-Long Beach, University Library & Learning Resources, 1250 Bellflower Blvd., Long Beach, California 90840

Chetco Community Public Library, 898 Elk Drive, Brookings, Oregon 97415

County of Ventura Library, Documents Section, P.O. Box 771, Ventura, California 93001

Curry Public Library, Inc., 330 Colvin, P.O. Box 625, Gold Beach, Oregon 97444

Documents Department, The Libraries, Colorado State University, Fort Collins, Colorado 80523

Eureka-Humboldt County Library, 636 F Street, Eureka, California 95501

Humboldt State University Library, Arcata, California 95521

Lompoc Public Library, 501 E. North Avenue, Lompoc, California 93436

Long Beach Public Library & Information Center, 101 Pacific Avenue, Long Beach, California 90802

Los Angeles County Public Library System, 320 W. Temple Street, P.O. Box 111, Los Angeles, California 90053

Marine Technical Information Center Library, California Dept. of Fish and Game, 245 W. Broadway, Suite 350, Long Beach, California 90802

Mendocino County Library, 105 N. Main Street, Ukiah, California 95482

Millar Library, Portland State University, P.O. Box 1151, Portland Oregon 97207

Monterey Bay Area Cooperative Library System, Library, Monterey Peninsula College, 980 Fremont Blvd., Monterey, California 93940

Monterey County Library, 26 Central Avenue, Salinas, California 93901

Monterey Public Library, 625 Pacific Street, Monterey, California 93940

Moss Landing Marine Laboratory Library, P.O. Box 450, Moss Landing, California 95039

Natural Resources Library, Department of Interior, 18th & C Streets, NW., Washington, DC 20240

North Bay Cooperative Library System, 725 Third Street, Santa Rosa, California 95404
North State Cooperative Library System, 257 N. Villa Avenue, Willows, California 95988
Ocean and Coastal Law Center Library, School of Law, University of Oregon, Eugene, Oregon 97403–1221
Oceanside Public Library, 615 Fourth Street, Oceanside, California 92054
Oregon State Library, State Library Bldg., Summer and Court Streets, Salem, Oregon 97310
Oxnard Public Library, 214 South C Street, Oxnard, California 93030
Port Orford Public Library, 555 W. 20th, Box 130, Port Orford, Oregon 97465
San Diego State University Library, San Diego, California 92182–1101
San Luis Obispo City-County Library, 888 Morro Street, P.O. Box X, San Luis Obispo, California 93406
Santa Ana Public Library, 25 Civic Center Plaza, P.O. Box 1988, Santa Ana, California 92702
Santa Barbara Public Library, 40 E. Anapamu Street, P.O. Box 1019, Santa Barbara, California 93102
Santa Cruz Public Library, 224 Church Street, Santa Cruz, California 95060
Santa Maria Public Library, 420 Broadway, Santa Maria, California 93454
Santiago Library System, Orange County Public Library, 431 City Drive South, Orange, California 92668
Sierra Club Library, 730 Polk Street, San Francisco, California 94109
Sonoma County Library, Third and E Streets, Santa Rosa, California 95404
Thousand Oaks Public Library, 1401 E. Janss Road, Thousand Oaks, California 91362
Torrance Public Library, 3301 Torrance Blvd., Torrance, California 90503
University of California, Government Publications Dept. & Library, Santa Barbara, California 93106
University of California-Los Angeles Library, 405 Hilgard Avenue, Los Angeles, California 90024
University of California-San Diego, University Libraries, Mail Code C–075, La Jolla, California 92093
University of California-Santa Cruz, University Library, Santa Cruz, California 95064
University of Oregon Library, Eugene, Oregon 97403
University of Southern California, Edward L. Doheny Memorial Library, University Park, Los Angeles, California 90089
University of Washington Library, Mail Stop FM–25, Seattle, Washington 98195

FOR FURTHER INFORMATION CONTACT: Mr. Wilbur Ladd at (916) 978–4873 or FTS 460–4873, or write to the Office of Sea Otter Coordination, 2800 Cottage Way, Room E–1818, Sacramento, California 95825.

SUPPLEMENTARY INFORMATION: Establishment of an experimental southern sea otter population is proposed in accordance with Pub. L. 99–625, special Congressional legislation for sea otter translocation. The FEIS describes and analyzes the environmental consequences of a translocation of up to 70 southern sea otters per year, up to a total of 250, to one of three potential translocation sites: San Nicolas Island in Ventura County, California; coastal northern California; and coastal southern Oregon. San Nicolas Island is the preferred site. Also described are consequences of (a) no action, (b) additional protective measures to minimize the threat of oil spills to the present population instead of translocation, and (c) translocation combined with partial containment and management of the existing California sea otter population.

Dated: April 20, 1987.

Rolf Wallenstrom,

Regional Director.

[FR Doc. 87–9922 Filed 5–7–87; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-335 (Final)]

Tubeless Steel Disc Wheels From Brazil

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is threatened with material injury by reason of imports from Brazil of tubeless steel disc wheels,[3] provided for in item 692.32 of the Tariff Schedules of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). Vice Chairman Brunsdale and Commissioners Eckes, Lodwick, and Rohr further determine, pursuant to section 735(b)(4)(B) of the Act (19 U.S.C. 1673d(b)(4)(B)), that they would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

Background

The Commission instituted this investigation effective December 29, 1986, following a preliminary determination by the Department of Commerce that imports of tubeless steel disc wheels from Brazil were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 22, 1987 (52 FR 2461). The hearing was held in Washington, DC, on March 24, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 27, 1987. The views of the Commission are contained in USITC Publication 1971 (April 1987), entitled "Tubeless steel disc wheels from Brazil: Determination of the Commission in Investigation No. 731–TA–335 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: April 27, 1987.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–10305 Filed 5–7–87; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairman Liebeler dissenting.

[3] Such wheels are designed to be mounted with pneumatic tires, have a rim diameter of 22.5 inches or greater, and are suitable for use on class 6, 7, and 8 trucks, including tractors, and on semi-trailers and buses.

INTERSTATE COMMERCE COMMISSION

Release of Waybill Data for Use in Research on the Impact of the Staggers Act on Captive Shippers

The Commission has received a request from the Center for Transportation Studies, Massachusetts Institute of Technology for permission to use certain data from the Commission's 1976 through 1985 waybill sample for research on the impact of the Staggers

Act on captive shippers. The waybill data requested are: Unique Serial Number, Waybill Number, Waybill Date (MM/DD/YY), Accounting Period (MM/YY), Number of Carloads, Car Initial, Car Number, TOFC/COFC Plan (Non-TOFC=0, Blank), Number of TOFC/COFC's, TOFC/COFC Initial, TOFC/COFC Number, Commodity Code (STCC), Billed Weight (Hundred Weight), Actual Weight (Hundred Weight), Freight Revenue, Transit Charges, Miscellaneous Charges, Inter/Intra State Code, Transit Code, Type Move (Import/Export), Type Move Via Water, Shortline Miles (In Whole Miles), Rebill Code, Stratum Identification, Origin FSAC, Origin Railroad, Interchange #1 Rule 260, First Bridge RR, Interchange #2 Ru1e 260, Second Bridge RR, Interchange #3 Rule 260, Third Bridge RR, Interchange #4 Rule 260, Fourth Bridge RR, Interchange #5 Rule 260, Fifth Bridge RR, Interchange #6 Rule 260, Sixth Bridge RR, Interchange #7 Rule 260, Seventh Bridge RR, Interchange #8 Rule 260, Eighth Bridge RR, Interchange #9 Rule 260, Termination Railroad, Termination FSAC, Population Count, Stratum Count, Car Owner's Mark, Car Lessee's Mark, Car Capacity, Nominal Car Capacity, Tare Weight of Car, Number of Articulated Units, Pool Code Number, AAR Car Type, Mechanical Designation, Origin SPLC, Destination SPLC, STCC W/O Hazardous (49) Codes, First Railroad Alpha, Second Railroad Alpha, Third Railroad Alpha, Fourth Railroad Alpha, Fifth Railroad Alpha, Sixth Railroad Alpha, Seventh Railroad Alpha, Eighth Railroad Alpha, Ninth Railroad Alpha, Tenth Railroad Alpha, Junction Frequency, Expansion Factor, ALK Error Flag (F=Bad Routing), Expanded Carloads, Billed Weight in Tons, Expanded Tons, Expanded Trailer/Container Count, Expanded Total Revenue, First Railroad Distance, Second Railroad Distance, Third Railroad Distance, Fourth Railroad Distance, Fifth Railroad Distance, Sixth Railroad Distance, Seventh Railroad Distance, Eighth Railroad Distance, Ninth Railroad Distance, Tenth Railroad Distance, Total Distance, Origin State Alpha, First Junction State Alpha, Second Junction State Alpha, Third Junction State Alpha, Fourth Junction State Alpha, Fifth Junction State Alpha, Sixth Junction State Alpha, Seventh Junction State Alpha, Eighth Junction State Alpha, Ninth Junction State Alpha, Termination State Alpha, Origin BEA Area, Termination BEA Area, Origin Freight Territory, Termination Freight Territory, Origin SMSA, Termination SMSA, Origin Net3 Number, First Junction Net3 Number, Second Junction Net3 Number, Third Junction Net3 Number, Fourth Junction Net3 Number, Fifth Junction Net3 Number, Sixth Jtu:ction Net3 Number, Seventh Junction Net3 Number, Eighth Junction Net3 Number, Ninth Junction Net3 Number, Termination Net3 Number.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission has developed a Public Use File that has satisfied the majority of all our waybill data requests while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Public notice is provided so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party (49 FR 40328, September 6, 1983).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the date of this notice. They should also include all grounds for objection to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision.

Contact: James A. Nash, (202) 275-6864.

Noreta R. McGee,

Secretary.

[FR Doc. 87-10404 Filed 5-7-87; 8:45 am]

BILLING CODE 7035-01-M

Release of Waybill Data for Use in a Study of Possible Improvements in Car Service Regulations

The Commission has received a request from ALK Associates, Inc. for permission to use: (1) Car Type, (2) Car Owner, (3) Origin Railroad, (4) Origin Node, (5) Interchange Railroad(s), (6) Interchange Node(s), (7) Termination Railroad, (8) Termination Node, (9) Number of Carloads, and (10) Sampling Strata from the Commission's 1985 waybill sample for analysis to determine what improvements in car service regulations could be proposed which would benefit the broad railroad, shipper, and car owner community as a whole by improving equipment utilization and reducing empty car costs. ALK states that as new strategies are found to benefit the industry as a whole, the results would be presented to the Association of American Railroad's Committee on Car Service. No other data fields (i.e., revenue, commodity, tonnage, etc.) are necessary for the proposed work. The study is sponsored by an unnamed railroad.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission has developed a Public Use File that has satisfied the majority of all our waybill data requests while protecting the confidentiality of propriety data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Public notice is provided so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party (49 FR 40328, September 6, 1983).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the date of this notice. They should also include all grounds for objection to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision.

Contact: James A. Nash, (202) 275-6864.

Noreta R. McGee,

Secretary.

[FR Doc. 87-10403 Filed 5-7-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30911]

Chicago, Missouri and Western Railway Co.; Exemption, Acquisition and Operation; Illinois Central Gulf Railroad Co.

A Notice of Exemption in Finance Docket No. 30911 was served October 23, 1986, relating to the (1) acquisition and operation by Chicago, Missouri and Western Railway Company (CM&W) of 631 miles of Illinois Central Gulf Railroad Company (ICG) rail line, (2) acquisition of ICG's 8.33% equity interest in the Kansas City Terminal Railway Company, and (3) the acquisition of incidental trackage rights over ICG's line between South Joliet and Kensington Station in Chicago, IL.[1]

CM&W has filed a Supplemental Notice of Exemption to acquire and operate an additional 2.3 miles of rail line of ICG from milepost (AO) 39.0 to milepost (AO) 36.7 at or near South Joliet, IL. The acquisition includes rail property and appurtenant rail facilities, including the South Joliet Yard and terminal facilities to the south end of the yard lead at or near Valuation Station 2070 + 08. This additional track merely extends by 2.3 miles the northern boundary of the line to be acquired from ICG. Since CM&W and ICG have simply amended their purchase agreement to embrace the additional track, the October 23, 1986 notice can be supplemented by this instant notice.

Comments must be filed with the Commission and served on: Paul A. Cunningham, Pepper, Hamilton & Scheetz, 1777 F Street, NW., Washington, DC 20006, (202) 842-8100, and Theodore E. Cornell III, Seyfarth, Shaw, Fairweather & Geraldson, 55 East Monroe Street, Chicago, IL 60603, (312) 346-8000.

The transaction is related to Finance Docket No. 30912, where Venango River Corporation (Venango), the parent of CM&W, petitioned for exemption from 49 U.S.C. 11343 to permit Venango to continue in control of CM&W and Chicago South Shore and South Bend Railroad, another rail carrier subsidiary that Venango already controls. Also in Finance Docket No. 30913, CM&W filed a petition for exemption from 49 U.S.C. 11301 to issue securities in an amount not to exceed $105 million to finance the acquisition of the rail properties described in Finance Docket No. 30911. The Supplemental Notice of Exemption is also related to Finance Docket No. 31038 wherein CM&W has filed a Notice of Exemption to operate over trackage rights granted by the Chicago South Shore and South Bend Railroad between Burnham Yard and Kensington Station in Chicago, IL.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Dated: April 30, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-10351 Filed 5-7-87; 8:45 am]

BILLING CODE 7035-01-M

[1] The acquisition of additional rail mileage described here changes the mileposts of the incidental trackage rights granted to CM&W by ICG as follows:

Joliet MP (AO) 36.7 to Kensington MP 14.0.

Joliet MP (AO) 36.7 to Fort Wayne Junction MP 2.0.

Joliet MP (AO) 36.7 to FMX Facility MP (AO) 4.0.

[Finance Docket No. 30999]

Dixie River Railroad Company—Acquisition and Operation Exemption; Certain Lines of Missouri Pacific Railroad

The Dixie River Railroad Company (DRR) has filed a notice of exemption to acquire and operate property of Missouri Pacific Railroad Company. The properties consist of: (a) The former Lake Providence Branch Line in and between McGehee, AR, and Vidalia, LA (milepost 409.07 to milepost 557.2, and between milepost 637.2 and milepost 651.6), a total distance of 163.5 miles; and (b) the former Huttig Line segment in and between Sterlington, LA, and Huttig, AR (milepost 556.18 to milepost 526.9), a distance of 29.2 miles. A transaction relating to the control of DRR is the subject of a notice of exemption filed concurrently in Finance Docket No. 31001, *Great Northern Transportation Company Acquisition Exemption—Nonconnecting Railroad.* Any comments must be filed with the Commission and served on Robert E. Woodford, 76 S. Sierra Madre, Suite 230, Colorado Springs, CO 80903.[1]

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: April 30, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-10349 Filed 5-7-87; 8:45 am]

BILLING CODE 7035-01-M

[1] The Railway Labor Executives' Association (RLEA) and the Brotherhood of Locomotive Engineers filed unsupported requests for labor protection claiming that this transaction is subject to the mandatory labor protection provisions of 49 U.S.C. 11347. United Transportation Union seeks to be made a party to the RLEA protest. Great Northern Transportation Company replied to each pleading. Since this transaction involves an exemption from 49 U.S.C. 10901, only a showing of exceptional circumstances will justify the imposition of labor protective conditions. The requests are denied, because the requisite showing has not been made. *See Class Exemption—Acq. & Oper. of R. Lines under 49 U.S.C. 10901*, 1 I.C.C.2d 810 (1985).

[Finance Docket No. 31001]

Great Northern Transportation Co.; Acquisition Exemption; Nonconnecting Railroad

Great Northern Transportation Company (GNTC) has filed a notice of exemption under 49 CFR 1180.4(g) to acquire control of a nonconnecting railroad under the provisions of 49 CFR 1180.2(d).

GNTC has entered into an agreement with Dixie River Railroad Company (DRR) to purchase all of the latter's stock. DRR will own rail properties acquired by agreement from the Missouri Pacific Railroad Company and will operate these properties independently. A description of the rail properties to be acquired by DRR is as follows: (1) The former Lake Providence Branch Line in and between McGehee, AR, and Vidalia, LA (milepost 409.07 to milepost 557.2, and between milepost 637.2 and milepost 651.6), a total distance of 163.5 miles; and (2) the former Huttig Line segment in and between Sterlington, LA, and Huttig, AR (milepost 556.18 at Sterlington to milepost 526.9 at Huttig), a distance of 29.2 miles. The transaction by which DRR seeks to acquire these two lines is the subject of an exemption petition in Finance Docket No. 30999, *Dixie River Railroad Company—Acquisiton and Operation Exemption—Certain Lines of Missouri Pacific Railroad Company,* filed concurrently with this petition.

GNTC already controls the following nonconnecting railroad properties: The Colorado Springs & Eastern Railroad Company and The Denver Terminal Railroad Company, in Colorado; The Iowa Southern Railroad Company and The Ottumwa Terminal Railroad Company, in Iowa; The Oklahoma

Central Railroad Company, in Oklahoma; and The Fore River Railway Company, in Massachusetts.

GNTC indicates that: (1) The lines of the involved railroads do not connect; (2) its acquisition of control of DRR is not part of a series of anticipated transactions that would lead to a connection with each other or any other railroad in the same corporate family; and (3) the acquisition does not involve a Class I carrier. Therefore, this transaction involves the acquisition of nonconnecting carriers, and is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the requirements of 49 U.S.C. 10505(g)(2).[1]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Dated: April 30, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-10350 Filed 5-7-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-No. 130X)]

The Baltimore and Ohio Railroad Co.; Exemption; Abandonment in Harrison County, WV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by The Baltimore and Ohio Railroad Company of approximately 2.04 miles of track in Harrison County, WV subject to standard labor protective conditions.

DATES: This exemption will be effective on June 8, 1987. Petitions to stay must be filed by May 18, 1987. Petitions for reconsideration must be filed by May 28, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-19 (Sub-No. 130X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representative: Peter J. Shudtz, 100 North Charles Street, Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

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

Decided: April 21, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-10402 Filed 5-7-87; 8:45 am]

BILLING CODE 7035-01-M

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[1] The Railway Labor Executives' Association (RLEA) and the Brotherhood of Locomotive Engineers filed requests for labor protection. United Transportation Union seeks to be made a party to the RLEA protest. GNTC replied to each pleading. Since this transaction involves an exemption from 49 U.S.C. 11343, the imposition of labor protective conditions is mandatory. Therefore, no further consideration will be given to the requests.

DEPARTMENT OF JUSTICE

Antitrust Division

NAHB Research Foundation; Smart House Project

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), the NAHB Research Foundation, Inc. ("NAHB") has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission on April 3, 1987 disclosing (1) the identities of additional parties to the Smart House Project and (2) the nature and objectives of the Smart House Project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to single damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of current and additional parties to the Smart House Project, and its general areas of planned activity, are given below.

The Smart House Project is a joint venture project that will be implemented in a series of stages by separate agreements at each stage. The following parties have signed agreements to fund or otherwise participate in the first stage organizational activities:

AMP, Incorporated
Apple Computer, Inc.
Arco Solar, Inc.
AT&T Technologies, Inc.
Bell Northern Research Ltd.
Bose Corporation
BrinTec Corporation
Broan Mfg. Co., Inc.
Burndy Corporation
Carrier Corporation
Challenger Electrical Equipment Corp.
Dukane Corporation
E. I. duPont de Nemours & Company (Inc.)
Emerson Electric Co.
Gas Research Institute
General Electric Company
Honeywell Inc.
Johnson Controls
Kohler Company
Landis & Gyr Metering, Inc.
Lennox Industries Inc.
NAHB Research Foundation, Inc.
National Semiconductor Corporation
NOMA Incorporated
North American Philips Consumer Electronics Corp., on its own behalf and on behalf of Signetics Corporation
Onan Corporation
Pass & Seymour Incorporated
Robertshaw Controls Company
Schlage Lock Company
Scott Instruments Corporation
Scovill Inc.
Shell Development Company (Division of Shell Oil Company)
Siemens-Allis, Inc.
SLATER ELECTRIC, INC
Smart House Development Venture, Inc.
Smart House, L.P.
Sola Basic Industries, Inc.
Southwire Company
Square D Company
Systems Control, Inc.
Whirlpool Corporation
The Wiremold Company

The following entities are serving as advisors to the venture:

AgipPetroli
American Gas Association
Bell Canada
Bell Communications Research, Inc.
The Bell Telephone Company of Pennsylvania
Copper Development Association Inc.
The Dayton Power and Light Company
Duke Power Company
Electric Power Research Institute
Gas Research Institute
Home Builders Institute
National Association of Home Builders
Ontario Hydro
Professional Builder
Southern California Edison Company
Southwestern Bell Telephone Company
Virginia Electric and Power Company
Wisconsin Electric Power Company

The Smart House Project will engage in activities the purpose of which will be to develop a coordinated home control and energy distribution system containing integral telecommunications and advanced safety features. The project is intended to design and develop a set of compatible products, including integrated power and signal cabling to tie home electrical products into a single power and communications

network; communications-capable appliances, heating and cooling equipment, utility meters and home electrical and electronic products; electric power conditioning and conversion equipment; controllers and software to make logical decisions, issue control instructions, and regulate the distribution of energy, information and instructions throughout the network; monitoring and control devices to detect and neutralize malfunctions in energy distribution within the home; telephone and CATV interfaces to allow information to be passed to and from the home over telephone and CATV lines; and input and output devices with which users can control and receive information from the network and the devices attached to it.

On June 14, 1985 NAHB filed its original notification pursuant to section 6(a) of the Act. On September 13, 1985, January 9, 1986, April 25, 1986, July 30, 1986, and December 16, 1986, NAHB filed additional written notifications. The Department of Justice published notices in the **Federal Register** in response to these additional notifications on October 10, 1985 (50 FR 41428), on January 28, 1986 (51 FR 3520), on May 16, 1986 (51 FR 18049), on August 28, 1986 (51 FR 30724), and on January 15, 1987 (52 FR 1673), respectively.

The principal business address of the Smart House Project is P.O. Box 1627, Rockville, Maryland 20850.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87-10477 Filed 5-7-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Amoco Production Co. et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance at the address shown below, not later than May 18, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 18, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC, 20213.

Signed at Washington, DC this 27th day of April 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Amoco Production Co. (Workers)	New Orleans, LA	4/27/87	4/13/87	19,574	Crude Oil.
Anadarko Production, Co. (Workers)	Midland, TX	4/27/87	4/13/87	19,575	Oil & Gas.
Asher Pants Co. (ACTWU)	Fitchberg, MA	4/27/87	4/14/87	19,576	Men's Pants.
Bethlehem Steel Corp (USWA)	Johnstown, PA	4/27/87	4/16/87	19,577	Railroad Freight Cars.
Blaw-Knox Corp, Foundry Division	East Chicago, IN	4/27/87	4/16/87	19,578	Steel Castings.
Brazos Petroleum Co. (Company)	Midland, TX	4/27/87	4/13/87	19,579	Crude Oil.
Bristol Steel Corp. (Workers)	Maplewood, MO	4/27/87	4/15/87	19,580	Fabricated Structural Steel.
Crucible, Inc. (USWA)	Carrollton, GA	4/27/87	4/16/87	19,581	Stainless steel Tube.
Dana Corp. (USWA)	Reading, PA	4/27/87	4/16/87	19,582	Auto & Small Truck Frames.
Datachecker Systems, Inc. (Workers)	Maynard, MA	4/27/87	3/31/87	19,583	Cash Registers.
Dresser Manufacturing, Division	Bradford, PA	4/27/87	4/14/87	19,584	Pipe Joining & Repair Devices.
Drilco Industrial (Workers)	Midland, TX	4/27/87	4/15/87	19,585	Drilling Tools.
Drilco Industrial (Workers)	New Port Beach, CA	4/27/87	4/15/87	19,586	Do.
Essex Manufacturing Co. (ACTWU)	Fall River, MA	4/27/87	4/14/87	19,587	Women's Apparel
Hammond Valve, Corp. (USWA)	Hammond, IN	4/27/87	4/16/87	19,588	Valves.
Home Petroleum Corp. (Workers)	Denver, CO	4/27/87	4/15/87	19,589	Crude Oil.
Home Petroleum Corp. (Workers)	Houston, TX	4/27/87	4/15/87	19,590	Do.
Home Petroleum Corp. (Workers)	Geary, OK	4/27/87	4/15/87	19,591	Do.
Home Petroleum Corp. (Workers)	Gillette, WY	4/27/87	4/15/87	19,592	Do.
Home Petroleum Corp. (Workers)	Douglas, WY	4/27/87	4/15/87	19,593	Do.
Home Petroleum Corp. (Workers)	Rocksprings, WY	4/27/87	4/15/87	19,594	Do.
Ingram Manufacturing, (IUE)	San Antonio, TX	4/27/87	4/15/87	19,595	Do.
J&L Specialty/Canonsburg Metals Plant (USWA)	Washington, PA	4/27/87	4/16/87	19,596	Polishing Stainless Steel.
J.W. Humbard & Associates (Workers)	Midland, TX	4/27/87	4/13/87	19,597	Exploration of Crude Oil.
John E. Graham & Sons (Workers)	Bayou, La Batre, AL	4/27/87	4/17/87	19,598	Providing Water Transportation.
L-Tec (Company)	Piscataway, NJ	4/27/87	4/16/87	19,599	Scarfing Machines.
Parish, Inc. (Workers)	Virginia, MN	4/27/87	4/14/87	19,600	Sales.
Porta- Test Systems (Workers)	Casper, WY	4/27/87	3/16/87	19,601	Oilfield Service.
Red Diamond Battery, Co. (Company)	Hot Springs, AR	4/27/87	4/17/87	19,602	Lead-Acid Storage Batteries.
Rockwood (Iron & Metal)	Rockwood, IN	4/27/87	4/15/87	19,603	Railroad Track Spikes; Scrap Metal.
Santa Fe Energy Co. (Workers)	Denver, CO	4/27/87	4/9/87	19,604	Crude Oil.
Santa Fe Energy Co. (Workers)	Santa Fe Springs, CA	4/27/87	4/9/87	19,605	Crude Oil, Natural Gas.
Steel Industry Service Co. (Company)	Tulsa, OK	4/27/87	4/14/87	19,606	Repair Service.
Taylor Wilson Manufacturing, Co. (USWA)	McKees Rocks, PA	4/27/87	4/16/87	19,607	Equipment for Pipe & Tube.
Terra Resources (Company)	Tulsa, OK	4/27/87	4/15/87	19,608	Oil & Gas.
USX (USWA)	Baytown, TX	4/27/87	4/16/87	19,609	Slabs, Plates & Pipe.
Vickers, Inc. (AIWA)	Joplin, MO	4/27/87	4/15/87	19,610	Hydraulic Pumps & Motors.
Walled Lake Door, Co. (Workers)	Gilabend, AZ	4/27/87	4/15/87	19,611	Wood Doors.
White Farm Equipment (Workers)	Hopkins, MN	4/27/87	4/14/87	19,612	Agricultural Tractors (Lift Trucks).
Wills Oil Co. (Workers)	Wichita Falls, TX	4/27/87	2/27/87	19,613	Crude Oil.

[FR Doc. 87-10523 Filed 5-7-87; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; A.P. Green Refractories (ABGN Intl)

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 8, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 18, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 20th day of April 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
A.P. Green Refractories (ABGW Intl)	Philadelphia, PA	4/20/87	3/30/87	19,538	Refractories.
Allen Group, Inc.-Crown Division	Sterling Heights, MI	4/20/87	4/7/87	19,539	Tractor cabs & fenders.
Alpha Seismic Services, Inc.	Houston, TX	4/20/87	4/8/87	19,540	Seismic data.
Circle Drilling, Inc. (Workers)	Stanton, KY	4/13/87	4/7/87	19,541	Crude oil.
City of Midland, Texas (Workers)	Midland, TX	4/20/87	4/10/87	19,542	Public transit system.
Climax Molybdenum Co. (Workers)	Climax, CO	4/13/87	4/5/87	19,543	Molybdenum sulfate.
RCA Corp. David Sarnoff Research Center (Workers).	Princeton, NJ	4/20/87	3/24/87	19,544	Electrons equipment.
Develcon Manufacturing (Workers)	Phoenix, AZ	4/8/87	4/6/87	19,545	Switching gear.
Grant Supply (Workers)	Odessa, TX	4/20/87	3/13/87	19,546	Oilfield supplies.
Honeywell, Inc. (Company)	Phoenix, AZ	4/13/87	1/30/87	19,547	Automation controls.
International Resistive, Co. (Workers)	Philadelphia, PA	4/20/87	4/10/87	19,548	Resistors.
International Resistive, Co. (Workers)	Downington, PA	4/20/87	4/10/87	19,549	Resistors.
Joy Manufacturing Co., Inc. (Workers)	Wichita Falls, TX	4/13/87	3/31/87	19,550	Oil field equipment.
Mustang Mud, Inc. (Workers)	Midland, TX	4/20/87	4/12/87	19,551	Drilling fluid.
National Flame & Forge, Inc. (Company)	Houston, TX	4/20/87	4/10/87	19,552	Oilfield equipment.
Pend Oreille Oil & Gas Co. (Workers)	Houston, TX	4/20/87	4/3/87	19,553	Crude oil & natural gas.
United Mine Workers of America District 29 (U.M.W.A.).	Beckley, WV	4/20/87	4/17/87	19,554	Coal.
Photech Imaging Systems Inc. (Company)	Newton, NJ	4/20/87	4/16/87	19,555	Graphic arts film.
Potlatch Crop. (IWA, Local 3-10)	Coeur d'Alene, ID	4/13/87	4/6/87	19,556	Lumber.
R&M Industrties, Inc. (Workers)	Leominster, MA	4/20/87	4/10/87	19,557	Women's loungewear.
Rosamond Drilling Co., Inc. (Workers)	Monroe, LA	4/20/87	4/10/87	19,558	Oil drilling.
Santa Fe Minerals Inc. (Workers)	Midland, TX	4/20/87	4/13/87	19,559	Crude oil & natural gas.
Shield Resources, Inc. (Workers)	Houston, TX	4/20/87	3/24/87	19,560	Oil & gas.
Sonat Exploration, Co. (Company)	Houston, TX	4/13/87	4/1/87	19,561	Crude oil.
Sonat Exploration, Co. (Company)	Denver, CO	4/1/87	4/1/87	19,562	Crude oil.
Sonat Exploration, Co. (Company)	Oklahoma, City OK	4/13/87	4/13/87	19,563	Crude oil.
Sonat Exploration, Co. (Company)	Sherveport, LA	4/13/87	4/1/87	19,564	Crude oil.
Sonat Exploration, Co. (Company)	Charleston, WV	4/13/87	4/1/87	19,565	Crude oil.
T.E. Shelburne & Son, Inc. (Workers)	Snyder, TX	4/13/87	4/3/87	19,566	Oil pumping stations.
Texas American Oil Corp. (Workers)	Midland, TX	4/20/87	4/7/87	19,567	Crude oil & natural gas.
Texas Oil & Gas Crop. (Workers)	Jackson, MS	4/20/87	4/22/87	19,568	Oil & gas.
Thebers Corp. (ACTWU)	Bridgeton, NJ	4/20/87	4/10/87	19,569	Boys' pants.
Tru Stitch (UFCW)	Malone, NY	4/20/87	4/3/87	19,570	Moccasins & slippers.
Trojan, Inc. (Workers)	Mt. Sterling, KY	4/20/87	4/2/87	19,571	Assembled typewriter & computer parts.
USENCO Inc. (Company)	Midland, TX	4/20/87	3/10/87	19,572	Crude oil.
Volkswagen of American (Westmoreland Plant (UAW).	New Stanton, PA	4/20/87	4/7/87	19,573	Automobiles.

[FR Doc. 87-10524 Filed 5-7-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,927]

USS Corporation. (Formerly United States Steel Corp.; Lorain Works, Lorain, OH; Negative Determination on Reconsideration

On March 27, 1987 the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of USS Corporation, Lorain Works, Lorain, Ohio. The determination was published in the **Federal Register** on April 7, 1987 (52 FR 11141).

The petitioners claim that the Department in its factfinding investigation did not distinguish between carbon bar and alloy bar products and carbon pipe and alloy pipe produced at the Lorain Works. In addition, the petitioners alleged that import information regarding specific commodity classes, such as Tariff Schedule U.S. Annotated (TSUSA) numbers 6068600, 6103216, 6103945, 6066705, 6066953, 6066955, 6103242, 6103243 and 6103254, are at variance with the overall decrease in imports in each of the last two years and inconsistent with the Department's findings.

Also, its claimed that the Lorain Works produced at an increased level in the last half of 1985 and in the first half of 1986 in anticipation of a work stoppage in late 1986. Lastly, it is claimed that increased imports of finished and semi-finished steel products incorporating pipe and bar adversely affected production and/or sales and employment at the Lorain Works.

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. Findings in the investigation did not substantiate that increased imports of hot rolled bar products and steel pipe and tube contributed importantly to worker separations. The basis for the Department's denial was that the increased import criterion of the Trade Act was not met. U.S. imports of hot rolled carbon steel bars, welded and seamless carbon steel pipe and tubing decreased absolutely and relative to domestic shipments in 1985 compared to 1984 and in the first half of 1986 compared to the same period in 1985.

A labor dispute began at the Lorain Works in August, 1986 and lasted until February, 1987. On reconsideration the Department found that production of hot rolled bar products at Lorain equalled shipments or sales of those products. The Department obtained a breakout on hot rolled bar products produced at the Lorain Works in 1984, 1985 and in 1986. The production and shipment data for hot rolled bars did not show that the workers met the decreased production or sales criterion for these products. Production of carbon steel and alloy bars at Lorain each increased in 1985 compared to 1984 and in the first eight months of 1986 compared to the same period in 1985. Petitioners' claim of using a different base period to meet the decreased production or sales criterion because of increased production in anticipation of a work stoppage is a moot point since production of carbon and alloy bars at Lorain each increased in the last half of 1985 compared to the same period in 1984 and in the first half of 1986 compared to the same period in 1985. Further, increased production in anticipation of a work stoppage would not provide a basis for certification.

With respect to the TSUSA numbers furnished to the Department by the petitioners, company officials indicated that they do not separately identify workers by TSUSA number. The Department could not find any disagreement with imports of products under the TSUSA numbers supplied by the petitioners and its findings on the decreased imports of carbon steel and alloy bar products and pipe in 1986 compared to 1985. U.S. imports of articles under TSUSA 6103945 and 6103216 were negligible when compared to U.S. shipments under those categories and decreased absolutely in 1986 compared to 1985. Concerning articles imported under TSUSA 6103242, 6103243 and 6103254, they remained virtually unchanged or decreased in 1986 compared to 1985. According to company officials there was no production of coated or plated bars at Lorain—a product which would fall under TSUSA 6068600.

With respect to TSUSA 6066705, 6066953, and 6066955 blooms and billets, U.S. imports would have little effect since these items were not finished products or marketed as such but were used internally for the production mainly of hot rolled bars where increased production occurred. The company did not import semi-finished steel. These bloom and billet TSUSA numbers are included in the Department's table for semi-finished carbon steel shapes and semi-finished alloy steel shapes. U.S. imports of semi-finished carbon steel shapes and semi-finished alloy shapes declined absolutely and relative to domestic shipments in 1986 compared to 1985.

Petitioners also claim that although U.S. imports of steel products, in general, decreased in each of the last three years such imports increased relative to domestic shipments. The Department in its investigation looked at the specific articles produced at the Lorain Works and found no relative increase in imports except for imports of hot rolled alloy bars in 1985 when production and sale of these bars at Lorain increased. Subsequently, U.S. imports of hot rolled alloy bars decreased absolutely and relative to domestic shipments in the first nine months of 1986 compared to the same period in 1985. U.S. imports of welded and seamless carbon steel pipe and tube and alloy steel pipe and tubing decreased absolutely and relative to domestic shipments in 1985 compared to 1984 and in the first half of 1986 compared to the same period in 1985.

Lastly, petitioners' claim that imports of finished and semi-finished steel products adversely affected employment at the Lorain plant would not satisfy the statutory requirements for certification. According to the Trade Act, imports of the articles produced at the workers' firm must be considered rather than the final article(s) which incorporate the component(s) produced at the workers' firm. The courts have concluded that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America, AFL–CIO* v. *Bedell*, 506 F 2d 174 (D.C. Cir., 1974). Since increased imports of articles like or directly competitive with those produced by the Lorain Works could not be substantiated during the time period applicable to the workers petition, the workers eligibility requirements in the Trade Act were not met.

Conclusion

After reconsideration, I affirm the original notice of negative determination regarding eligibility to apply for adjustment assistance to workers and former workers at USS Corporation, Lorain Works, Lorain, Ohio.

Signed at Washington, DC, this 24th day of April 1987.

Barbara Ann Farmer,

Acting Director, Office of Program Management, UIS.

[FR Doc. 87-10525 Filed 5-7-87; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions being added to the Government Printing Office document entitled "General Wage Determinations Issued under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume I

Georgia: GA87-23 ..... pp. 270a-270b.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New York:
NY87-4 (January 2, 1987)..... p. 712.
NY87-7 (January 2, 1987)..... p. 738.
Pennsylvania:
PA87-8 (January 2, 1987)..... pp. 916-918, p. 923.
PA87-20 (January 2, 1987).... p. 984.
Listing by Location (index)..... p. xxvi.
Listing by Location (index)..... p. lii.

Volume II

Iowa: IA87-5 (January 2, 1987). pp. 42, 46.
Illinois: IL87-8 (January 2, 1987) pp. 143-146.
IL87-13 (January 2, 1987)..... p. 176.
Indiana: .....
IN87-3 (January 2, 1987)..... pp. 268-269.
Kansas: KS87-6 (January 2, 1987). p. 348.
Louisiana:.....
LA87-5 (January 2, 1987)..... p. 385.
Minnesota:
MN87-7 (January 2, 1987)..... pp. 543-544, p. 547.
MN87-8 (January 2, 1987)..... pp. 562-564, p. 567.
Missouri:
MO87-1 (January 2, 1987)..... pp. 582-598.
MO87-2 (January 2, 1987)..... pp. 602-608.
MO87-9 (January 2, 1987)..... p. 646.
MO87-11 (January 2, 1987)... p. 659.
Ohio:
OH87-1 (January 2, 1987)..... pp. 721, 723, pp. 725-726.
OH87-2 (January 2, 1987)..... pp. 734, 736, pp. 740-741, pp. 743, 745, pp. 748-749.
OH87-3 (January 2, 1987)..... p. 757.
OH87-28 (January 2, 1987)... pp. 812-813.
OH87-29 (January 2, 1987)... pp.818-819, pp. 821-822, pp. 825-827, p. 830, pp. 834-837, pp. 839-842, p. 844.
Wisconsin: WI87-1 (January 2, 1987). p. 1078.
Listing By Location (index)..... pp. xlvi-xlvii.

Volume III

California: CA87-2 (January 2, 1987). pp. 46-47, pp. 55-62b.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing

Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 4th day of May 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-10442 Filed 5-7-87; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL LABOR RELATIONS BOARD

Appointments of Individuals To Serve as Members of Performance Review Boards

5 U.S.C. 4314(c)(4) requires that the appointments of individuals to serve as members of performance review boards be published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning 01 January 1986 and ending 31 December 1986.

Name and Title

Robert E. Allen—Associate General Counsel, Enforcement Litigation
Harold J. Datz—Associate General Counsel, Advice
Joseph E. DeSio—Associate General Counsel, Operations Management
Michael J. Fogerty—Chief Counsel to Board Member
John E. Higgins, Jr.—Deputy General Counsel
Paul E. Long—Deputy Director of Administration
Joseph E. Moore—Deputy Executive Secretary
Anne G. Purcell—Chief Counsel to Board Member
Rosemary Pye—Chief Counsel to Board Member
Eugene L. Rosenfeld—Deputy Associate General Counsel, Operations Management
Ernest Russell—Director of Administration
Elinor H. Stillman—Chief Counsel to Board Member
Berton B. Subrin—Director, Office of Representation Appeals
John C. Truesdale—Executive Secretary
Melvin J. Welles—Chief Administrative Law Judge
Charles M. Williamson—Chief Counsel to the Chairman

Dated: May 5, 1987.

Washington, DC

By Direction of the Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 87-10522 Filed 5-7-87; 8:45 am]

BILLING CODE 7545-01-M

NATIONAL SCIENCE FOUNDATION

Committee Management; Notice of Renewal

The Advisory Committee for Design, Manufacturing, and Computer-Integrated Engineering (formerly called the Advisory Committee for Design, Manufacturing, and Computer Engineering) is being renewed for an additional 2 years.

The Assistant Director for Engineering has determined that the renewal of this Committee is necessary and in the public interest. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

M. Rebecca Winkler,

Committee Management Officer.

May 5, 1987.

[FR Doc. 87-10513 Filed 5-7-87; 8:45 am]

BILLING CODE 7555-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Findings and Order Granting Application for Unlisted Trading Privileges, Midwest Stock Exhange, Inc.

April 29, 1987.

I. Introduction

The Midwest Stock Exchange, Inc. ("MSE") has filed an application with the Commission pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") and Rule 12f-1 [17 CFR 240.12f-1] thereunder, for unlisted trading privileges ("UTP") in the following over-the-counter ("OTC") securities, *i.e.*, securities not registered under section 12(b) of the Act: [1]

Symbol	Issuer	File No.
AGREA	American Greetings Corp., Class A.	7-9472
APCI	Apollo Computer, Inc	[1] 7-9866
AAPL	Apple Computer, Inc	7-9473
TATE	Ashton Tate	7-9474
BMGC	Battle Mountain Gold Company.	7-9475
CMCO	Comb Co	7-9476
CTUS	Cetus Corp	7-9477
CVGT	Convergent Technologies Inc.	7-9478
DIGI	DSC Communications Corp.	7-9479
DAZY	Daisy System Corp	7-9480
GENE	Genentech Inc	7-9481
HENG	Henley Group Inc	7-9482
INTC	Intel Corporation	7-9483
INGR	Intergraph Corportion	7-9484
KEMC	Kemper Corportion	7-9485
LIZC	Liz Claiborne Inc	7-9486
LOTS	Lotus Development Corp.	7-9487
LMED	Lyphomed Inc	7-9488
MCIC	MCI Communications Corp.	7-9489
MAXI	Maxicare Health Plans Inc.	7-9490
PCLB	Price Co	7-9491
SGAT	Seagate Technologies	7-9492
SMED	Shared Medical Systems Corp.	7-9493
SHON	Shoneys Inc	7-9494
TCOMA	Telecommunications Inc. Cl. A.	7-9496

[1] The MSE applied for UTP on Apollo Computer, Inc., on March 27, 1987. Notice of the application was published on March 30, 1987, in Securities Exchange Act Release No. 24281 (March 30, 1987), 52 FR 11389. The MSE submitted this application to replace Tandem Computers, Inc., which recently listed on the New York Stock Exchange and thus no longer can be traded on an OTC/UTP basis. The MSE withdrew its UTP application on Tandem Computers, Inc., by letter dated March 27, 1987. *See* letter dated March 27, 1987, from Patrick K. Conroy, Counsel, MSE, to Alden Adkins, Branch Chief, Division of Market Regulation.

II. Statutory and Discussion

Section 12f(1)(C) [2] requires the Commission, prior to granting UTP on an OTC stock, to consider the:

public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system and [the Commission] shall not grant any such application if any rule of the national securities exchange making application under

[1] Notice of this application was given by publication in the **Federal Register** on January 15, 1987, Securities Exchange Act Release No. 23968 (January 7, 1987), 52 FR 1406. The Commission received no comments on this application.

[2] This section was added as a part of the Securities Acts Amendments of 1975 ("1975 Amendments"), Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

this subsection would unreasonably impair the ability of any dealer to solicit or effect transactions is such security for his own account, or would unreasonably restrict competition among dealers in such security or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

On September 15, 1985, the Commission issued a release announcing that the Commission was prepared to grant UTP under 12(f)(1)(C) in up to 25 National Market System ("NMS") securities ("NMS Securities"), subject principally to the implementation of a plan to provide for the consolidation of the exchange and OTC transaction and quotation reports in such securities.[3] In the OTC/UTP Release, the Commission determined that, as a general matter, the progress on the development of a NMS has been such that the grant of UTP on certain OTC securities would be consistent with the Act and would provide distinct benefits to the markets for these securities.

For the reasons discussed below, the Commission reaffirms this determination and approves the MSE's application for UTP.

A. Public Trading Activity and Character of Trading

The Commission has examined carefully the public trading activity and character of trading for NMS securities in general, and the character of trading for the specific securities for which the MSE requested UTP to ensure that the grant of OTC/UTP will not adversely affect the markets for these securities. The Commission continues to believe that granting UTP on OTC securities will enhance competition by adding exchange market makers to the OTC market, which is a multi-dealer market itself.[4] The Commission believes that increased competition ultimately will benefit investors through pricing efficiency and increased liquidity in these issues.

B. Impact of OTC/UTP on Existing Markets

As discussed in the OTC/UTP release,[5] the Commission does not believe that the grant of OTC/UTP on the 25 securities requested by MSE will have a major structural effect on the market. In the OTC/UTP Release, the Commission noted that trading in NMS Securities already is dispersed and heavily dependent on the availability of quotation and transaction information and market maker competition to ensure market efficiency.[6] The Commission believes that the addition of the MSE should increase market competition without unduly fragmenting the market.[7]

C. Desirability of Removing Impediments to and the Progress That Has Been Made Toward the Development of an NMS

The Commission continues to believe that sufficient progress has been made on the NMS to justify the grant of OTC/UTP on at least a limited number of NMS securities. Indeed, the Commission believes that granting UTP on NMS Securities at this time enhances fair competition among markets and therefore is a step in the further development of the NMS. The Senate Report that accompanied the 1975 Amendments concluded that "the ability of individual firms as well as the various exchange and [OTC] markets to compete with one another will be a critical elements in the successful functioning of the [NMS]." [8]

D. OTC/UPT Release Conditions

As discussed in the OTC/UTP Release, the Commission determined that it would be prudent to place pre-conditions on any exchange's OTC/UTP application; namely: (1) The implementation of a consolidated quotation and transaction reporting plan; (2) adequate access for exchange and NASD market makers to each other's markets; and (3) the nonapplicability of exchange off-board trading restrictions to subject securities. The Commission believes that these preconditions have been met.

As noted above, the Commission today is approving in a companion release the MSE and NASD's interim consolidated quotation and transaction reporting plan. The Commission believes the plan provides for adequate access for exchange and NASD market makers to each other's markets.[9]

As noted above, the Commission also conditioned a grant of OTC/UTP on the non-applicability of exchange off-board trading restrictions. The Commission believes exchange off-board restrictions will not apply to these securities because of the operation of Rule 19c-3: Any OTC security that is granted UTP at this time becomes a Rule 19c-3 security and therefore is not subject to off-board trading restrictions.[10]

E. Other Findings

The Commission has received no comments indicating that the granting of this application is inconsistent with the maintenance of fair and orderly markets and the protection of investors [11] and the Commission specifically finds that the granting of MSE's application indeed is consistent with the maintenance of fair and orderly markets and the protection of investors. The Commission also notes that as a national securities exchange registered with the Commission pursuant to section 6 of the Act the MSE is subject to the provisions of paragraph (b) of that section and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act, and the rules and regulations thereunder. In addition, transactions in the subject securities, regardless of the market in

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[3] Securities Exchange Act Release No. 22412 (September 16, 1985), 50 FR 38640 ("OTC/UTP Release"). The MSE and National Association of Securities Dealers ("NASD") have submitted such a plan and the Commission today approved that plan in a separate release. Securities Exchange Act Release No. 24407 (April 29, 1987).

[4] *See* OTC/UTP Release, *supra* note 4, at 29. The Commission incorporates the discussion contained in the OTC/UTP Release in its determination to grant the MSE's UTP application.

[5] *Id.*, at 30–35.

[6] *Id.*

[7] In the OTC/UTP Release, the Commission stated that it would grant UTP in 25 OTC securities to applicant exchanges for one year. During the "pilot period" the Commission will monitor closely the effects on the markets of exchange trading of OTC securities on a UTP basis. The Commission's approval of this application by the MSE for UTP, however, will not signal the beginning of the pilot period. Until the Commission approves the permanent reporting plan the NASD and exchanges are negotiating and grants all the exchanges UTP in OTC securities, it will not be able to study adequately the effects of OTC/UTP on the markets. *See* Securities Exchange Act Release No. 23968 (January 7, 1987), 50 FR 1406, note 19. Nonetheless, the MSE will be limited to 25 stocks and the Commission will, of course, monitor trading in these stocks. Indeed, the Commission expects both the MSE and NASD to monitor trading activity and make the results of their evaluations available to the Commission. The Commission also notes that the MSE may substitute stocks only pursuant to section 12(f)(1)(C) i.e., only in a manner consistent with fair and orderly markets and the goals of the NMS.

[8] *See* Senate Comm. on Banking, Housing and Urb. Affs., *Report to Accompany S.249: Securities Acts Amendments of 1975*, S. Rep. NO. 75, 94th Cong., 1st Sess. 16, *reprinted in* 1975 U.S. Code Cong. & Ad. News 179.

[9] *See* Securities Exchange Act Release No. 24407 (April 29, 1987), approving the MSE/NASD plan, for a full discussion of the plan.

[10] The Commission believes that the question of the widespread lifting of off-board trading restrictions does not require the delay of the initial grant of UTP on 25 NMS securities to the MSE, but is specifically reserving the question of the appropriateness of futher lifting exchange off-board trading restrictions if, and when, the Commission determines to provide additional grants of OTC/UTP.

[11] In this connection, the Commission notes that the MSE has assigned a specialist to each OTC security for which it has requested UTP. *See* letter dated April 3, 1987, from J. Craig Long, Vice President-Legal and Secretary, MSE, to Alden Adkins, Branch Chief, Division of Market Regulation.

which they occur, will be reported in the consolidated transaction reporting system established under the MSE/NASD plan. The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the MSE are executed at prices that are reasonably related to those occurring OTC.

III. Conclusions

For these reasons, and for the reasons set forth in the OTC/UTP Release, the Commission orders, pursuant to section 12 (f)(1)(C) of the Act, that the MSE's application for UTP in the above-named securities is approved.

Dated: April 29, 1987.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-10538 Filed 5-7-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-16681]

Application and Opportunity For Hearing; Citicorp

May 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 two Pooling and Servicing Agreements dated January 1, 1987 (the "Agreements") 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 Agreements. 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. However, under clause (ii) of subsection (1), there may be excluded from the operation of the subsection another indenture under which the other securities of the same obligor are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under both the qualified indenture and such other indenture 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 such trustee from acting as trustee under such other indenture.

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 filed under the Securities Act of 1933, and have been qualified under the Trust Indenture Act of 1939. The 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 26, 1987, the Trust Company entered into a Pooling and Servicing Agreement dated as of January 1, 1987 (the "1987-A Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on January 26, 1987 Mortgage Pass-Through Certificates, Series 1987-A 9.00% Pass-Through Rate (the "Series 1987-A Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1987-A Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $104,022,814.72 at the close of business on January 1, 1987, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1987-A Certificates. On January 26, 1987, Applicant, the parent of Citibank, N.A., entered into a guaranty of each date (the "1987-A Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1987-A Certificates, to be liable for 7.0% of the initial aggregate principal balance of the 1987-A Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1987-A Guaranty. The 1987-A 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 1987-A 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 1987-A Certificates were offered by a Prospectus Supplement dated January 9, 1987, supplemental to a Prospectus dated November 7, 1986. The 1987-A Agreement has not been qualified under the Trust Indenture Act of 1939.

(4) On January 26, 1987, the Trust Company entered into a Pooling and Servicing Agreement dated as of January 1, 1987 (the "1987-B Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowner, Inc., under which there were issued on January 26, 1987, Mortgage Pass-through Certificates, Series 1987-B 9.00% Pass-Through Rate (the "Series 1987-B Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1987-B Mortgage Pool") originated and serviced by Citibank, N.A. and have adjusted principal balances aggregating $123,081,950.54 at the close of business on January 1, 1987, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1987-B Certificates. On January 26, 1987, Applicant, the parent of Citibank, N.A., entered into a guaranty of each date (the "1987-B Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1987-B Certificates, to be liable for 8.0% of the initial aggregate principal balance of the 1987-B Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1987-B Guaranty. The 1987-B 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 1987-B Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1987-B 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 delay or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1987-B Certificates were offered by a Prospectus Supplement dated January 13, 1987 supplemental to a Prospectus dated November 7, 1986. The 1987-B Agreement has not been qualified under the Trust Indenture Act of 1939. The 1987-A Agreement and the 1987-B Agreement are hereinafter called the 1987 Agreements and the 1987 Guarantees.

(5) The obligations of Applicant under the Indentures and the 1987 Guarantees are wholly unsecured, are unsubordinated and rank *pari passu*. Any differences that exist between the provisions of the Indentures and the 1987 Guarantees are unlikely to cause any conflict of interest among the trusteeships of the Trust Company under the Indentures and 1987 Agreements.

(6) 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 of Practice in connection with this matter.

For a more detailed statement of the matter of fact and law asserted, all persons are referred to said application, File No. 22-16681. Which is a public document on file in the office of Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC.

Notice is further given that an interested person may, not later than May 27, 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 he 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. 87-10494 Filed 5-7-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[CM-8/1077]

Overseas Security Advisory Council; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on Thursday, June 25, 1987 at 09:00 a.m. in room 1105 of the U.S. Department of State, Washington, DC. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(4), it has been determined the meeting will be closed to the public. Matters relative to privileged commercial information will be discussed. The agenda calls for the discussion of private sector physical security policies, bomb threat statistics, and security programs at sensitive U.S. Government and private sector locations overseas.

Dated: April 30, 1987.

Louis Schwartz, Jr.,

Deputy Assistant Secretary for Diplomatic Security.

[FR Doc. 87-10487 Filed 5-7-87; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Baltimore/Washington International Airport, Baltimore, MD; Environmental Impact Statement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent.

SUMMARY: The FAA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered for proposed construction of an extension of the existing General Aviation Runway (15L-33R) at Baltimore/Washington International Airport.

FOR FURTHER INFORMATION CONTACT: Frank Squeglia, Environmental Specialist, FAA Eastern Region Office, Airports Division, AEA-610, Fitzgerald Federal Building, JFK International Airport, Jamaica, NY 11430; (718) 917-0902.

The FAA, in cooperation with the Maryland State Aviation Administration, will prepare an Environmental Impact Statement (EIS) for the proposed extension, from 3,200 ft. to 4,600 ft. in length, of the General Aviation Runway (15L/33R) at Baltimore/ Washington International Airport (BWI).

The proposed extension of the south end of the runway would total 1,400 linear feet. The runway would also be widened from 75 ft. to 100 ft. and strengthened to accommodate aircraft up to 60,000 lbs. A Finding of No Significant Impact (FONSI) was issued by the FAA in 1979 for a runway length of 4,000 ft. Earthwork and grading was subsequently accomplished for this length, although the runway was constructed to only 3,200 ft.

The existing parallel taxiway would be extended to the southern runway terminus, but relocated 300 ft. from the runway centerline. A new parallel taxiway on the west side is also proposed, as well as additional taxiways to the remainder of the airfield. The proposed action will also include the installation of a Microwave Landing System (MLS).

The proposed project would entail construction activity limited to current Airport property (e.g., earthwork, asphalt paving, modifying a stormwater detention pond, etc.). The relocation of a State Highway Administration (SHA) facility located on Hammonds Ferry Road would be required for aviation safety purposes. The new SHA facility would be located on existing State-owned property. There may be some additional land acquisition associated with the clear zone and safety area for the extended runway. North of Runway 15L, easements may also be necessary for the removal of obstructions to the aerial approaches to the runway.

The EIS will include evaluation of a no-build alternative and alternative lengths for the proposed extension of the existing runway. Lengthening of Runway 15L/33R would permit shifting of commuter (propeller) flight operations to that runway, which would then create additional capacity for major air carrier operations on the other runways at BWI. This would provide sufficient airfield capacity at BWI to accommodate expected aircraft demand until the early 1990's. The increased capacity of this proposed project would result in a decrease in average annual aircraft delay times in 1990 from 16.7 minutes under a no-build condition, to 2.2 minutes.

The use of the extended runway would be limited to propeller-driven general aviation and commuter aircraft.

No jet aircraft would be permitted to use the runway.

The movement of commuter operations to an extended Runway 15L/33R would result in changes in runway use and consequent effects of noise on areas neighboring the airport. In addition to noise impacts, the EIS is anticipated to address impacts on air and water quality, wetlands, ecological resources, floodplains and historic resources.

The EIS will also evaluate cumulative impacts expected to occur as a result of the implementation of other foreseeable improvements at BWI in the future. A new transport runway, parallel to existing runway 10/28, is recommended by the 1987 Airport Master Plan for implementation in the early 1990's. The planned new parallel transport runway is independent of and is not part of the proposed action to extend Runway 15L/33R. The decision to build the parallel runway has not been made. The potential cumulative effects of the proposed parallel transport runway will be considered as a foreseeable future improvement.

Public Scoping: To ensure that the full range of issues related to the proposed project are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties.

Written comments may be mailed to the informational contact listed above within 30 days from publication of this Notice.

Issued in Jamaica, NY, on April 20, 1987.

Arnold Aquilano,

Deputy Director, Eastern Region.

[FR Doc. 87-10453 Filed 5-7-87; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP86-03; Notice 2]

Chrysler Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Chrysler Corporation of Detroit, Michigan to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, *Lamps Reflective Devices and Associated Equipment.* The basis of the grant of the noncompliance is that it is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on February 13, 1986, and an opportunity afforded for comment (51 FR 5438).

Table III of Federal Motor Vehicle Safety Standard No. 108 lists the required items of motor vehicle lighting equipment. A backup lamp is required, designed to conform to SAE J593. Paragraph S4.1.1.22 of Standard No. 108 specifies an alternative method of photometric compliance for backup lamps. In essence, this section requires that each backup lamp meet minimum total candela measurements at six grouped test points. In Group 4 the total minimum reading of the six test points within that group is 360 candela.

The petitioner produced approximately 800 Chrysler New York passenger cars between August 12 and August 23, 1985, with backup lamps that do not meet the photometric requirements of paragraph S4.1.1.22.

Chrysler states that:

"Specifically, the discrepancy is that the Group 4 photometric value exhibited by each of the dual backup lamps installed on an affected vehicle is 292 candela, whereas the required minimum value is 360 candela—four of the six points in Group 4 are below the minimum values. All other group and point photometric values exceed the specified minimum by substantial margins."

Chrysler argued that the noncompliance is inconsequential in relation to motor vehicle safety because:

"1. The overall candela output level provided by the subject backup lamps exceeds the minimum required by Standard 108.

• The sum of the candela measured at all 22 test points (or all six groups of test points) is 881 for the subject lamp as compared with the required minimum total of 650—35% more than required.

• The central protion of the lamp output pattern which includes both the discrepant Group 4 and the Group 3 immediately above it, provides an overall candela output which is 20% grater than the minimum required for the two groups combined.

2. The performance of the installed backup lamps is adequate in all regards, specifically including their illumination capability for both rear field of view visibility and signaling of reverse gear operation. Chryler's comparative jury evaluation concluded that the lamp's photomertric performance for both rearward illumination and signal warning is at least equal to a lamp which provides candela output that marginally exceeds Standard 108's minimum requirements.

3. The closest ground level point visible to the driver when the roadway is indirectly veiwed through the inside rearview mirror is 50 feet from the rear of the vehicle. The ground intercept point of the backup lamp center line (V)-five degree down (5D) discrepant test point light ray is 25 feet from the rear of the vehicle. Therefore, the driver's visibility to the rear is not benefited by the light cast upon the roadway by the V-5D test point.

4. Of the four test points having discrepant photometric values, only one (the H-V point) affects illumination on the field of view target seen indirectly through the inside rearview mirror and the blacklight at a distance of 25 feet behind the vehicle. The sum of the photometric values for the six test points which affect illumination of this target is 311 candela for the subject lamps as compared to the 245 required minimum—27% more than required. Influence of this discrepant test point (H-V) on the field of view illumination decreases as the target is moved closer to the rear of the vehicle.

5. Chrysler is not aware of any owner complaints, field reports, or allegation of hazardous circumstances relating to the illumination or signaling capability of the subject backup lamps.

6. The noncompliance was the result of an inadvertent design released error. A bulb socket other than the one specified for the final design was mistakenly selected from bulb socket selection charts and released. This resulted in the bulb being located 0.44 inch rearward of the design position, causing defocus of the lamp.

7. Existence of the noncompliance was detected during routine quality control tests by the lamp supplier with production wiring harness bulb sockets. Chrysler then took immediate, expedited action to correct the condition by specifying the correct socket for harness assembly and reworking available harness prior to installation into cars."

No comments were received on the petition.

In the noncompliant Chrysler design, the light above horizontal meets the requirements of Standard No. 108; this is the light that would be seen by an observer as an indication that the vehicle is backing up. Similarly, as Chrysler pointed out, the visibility to the driver of vertical objects or people behind the car is also dependent in large measure on the light above horizontal. However, the lamp is deficient in light at and below the horizontal. This light is related to the ability to see objects on the ground behind the vehicle. Since the H-V test point is below the minimum specified by Standard No. 108, it is likely that the entire region behind the center

of the lamp will have less illumination than a lamp that meets Standard No. 108. Although the question of whether rearward/downward visibility would, in fact, be affected by the reduction of 68 candela cannot be definitively answered, NHTSA has concluded that a deficiency of 20% in this area, spread over a population of only 800 cars, is statistically unlikely to produce even one injury over the lifetime of all the cars.

Accordingly, it is hearby found that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted. (Sec. 102, Pub. L. 93-492, 88 Stat 1470 (15 U.S.C. 1417); delegation of authority at 49 CFR 1.50 and 501.8)

Barry Felrice,

Associate Administrator for Rulemaking.

May 5, 1987.

[FR Doc. 87-10555 Filed 5-7-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 87-41]

Tuna fish; Tariff-Rate Quota; Calendar Year 1987

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Correction to the Tuna Fish Tariff-Rate Quota for Calendar Year 1987, originally published in the **Federal Register** on March 31, 1987, Vol. 52, No. 61, FR Doc. 87-7009.

SUMMARY: Last sentence in the last paragraph is corrected to read: "Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 percent ad valorem under item 112.34, TSUS."

EFFECTIVE DATE: April 1, 1987.

FOR FURTHER INFORMATION CONTACT: Karen L. Cooper, Quota Program Manager, Admissibility Requirements Section, Commercial Compliance Division, Office of Commercial Operations, U.S. Customs Service, Washington, DC 20229. (202) 566-8592.

Dated: April 23, 1987.

Michael H. Lane,

Acting Commissioner of Customs.

[FR Doc. 87-10492 Filed 5-7-87; 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Liquidation; Integrity Insurance Co.

Integrity Insurance Company, a New Jersey Corporation, formerly held a Certificate of Authority as an acceptable surety on Federal bonds and was last listed as such at 51 FR 23940, July 2, 1986. The Company's authority was terminated by the Department of the Treasury effective September 17, 1986. Notice of the termination was published in the **Federal Register** of September 19, 1986, on page 33337.

On March 24, 1987, upon a petition by the Insurance Commissioner of the State of New Jersey, the Superior Court for the County of Bergen issued an Order of Liquidation with respect to Integrity Insurance Company. The Insurance Commissioner was appointed as the Liquidator. All persons having claims against Integrity must file their claims by March 25, 1988, or be barred from sharing in the distribution of assets.

All claims must be filed in writing and shall set forth the amount of the claim, the facts upon which the claim is based, any priorities asserted, and any other pertinent facts to substantiate the claim. It is recommended that claimants asserting priority status under 31 U.S.C. 3713 who have not yet filed their claim should do so, in writing, to: Commercial Litigation Branch, Civil Division, Department of Justice, P.O. Box 875, Ben Franklin Station, Washington, DC 20044-0875. Attn: Ms. Sandra P. Spooner, Deputy Director.

The above office will be consolidating any and all claims against Integrity Insurance Company on behalf of the United States Government. Any questions concerning filing of claims may be directed to Ms. Spooner at (FTS/202) 724-7194.

Government agencies involved in Federal surety bonding operations where third parties such as subcontractors, materialmen, and suppliers may have a claim against the Company, are requested to use their best efforts to notify such third parties of the liquidation, assist them in filing claims, inform them of their priority status under section 3713 of Title 31 of the United States Code and provide them with copies of this **Federal Register** Notice.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20226, telephone (202) 634-2298.

Dated: May 1, 1987.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 87-10446 Filed 5-7-87; 8:45 am]

BILLING CODE 4810-35-M

Surety Companies Acceptable on Federal Bonds: Liquidation; Mission Insurance Co.

Mission Insurance Company, a California Corporation, formerly held a Certificate of Authority as an acceptable surety on Federal bonds and was last listed as such at 49 FR 27257, July 2, 1984. The company's authority was terminated by the Department of the Treasury effective June 3, 1985. Notice of the termination was published in the **Federal Register** of June 12, 1985, on page 24735.

On February 24, 1987, upon a petition by the Insurance Commissioner of the State of California, the Superior Court for the County of Los Angeles issued an Order of Liquidation with respect to Mission Insurance Company. The Insurance Commissioner was appointed as the Liquidator of Mission Insurance Company. All persons having claims against Mission must file their claims by September 12, 1987, or be barred from sharing in the distribution of assets.

All claims must be filed in writing and shall set forth the amount of the claim, the facts upon which the claim is based, any priorities asserted, and any other pertinent facts to substantiate the claim. It is recommended that claimants asserting priority status under 31 U.S.C. 3713 who have not yet filed their claim should do so, in writing, to: Commercial Litigation Branch, Civil Division, Department of Justice, P.O. Box 875, Ben Franklin Station, Washington, DC 20044-0875. Attn: Ms. Sandra P. Spooner, Deputy Director.

The above office will be consolidating any and all claims against Mission Insurance Company on behalf of the United States Government. Any questions concerning filing of claims may be directed to Ms. Spooner at (202) or FTS 724-7194.

Government agencies involved in Federal surety bonding operations where third parties such as subcontractors, materialmen, and suppliers may have a claim against the company, are requested to use their best efforts to notify such third parties of the liquidation, assist them in filing claims, inform them of their priority status under Section 3713 of Title 31 of the United States Code and provide them

with copies of this **Federal Register** Notice.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20226, telephone (202) 634–2214.

Dated: May 1, 1987.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 87–10445 Filed 5–7–87; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 89
Friday, May 8, 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

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, May 12, 1987, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to merge and establish four branches:

The Arizona Bank, Phoenix, Arizona, an insured State nonmember bank, for consent to merge, under its charter and title, with The State Bank, Lake Havasu City, Arizona, and for consent to establish the four offices of The State Bank as branches of the resultant bank.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Proposed guidelines established in accordance with the Bank Bribery Amendments Act of 1985, which guidelines would: (1) Encourage all FDIC-insured state-chartered banks that are not members of the Federal Reserve System and all FDIC-insured state-licensed branches of foreign banks to adopt codes of conduct that describe the prohibitions of the bank bribery law, and (2) identify situations that, in the opinion of the FDIC, do not constitute violations of the Federal bank bribery law.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: May 5, 1987.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 87.10640 Filed 5-6-87; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, May 12, 1987, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or asessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish three branches:

Counting House Bank, Warsaw, Indiana, an insured State nonmember bank, for consent to merge, under its charter and with the title "Liberty Bank and Trust Company," with Leiters Ford State Bank, Rochester, Indiana, and for consent to establish the three offices of Leiters Ford State Bank as branches of the resultant bank.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: May 5, 1987.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 87-10641 Filed 5-6-87; 11:53 am]

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, May 6, 1987.

PLACE: Room 432, Federal Trade Commission Building 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of resource allocation issue.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor.

Office of Public Affairs: (202) 326-2179. Recorded Message: (202) 326-2711.

Emily H. Rock,

Secretary.

[FR Doc. 87-10623 Filed 5-6-87; 10:53 am]

BILLING CODE 6750-01-M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 1:00 p.m., Monday, May 18, 1987.

PLACE: 1776 G Street, NW., Washington, DC 20456, 7th Floor, Filene Board Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meetings.
2. Administrative Actions under section 120 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
3. Board Briefings. Closed pursuant to exemptions (2), (8), (9)(A)(ii), and (9)(B).
4. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Becky Baker, Acting Secretary of the Board, Telephone (202) 357–1100.

Becky Baker,

Secretary of the Board

[FR Doc. 87–10645 Filed 5–6–87; 12:53 pm]

BILLING CODE 7535-01-M

Corrections

Federal Register
Vol. 52, No. 89
Friday, May 8, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 916

[Nectarine Reg. 14, Amdt. 9; Plum Reg. 17, Amdt. 4; Plum Reg. 19, Amdt. 10; Peach Reg. 14, Amdt. 9]

Nectarines, Pears, Plums, and Peaches Grown in California; Amendment of Container and Pack Regulations; Amendment of Grade and Size Regulations

Correction

In rule document 87-9588 beginning on page 15485 in the issue of Wednesday, April 29, 1987, make the following correction:

§ 916.356 [Corrected]

On page 15487, in the third column, in § 916.356(a)(4), in the fourth line, "Fairlane" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-41026; FRL-3178-9]

Chemicals To Be Reviewed by the Toxic Substances Control Act Interagency Testing Committee; Public Meeting and Request for Information

Correction

In notice document 87-7128 beginning on page 10409 in the issue of Wednesday, April 1, 1987, make the following corrections:

1. On page 10409, in the first column, under **SUPPLEMENTARY INFORMATION** insert a period at the end of the sixth line.

2. On the same page, in the second column, in paragraph 7., in the second line "develop" was misspelled.

3. On the same page, in the third column, in "Table 1", in the 13th and 27th lines the chemical names should read, "Phosphoric acid, tris(2-chloroethyl) ester" and "N-(4-amino-2-hydroxy phenyl)-2,2,3,3,4,4,4-heptafluorobutanamide" respectively.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225-75-2024]

Memorandum of Understanding Between the Ministry of Agriculture of the Republic of France and the Food and Drug Administration

Correction

In notice document 87-8366 beginning on page 12255 in the issue of Wednesday, April 15, 1987, make the following correction:

On page 12257, in the first column, under *VII. Liaison Officers*, in paragraph B, in the third line, "SE." should read "SW.".

BILLING CODE 1505-01-D

federal register

Friday
May 8, 1987

Part II

Department of Labor

Mine Safety and Health Administration

30 CFR Part 5 et al.

Fees for Testing, Evaluation and Approval of Mining Products; Final Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 5, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36 and 74

Fees for Testing, Evaluation and Approval of Mining Products

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule revises the Mine Safety and Health Administration's (MSHA) existing system of charging user fees for the testing, evaluation and approval of products manufactured for use in underground mines. The rule implements provisions of the Independent Offices Appropriations Act concerning the assessment of fees for services furnished to the private sector, and is part of a government-wide initiative to make these services self-sustaining to the extent possible. The rule establishes a method of calculating fees which will enable MSHA to recover costs for providing these services.

EFFECTIVE DATE: October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Associate Assistant Secretary for Mine Safety and Health, MSHA, 4015 Wilson Boulevard, Room 631, Arlington, Virginia 22203, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

A. Procedural

On April 16, 1986 the Mine Safety and Health Administration (MSHA) published a proposed rule in the **Federal Register** (51 FR 12966), followed by a notice of public hearings on June 30, 1986 (51 FR 23559). After review of the initial public comments, two public hearings were held (Pittsburgh, Pennsylvania, July 24, 1986, and Salt Lake City, Utah, July 29, 1986). The record remained open until August 12, 1986 to receive additional public comment. This final rule was developed after a full evaluation of the public record, the statutory authority of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173, as amended by Pub. L. 95-164, and the Independent Offices Appropriation Act (IOAA) (31 U.S.C. 9701) and the Agency's extensive institutional experience and practice in the exercise of that authority.

The final rule establishes a new Part 5, setting forth the method of fee calculation and procedures for administering the fee system. Part 5 replaces the existing individual fee provisions in 30 CFR Parts 15 through 36 and 30 CFR Part 74. The rule also makes nonsubstantive organizational changes by removing the existing subchapter designations and headings for Subchapters B through E, and establishes a new subchapter entitled "Subchapter B—Testing, Evaluation and Approval of Mining Products", which encompasses Parts 5 through 36. The final rule makes no other changes to the existing approval regulations.

B. Statutory and Legal

MSHA received several comments concerning its authority to issue this final rule. The comments included a request that the proposal be withdrawn. More specifically, one commenter contended that MSHA does not have the authority to test and approve equipment used in underground mines. This commenter stated that the Department of the Interior, Bureau of Mines (Bureau) enabling statute, from which MSHA's authority is, in part, derived, only applies to research activities and does not grant regulatory authority. Further, the commenter contended that the Bureau's authority to charge fees applies only to these research activities. The commenter maintained that the authority of MSHA under the Mine Act to prescribe specifications for permissible equipment does not include the exclusive authority to conduct the tests necessary to determine compliance with those specifications, and accordingly that no fee schedule is authorized.

Some commenters also indicated their feeling that the "benefit" conferred by MSHA is not specific to an individual applicant, but to the mining industry as a whole and the public in general. It was therefore contended that the Agency has misapplied the IOAA in determining the appropriateness of individual fees because the actual costs recoverable from applicants for testing and approval functions had not been properly allocated.

The authority to assess fees for services provided to the mining industry dates back to 1913, when the Bureau was given statutory authority to recover its costs for testing and evaluation. Initially, this testing and evaluation was provided on request as a service to the mining industry to advance safety and health technology and other aspects of the mining industry. As the regulatory responsibilities of the Federal government grew, the Bureau shifted the focus to enforcement-related testing and other evaluation activities. In 1952, Congress enacted requirements concerning the use of permissible equipment in underground coal mines [Pub. L. 552, 82nd Cong. (1952 Act)]. In connection with these requirements, the Bureau was given the explicit authority to prescribe and enforce safety specifications for electrical equipment to ensure that the equipment would not cause a mine explosion or fire. The authority to determine which equipment was "permissible" was incorporated into the Bureau's ongoing testing and evaluation program, and the Bureau's authority to charge fees sufficient to recover costs was extended to the permissibility program. Over the years under this authority, the Bureau issued a number of schedules prescribing design and performance requirements for various types of equipment and material. Each approval schedule codified in 30 CFR Parts 15 through 36 contains provisions specifying the fees to be charged for testing, evaluation and approval. Other fee provisions appear in the regulations governing approval of coal mine dust personal sampler units in 30 CFR Part 74. The approval program was specifically incorporated by Congress into the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173. With enactment of the Federal Mine Safety and Health Amendments Act of 1977, (Pub. L. 95-164), the authority for administering the approval program, as well as the authority to charge fees to recover costs, was transferred to the Secretary of Labor.

In addition, since 1952, all federal agencies have been mandated to charge a fee for services provided to an identifiable person or organization. The IOAA expressed Congress' intent that each service provided by a government agency be self-sustaining to the extent possible. To implement this, the Office of Management and Budget ((OMB) issued general policies for charging "user fees" (Circular No. A-25, 1959) in which Agencies are required to charge a fee for those services which convey a special benefit to an identified recipient beyond those accruing to the public at large. Among the relevant examples of "special benefits" cited in the circular are those that flow from the issuance of a license, provide business stability or assure public confidence in the business activity of the beneficiary, are performed at the request of the recipient and are above and beyond the services regularly received by other members of the same industry or of the general public.

Cases decided by the Supreme Court and several U.S. Courts of Appeal interpreting the IOAA and OMB Circular No. A-25, have held that for the

fee to be authorized, the special benefit must be given to an individual recipient in response to its request in a one-to-one interaction between the agency and the recipient. The fee charged for that service also must be fair in light of the costs to the agency, the value of the benefit to the individual and the public policy or interest served. These propositions were enunciated in *National Cable Television Association* v. *United States* 415 U.S. 336 (1974); and *Federal Power Commission* v. *New England Power Co.* 415 U.S. 345 (1974). In *Electronic Industries Assocation* v. *F.C.C.*, 554 F.2d. 1109 (D.C. Cir. 1979), the Court of Appeals ruled that the IOAA requires a "reasonable particularization" of fees. Thus, agencies must draw lines between categories of applicants and cannot charge for general activities which "independently benefit" the public at large. The Court of Appeals, in *Mississippi Power and Light Co.* v. *United States Nuclear Regulatory Commission* (NRC) 601 F.2d 223 (5th Cir. 1979), addressed the "benefits" issue in the context of health and safety licensing programs. In that case, the Court pointed out that a license granted by the government was a prerequisite to operate, and as such, was a benefit not shared by other members of society. Aside from the benefit of being able to conduct a business, Federal inspections and other services conferred other benefits on the licensee, including the uncovering of hazardous conditions which, if allowed to continue, would jeopardize the safe operation of the licensee's facility. Adopting the position that the existence of any public benefit precludes the charging of a fee would mean that no federal agency could assess any fees, since all public agencies are constituted in the public interest and their activities are intended to benefit the general public.

Accordingly, MSHA continues to believe that the services for which fees would be charged under this final rule provide a special benefit to identifiable recipients. Furthermore, the system for fee calculation establishes a fair and reasonable assessment for services rendered.

While MSHA is, and has been, sensitive to the programmatic concerns of the affected mining community, the Agency does not share the legal positions presented by the commenters. MSHA's goal in this proceeding is to revise the existing system of charging fees to enable the agency to recover costs it incurs for activities that result in the issuance of an approval or similar action. These activities have been carried out for decades with complete industry cooperation and without legal challenge. Based on the legislative history of the Mine Act and the case precedents of the IOAA, MSHA believes that it has full legal authority for both its approval program and fee assessment schedules. This final rule endeavors to structure a fee system which is based on an equitable distribution of costs for specific services to those individuals who are the direct recipient and beneficiary of such services. Where the nature of the Agency's services are not directed to particular entities but rather the mining community in general, such services are not incorporated into MSHA's Fees calculation system.

II. Discussion and Summary of the Final Rule

A. General Discussion

The mission of MSHA's Approval and Certification Center (Center) is to protect underground miners in coal and gassy noncoal mines from fires, explosions or other specified hazards which could be caused by mining equipment and materials. To accomplish this mission, the Center is organized into a Mechanical Safety Division, an Electrical Safety Division, an Engineering and Testing Division and a Division of Quality Assurance. The Divisions evaluate and test equipment, instruments, materials and explosives within their area of responsibility for conformance with MSHA regulations. Upon completion of the investigation, the Center issues an approval, certification or acceptance to the manufacturer, who in turn pays a fee for the Center's evaluation and testing services. The approval, certification or acceptance constitutes a license which authorizes the manufacturer to build and distribute the product for use in underground mines. When a manufacturer is granted the license for his or her product, he or she accepts the responsibility for constructing or formulating that product in exact accordance with the drawings and/or specifications that were provided for evaluation and testing by Center personnel. The Center assures the integrity of the approvals issued through a product audit program which includes post-approval product inspection and testing.

The Center and its predecessors have existed since 1910, accumulating more than 75 years of experience in supporting mine safety and health. Since 1914, when the first permissible electric motor was approved, thousands of different mining products have been approved. Currently, approval activity at the Center averages about 5,000 actions per year, and approximately 90 persons are employed primarily in engineering and technical fields. The laboratories and testing facilities are geared to state-of-the-art work in the evaluation of all types of mining machinery and products intended for use in coal mines and gassy non-coal mines, ranging from electronic instruments, gas detection devices and materials to large diesel and electric equipment and explosives.

The Center is located at Triadelphia (Dallas Pike), West Virginia, on approximately 80 acres of land donated to the U.S. Government by the Ohio Valley Industrial and Business Development Corporation (OVIBDC). The Triadelphia complex currently consists of four structures: two office/laboratory buildings; a diesel testing laboratory; and an electrical inspection/explosion testing facility. The Center was relocated to Triadelphia, from Pittsburgh, Pennsylvania, in January 1978.

Technical Support Responsibility of the Approval and Certification Center

In addition to the responsibility for processing and issuing approvals, certifications and acceptances, the Center performs a variety of other technical functions:

Technical assistance is provided via field or laboratory investigations for sister and enforcement organizations within MSHA, other Federal, State, local government agencies, and the mining industry. Such assistance is provided to address safety and health concerns identified either by the Center or those requesting technical assistance. These concerns vary in complexity from simple telephone inquiries to requests for in-depth technical investigations.

Technical program activities are directed to finding technical solutions to critical safety and health problems by applying technology to mining equipment, materials, and explosives. Specific technical projects are conducted to address areas of new technology and emerging MSHA health and safety concerns.

Regulatory reform activities performed by the A&CC are those concerning development of new or revised standards, regulations, and legislation. Center expertise is applied both to regulations dealing with product approval and certification and to health and safety standards applicable to mine operators.

Quality Assurance activities are those involving investigation of product failures, response to user complaints and determination of product

compliance with MSHA regulations. Compliance is monitored through post-approval auditing of approved equipment and products to assure that they are being manufactured in compliance with MSHA specifications as originally approved. Quality assurance is primarily an enforcement function and as such, its services are not directed to a specific recipient. Only the review of quality assurance plans, as specifically required by MSHA regulations, is subject to a fee. The cost of plan review is included as an investigatory service under the applicable Part number and action type within the fee schedule.

The Center is thus a major source of technical expertise in wide variety of technical program areas. Services provided within these areas are predominantly directed to enhancing the technical effectiveness of MSHA or are generally beneficial to the mining community. As such, specific beneficiaries cannot be identified. For these reasons, MSHA has determined the cost of these services is not subject to fees. These non-fee activities accounted for approximately 45 percent of the Center's activities during FY 1986.

The approval process begins with the filing of an application. Upon completion of a thorough investigative, test and evaluation process, a determination is made. If the product meets the requirements of the applicable Part of Title 30, Code of Federal Regulations, the applicant is issued an approval for a completely assembled machine, system, or explosives, a certification for a component or instrument, or an acceptance for materials and other products, confirming that the product is in accordance with MSHA regulations. For purposes of this final rule, the term "approved" is used to refer to all these actions. The Center accomplished a variety of approval-related activities during Fiscal Years 1985–86.

During fiscal year 1985 (October 1, 1984 through September 30, 1985) 5358 approvals, certifications, acceptances, and other related actions were completed. During fiscal year 1986 (October 1, 1985 through September 30, 1986), 4674 approvals, certifications, acceptances, and other related actions were completed. A primary goal of the Center is to reduce backlogs (the time from receipt of an application to initiation of the investigation) to a minimum without affecting the integrity of the product approval, so as to improve the working relationship between the Center and industry and permit more rapid introduction of new safety technology. At the end of fiscal years 1985/86, backlogs ranged from 0 to 9 weeks depending on the type of action. Except in a few areas, backlogs were reduced to less than one month.

To improve the overall management effectiveness of the Center, several initiatives were developed and are currently in place. While positive indicators are already evident, the full impact of these measures may not be felt until later in the year. The Agency expects a reduction in fees as a result of these management efficiencies.

The efficiency of the approval process is being improved by streamlining administrative application review; expediting notification of approval issuance; clarifying application and processing requirements to applicants; developing an improved format of inspection through permissibility checklists; improving evaluation and testing by developing new or revised tests, test procedures, and standard operating procedures (SOPs); expediting approval issuance by development of a Centerwide cancellation program; and reducing application discrepancies by encouraging and establishing open communications with manufacturers.

In addition, many administrative improvements are being made, including revisions to the computer tracking system's historical data base; implementation of a verification program for industry-operated illumination laboratories; improvement of fee accountability for Statements of Test and Evaluation; development of a standardized quality assurance program; and improvement of records control operations to expedite document retrieval and tracking.

Technical improvements included a modified computer-operated test program to improve reliability, implementation of an instrument calibration program, development of criteria to guide complex technical investigations and field and laboratory tests on new or unique products, training of employees on dust sample analysis using microprojector technique (for analyzing dust collector test results), and cost reductions through oversight of government contracts.

The Center initiated integration of all approval records into the automated records control system. These improvements can be expected in the future to reduce the time required to process an approval, and concurrently, the fee charged by MSHA.

In addition, implementation of a new system for the testing and evaluation of products, as proposed in 30 CFR Part 7 (51 FR 4686, February 6, 1986), will place MSHA in a different role in the product approval process. Part 7 fees will be calculated under the methodology of Part 5, but are not included here since the specific evaluation and test procedures under Part 7 will be specified as that Part is implemented. Future Part 5 fee schedules will include fees for Part 7 approvals. While the Agency will maintain ultimate approval authority, the approval will be based on a thorough review of the applicant's or a third party's certification that: the product has met MSHA technical requirements; has been tested according to specified procedures; and that the applicant has conducted the prescribed quality assurance activities. The Agency will be conducting a variety of post-approval audit programs to verify the completeness and validity of these certifications. This shift in emphasis will further result in a more efficient process, and accordingly, MSHA anticipates lower fees for product approval.

B. Section-by-section discussion

The following section-by-section analysis discusses the final rule.

Section 5.10 Purpose and scope.

This section sets forth the services and activities for which a fee is charged and the activities which are not subject to a fee. In general, a fee is charged for services performed in connection with the processing of an application for approval, activities carried out in direct support of application processing and a proportionate share of indirect costs or "overhead" attributable to application processing activities of the Center. Activities for which a fee is not charged include activities which do not relate to processing of an application, are not in response to a specific request for services, or are directed primarily toward improving health and safety conditions for the general benefit of the mining community.

Several commenters questioned MSHA's inclusion of certain activities in the fee system, maintaining that the proposed rule constituted an unwarranted expansion of approval activities and that the base for calculation of fees improperly included increased facility costs.

MSHA, in the final rule, carefully analyzed the activities for which a fee is charged. As indicated earlier in the explanation of the legal basis for the rule, MSHA has charged only for activities that are rendered in response to a specific request for approval and directly support these activities. More detail on the method of fee calculation is provided later in this preamble.

One point of particular interest to commenters is the impact of the rule on new technology. The term "new technology" refers to the development of new technical requirements and/or test and evaluation criteria for new or unique products that are submitted for approval. Existing approval regulations often are not suitable as applied to these products and new or revised provisions must be developed in order to process the approval. Under this final rule, applicants will not be charged a fee for this development work, because it will be applied to the industry, in general, when developed and it is comparable in nature to development of regulations which are not subject to a fee. Processing of the application under the new provisions, however, will be subject to a fee.

Section 5.20 Effective date.

This final rule applies to all applications for approval submitted on or after October 1, 1987. Applications in process on that date would be charged in accordance with the existing fee, as appropriate. All existing fee schedules and other fee provisions in 30 CFR Parts 15 through 36 and 30 CFR Part 74 would be replaced as of that date. Delaying the effective date of this regulation until October 1, 1987 is necessary to allow a smooth transition from the current fee system to the new system.

Section 5.30 Fee calculation.

MSHA will compute fees on the basis of cost to the government to provide these services using the following methodology. For each service provided for a group of related products (action type), MSHA will determine an hourly rate to cover direct and indirect costs. Products are grouped based on function, construction or technology in accordance with 30 CFR approval requirements applicable to the product. Direct costs are based on compensation costs for technical and support personnel, and staff time spent in the previous fiscal year (October through September) for each service within each action type. Indirect costs include a proportionate share of management personnel compensation costs, other administrative support costs, and facility operating costs for the previous fiscal year, and depreciation of buildings, facility improvements, and test, lab, and micrograph equipment used in the course of approval processing. Costs for travel and transportation for the purpose of testing or evaluating a product at the manufacturing or installation site will be charged on an actual cost basis. Travel and transportation costs will be reimbursed to MSHA in accordance with Standard Government Travel Regulations. This reimbursement is in addition to the fee charged for testing or evaluation.

MSHA's costs will be converted to an hourly rate for the majority of approval actions. The major exceptions are the Stamped Notification Acceptance Program (SNAP) which allows a manufacturer to submit minimal documentation to describe a single minor change in a product which affects the technical requirements, the Stamped Revision Acceptance (SRA) program, in which a manufacturer may submit documents describing many minor changes to a product at one time that do not affect the technical requirements, and the uniform tests for explosives. MSHA would charge a flat fee for each SNAP application and for each SRA application accompanied by up to five documents. Each set of five documents, or fraction thereof, would constitute a separate SRA. Fees for SRAs and SNAPs are charged on a flat rate basis because turnaround time for these activities is predictable and stable.

The hourly rate system will include a limitation based on Center estimates of time, resources, and tests required for the various action types. The estimate will be converted via an hourly rate schedule to a maximum fee (cap) that includes one complete evaluation and test(s). The initital estimate is not intended to include repeat testing or repeat evaluations resulting from unacceptable results or test failure during processing. Once processing begins, should the investigator encounter problems that would cause the fee to exceed the cap, the applicant will be contacted for authority to pursue the action further (at additional cost), schedule a consultation meeting for which a fee is charged on an hourly basis, or cancel the action.

The change in the final rule to a predominantly hourly rate system is in response to commenters' concerns about the equitable distribution of costs among approval applicants. By establishing an hourly system, the final cost of an action will depend on an individual basis upon (1) whether the application is submitted according to prescribed application procedures, (2) the complexity of the product, (3) whether the product meets specifications, and (4) test results. Also in response to comments, the final rule reduces the amount of indirect costs to be recovered, by eliminating charges for general management improvements of the approval process and by reducing administration, operating expenses, and depreciation allocated to the approval process. An hourly rate system is similar to that used by independent, private testing laboratories and better represents actual time and resources expended per applicant as opposed to a flat rate system based on average hours of approval processing.

In addition, MSHA has determined that no fee will be charged for audits. The proposed rule provided that post-approval product audits conducted for cause, i.e., because of a problem identified with the product, would be subject to a fee. However, after further consideration, MSHA determined that all audits, regardless of the reason for initiation, are more in the nature of enforcement actions to identify non-complying products for the benefit of mine safety and health in general. While MSHA's performance of audit functions will not itself result in a fee, audits that identify a problem with a previously approved product may result in testing and evaluation to further identify the precise nature of the problem and its solution. If the audit problem identified is the sole responsibility of the manufacturer, and modification of the approval documentation is necessary, MSHA will charge a fee for the testing and evaluation required to obtain that modification in accordance with the appropriate approval procedure and fee schedule.

Each application requires payment of an application fee to compensate the agency for administrative review of the application. Should the application fail to meet application requirements, the application will be rejected and returned to the applicant with a letter describing inadequacies. The application fee is not refunded. If the application is adequate, it is forwarded to the responsible investigator for processing. The application fee is credited to the cost of the action and the applicant will be charged for the balance of the total cost of processing.

The cost estimate prepared by Center personnel will be communicated to the applicant prior to initiation of processing to provide an opportunity for the applicant to discuss the estimate or to withdraw the application. In case of a withdrawal, the application fee is forfeited. In the event an action is fully processed at a cost below the cap, the fee charged will be actual cost rather than the higher estimate.

Section 5.40 Fee administration.

MSHA requires a check or money order for the application fee to be submitted for each application for approval and a check or money order for the full fee to be submitted for each

SRA or SNAP application. Applicants who do not submit an application fee or full payment for a SRA or SNAP will be notified as such and the application will be returned. Those who submit payment of an incorrect amount will be notified by MSHA of the amount due; processing will proceed but an approval will not be issued until full payment is received.

On hourly rate actions, the applicant will be billed for the fee when processing of the action is completed. The final fee will include, in addition to the hourly charge, actual travel and transportation expenses incurred when testing and evaluation requires the investigator to travel to the manufacturing or installation site.

Payment of fees is required regardless of whether an approval is issued. Incomplete actions include those withdrawn by the applicant, rejected for an administrative discrepancy, cancelled for an evaluation problem or test failure.

The implementation of a predominately hourly rate schedule with payment upon completion of processing reduces the need for the issuance of refunds by MSHA. In addition, the hourly rate schedule provides for lower fees for actions that are better prepared or are of less complexity than others in the same action type category.

Checks or money orders are to be made payable to the "Mine Safety and Health Administration" and mailed to the MSHA Finance Branch, P.O. Box 25367, Denver Federal Center, Denver, Colorado 80225, in the amount specified in the annual fee notice. Each check or money order must show a company-assigned application number for the application for approval. This number must be identical to that shown on the application submitted to the Approval and Certification Center and must be a unique six-digit or less number, without letters or punctuation, such as dashes. The application fee or fee for SRA and SNAP applications should be mailed to Denver simultaneously with the submission of the application to the Approval and Certification Center, R.R. #1, Box 251, Triadelphia, WV 26059. On each application, the check or money order number and date the application fee payment was mailed to the Finance Branch must be noted so that immediate confirmation of payment can be made between the Center and MSHA Finance. Failure to make timely fee payments will result in rejection of further applications for approval. Failure to make payment within 30 days following issuance of the original invoice will result in the initiation of debt collection procedures, and will include interest, penalties and administrative costs. Failure to make payment within the 30-day period will curtail any further processing of subsequent approval applications.

Section 5.50 Fee revisions.

Once established by MSHA using the calculation method of the final rule, individual fee schedules for specific product approvals will be published in the **Federal Register** and otherwise made publicly available to members of the affected mining community. (See Table 1 for the fee schedule effective October 1, 1987. These schedules will be periodically adjusted to reflect the recent cost and time data. When determined that turnaround time for a particular action type has stabilized, periodic adjustment may include revision of the fee from an hourly rate to a flat rate. To provide an element of fairness and stability, no single schedule will be revised more frequently than once a year, or less frequently than once every three years.

TABLE 1.—FEE SCHEDULE

30 CFR part and agency tracking code	Hourly rate	Flat rate	Application fee
Part 15—Explosives:			
*12 Approval Evaluation Permissibility Tests	$30		$100
Physical Exam:			
First Size		$92	
Each Add'l Size		41	
Six sizes/complete		295	
Chemical analysis		1,797	
Air gap		320	
Pendulum friction test		148	
Ballistic mortar test		246	
Detonation rate: Each size		160	
Gallery test 4:			
First shot		299	
Each Add'l Shot		244	
Ten-shot test		2,497	
Gallery test 7		4,917	
Bichel gage: Each size		231	
Crawshaw-Jones test: Each shot		339	
Toxic Fumes analysis		1,141	
Weigh-in and handling:			
First size		92	
Each add'l size		41	
14 Approval Extension	30		100
*43 Fume Analysis Evaluation	30		100
Tests related to permissibliity:			
Impact test		136	
Electrostatic spark test		108	
Thermal sensitivity test		130	
Suspension test:			
Gas only; per shot		86	
Gas and dust; per shot		117	
Gaseous products—Oxides of nitrogen analysis		678	
Gaseous products—Complete analysis		1,141	

TABLE 1.—FEE SCHEDULE—Continued

30 CFR part and agency tracking code	Hourly rate	Flat rate	Application fee
Weigh- in and handling:			
First size		92	
Each add'l size		41	
Part 18—Electric Motor Driven Equipment and Accessories:			
*12 Approval—Machine Evaluation	29		100
Approval—Machine Testing:			
Explosion test	24		
Surface/Temperature test	26		
Window/Lens Test	25		
Product, flame test	32		
12 Approval—Instruments (testing included)	28		100
*14 Approval Extension-Machine Evaluation	28		100
Approval Extension-Machine Testing:			
Explosion test	24		
Surface/Temperature test	26		
Window-Lens test	25		
Product flame test	32		
14 Approval Extension-Instruments (testing included)	28		100
*15 Acceptance Evaluation	28		100
Acceptance Testing:			
Explosion test	24		
Surface/Temperature test	26		
Window/Lens test	25		
Product flame test	32		
Cable/splice test	29		
Compressibility test (asbestos substitutes)	29		
*16 Certification Evaluation	25		100
Certification Testing:			
Explosion test	24		
Surface-Temperature test	26		
Window/Lens test	25		
Product flame test	32		
17 Acceptance Extension	28		100
*18 Certification Extension	25		100
Certification Extension Testing:			
Explosion test	24		
Surface/Temperatrue test	26		
Window/Lens test	25		
Product flame test	32		
21 Field Modification	30		100
23 Field Approval	30		100
*26 Permit	29		100
Permit Testing:			
Explosion test	24		
Surface/Temperature test	26	6	
Window/Lens test	25		
Product flame test	32		
30 Intrinsic Safety Determination (testing included)	30		100
31 Intrinsic Safety Determination Extension (testing included)	30		100
32 Simplified Certification	25		100
34 Simplified Certification Extension	25		100
40 Stamped Notification Acceptance Program (SNAP)		108	
41 Longwall Approval	29		100
42 Longwall Approval Extension	29		100
Part 19—Electric Cap Lamps:			
12 Approval (testing included)	28		100
14 Approval Extension (testing included)	25		100
40 Stamped Notification Acceptance Program (SNAP)		108	
Part 20—Electric Mine Lamps:			
12 Approval (testing included)	27		100
14 Approval Extension (testing included)	25		100
40 Stamped Notification Acceptance Program (SNAP)		108	
Part 21—Flame Safety Lamps:			
12 Approval (testing included)	27		100
14 Approval Extension (testing included)	25		100
40 Stamped Notification Acceptance Program (SNAP)		108	
Part 22—Portable Methane Detectors:			
12 Approval (testing included)	27		100
14 Approval Extension (testing included)	27		100

TABLE 1.—FEE SCHEDULE—Continued

30 CFR part and agency tracking code	Hourly rate	Flat rate	Application fee
40 Stamped Notification Acceptance Program (SNAP)		108	
Part 23—Telephones and Signaling Devices:			
12 Approval (testing included)	29		100
14 Approval Extension (testing included)	30		100
40 Stamped Notification Acceptance Program (SNAP)		108	
Part 24—Single-Shot Blasting Units:			
12 Approval (testing included)	30		100
14 Approval Extension (testing included)	30		100
40 Stamped Notification Acceptance Program (SNAP)		108	
Part 25—Multiple-Shot Blasting Units:			
12 Approval (testing included)	30		100
14 Approval Extension (testing included)	30		100
40 Stamped Notification Acceptance Program (SNAP)		108	
Part 26—Lighting Equipment for Illumination:			
12 Approval (testing included)	30		100
14 Approval Extension (testing included)	30		100
40 Stamped Notification Acceptance Program (SNAP)		108	
Part 27—Methane Monitoring Systems:			
16 Certification (testing included)	30		100
18 Certification Extension (testing included)	30		100
40 Stamped Notification Acceptance Program (SNAP)		108	
Part 28—D.C. Current Fuses:			
12 Approval	30		100
14 Approval Extension	30		100
40 Stamped Notification Acceptance Program (SNAP)		108	
Part 29—Portable Dust Analyzers and Methane Monitors:			
12 Approval (testing included)	27		100
14 Approval Extension (testing included)	27		100
40 Stamped Notification Acceptance Program (SNAP)		108	
Part 31—Diesel Mine Locomotives:			
12 Approval	28		100
14 Approval Extension	28		100
Part 32—Mobile Diesel-Powered Equipment for Noncoal Mines:			
12 Approval	29		100
14 Approval Extension	29		100
*16 Certification Evaluation	28		100
Certification Testing:			
Emissions test	29		
Pre/post test preparation	30		
*18 Certification Extension Evaluation	26		100
Certification Extension Testing Emissions test	29		
Pre/post test preparation	30		
Part 33—Dust Collectors:			
*12 Approval Evaluation without Cert. of Performance	29		100
Approval Testing:			
Dust Collector test	30		
*14 Approval Extension			
Evaluation	29		100
Approval Extension Testing:			
Dust collector test	30		
*16 Certification Evaluation	30		100
Certification Testing:			
Dust Collector test	30		
*18 Certification Extension	30		100
Certification Extension Testing:			
Dust Collector test	30		
21 Field Modification	31		100
29 Dust Collector Approval with Cert. of Performance	29		100
Part 35—Fire Resistant Hydraulic Fluids:			
*12 Approval (testing included)	27		100
*14 Approval Extension (testing included	27		100
Part 36—Mobile Diesel-Powered Equipment:			
*12 Approval	29		100
*14 Approval Extension	29		100
*16 Certification-Engine Evaluation	28		100
Certification-Engine testing:			
Emissions test	29		
Explosion test	31		
Surface Temperature/Safety Controls test	30		

TABLE 1.—FEE SCHEDULE—Continued

30 CFR part and agency tracking code	Hourly rate	Flat rate	Application fee
Pre/post Test Preparation	29		
*18 Certification Extension-Engine Evaluation	28		100
Certification Extension-Engine testing:			
Emissions test	29		
Explosion test	31		
Surface Temperature/Safety Controls test	30		
Pre/post Test Preparation	29		
21 Field Modification	30		100
*27 Certification-Diesel			
Components Evaluation	30		100
Certification-Diesel			
Components Testing:			
Emissions test	29		
Explosion test	31		
Water Consumption/Cooling Efficiency test	30		
Surface Temperature/Safety Controls Test	30		
Pre/post Test Preparation	29		
*28 Certification Extenson—			
Diesel Components Evaluation	30		100
Certification Extension-Diesel Components Testing:			
Emissions test	29		
Explosion test	31		
Water Consumption/Cooling Efficiency test	30		
Surface Temperature/Safety Controls test	30		
Pre/post Test Preparation	29		
Part 74—Coal Mine Dust Personal Sampler Units:			
12 Approval	26		100
Other A&CC Services:			
15 Acceptance—Overcurrent Relays	28		100
*15 Acceptance—Brattice Cloth and Ventilation Tubing	29		100
Acceptance Testing of Brattice Cloth and Vent. Tubing:			
Product flame test	32		
15 Statement of Test and Evaluation (ST&E)	28		100
15 Acceptance—Ground Check Monitor/Ground Wire Devices	29		100
17 Acceptance Extension—Overcurrent Relays	28		100
17 Acceptance Extension—Brattice Cloth & Ventilation Tubing	29		100
17 Statement of Test and Evaluation (ST&E) Extension	27		100
17 Acceptance Extension—Ground Check Monitor/Gr. Wire Device	29		100
17 Acceptance Extension—Interim Criteria	29		100
**20 Stamped Revision Acceptance (SRA)		64	
24 Acceptance—Panic Bar	28		100
*37 Acceptance—Interim Criteria	29		100
Interim Criteria Testing:			
Product flame test	32		
40 Stamped Notification Acceptance (SNAP)/Ground Check Monitor		108	
41 Approval—Longwall Area Lighting	30		100
50 Mine Wide Monitoring System (MWMS) Evaluation	29		100
52 Mine Wide Monitoring System (MWMS) Barrier Classification	29		100
54 Mine Wide Monitoring System (MWMS) Sensor Classification	29		100
00 Retesting for approval as a Result of Post-Approval Product Audit	***		

*Note: Full approval fee consists of evaluation cost plus applicable test costs.
**Fee covers SRA Application accompanied by up to five documents.
***Fee is based upon the approval schedule in effect at time of retest.
NOTE: When testing and evaluation is required at locations other than MSHA's premises, the applicant shall reimburse MSHA for traveling, subsistence, and incidental expenses of MSHA's representation in accordance with standardized government travel regulations. This reimbursement is in addition to the fees charged for evaluation and testing.

III. Executive Order 12291 and Regulatory Flexibility Act

In accordance with Executive Order 12291, MSHA has determined that this final rule is not a major rule. It is anticipated that the fees collected under the final rule would total less than $2 million a year, would not result in a major increase in costs for the mining industry, nor would they have a significant effect on the ability of United States-based enterprises to compete with foreign-based enterprises. Since the rule does not meet the criteria for a major rule, a Regulatory Impact Analysis is not necessary.

In assessing the potential effect of the final rule under guidelines of the Regulatory Flexibility Act, MSHA has concluded that the rule would affect some small businesses, mainly manufacturers of components for mining equipment and manufacturers of small equipment used in underground mines. However, MSHA believes that based on these estimates, Part 5 may not have a significant economic impact on a substantial number of small businesses.

While some of MSHA's fee schedules were updated in 1972, the majority of the

schedules have not been updated since 1965. In this twenty-year period, the costs of the testing, evaluation, and approval program for mining equipment have risen significantly. Most of the existing fees recover only a small portion of the actual costs to the government to provide this service. For this reason, the methodology for determining fees in the final rule would result in significant increases in the service fees for many product groups.

Fee Recovery Information

Assuming Part 5 becomes effective on January 1, 1987, recovery is estimated at $1,600,726 for FY 1987 (9.8 times the $162,716 in fees collected during FY 1986). This constitutes approximately 88% of the budget for approval-related activities and approximately 40% of the total Center budget.

As proposed, MSHA would have recovered 72% of the Center budget using the calculation method presented to the public (approximately $2.8 million of $4 million).

Projected fee recovery during future fiscal years under the final rule will be affected by the gradual implementation of 30 CFR Part 7 Subparts. Third-party or applicant testing will reduce both the amount of testing carried out by the Center and the time required for evaluation, and for processing each application. This reduction may, however, be partially offset by time spent observing tests and other activities to assure the validity of certifications under the provisions of proposed Part 7.

IV. Paperwork Reduction Act

This final rule does not contain any collection of information provisions subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

List of Subjects in 30 CFR Parts 5, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36, and 74

Mine safety and health, Underground mining.

Accordingly, Chapter I of Title 30, Code of Federal Regulations is amended as set forth below.

Dated: May 1, 1987.

Alan C. McMillan,

Deputy Assistant Secretary for Mine Safety and Health.

PART 15—[AMENDED]

1. The authority citation for Part 15 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 15.4 [Removed]

2. Section 15.4 is removed.

§ 15.8 [Amended]

3. Section 15.8 is amended by removing the second and third sentences.

§ 15.24 [Amended]

4. Section 15.24(a) is amended by removing the second sentence and the fee schedule following the colon.

PART 18—[AMENDED]

5. The authority citation for Part 18 is revised to read as set forth below and the authority citations which appear throughout Part 18 are removed:

Authority: 30 U.S.C. 957, 961.

§ 18.1 [Amended]

6. Section 18.1 is amended by removing the paragraph designations and the semi-colon following "listing", adding in its place a period and removing "and fees".

§ 18.7 [Removed]

7. Section 18.7 is removed.

§ 18.15 [Amended]

8. Section 18.15(d) is amended by adding a period following "informally" and removing "without fee".

§ 18.80 [Amended]

9. In § 18.80, paragraph (d) is removed and paragraphs (e) and (f) are redesignated as paragraphs (d) and (e), respectively.

§ 18.82 [Amended]

10. In § 18.82, paragraph (b) is removed and paragraphs (c) through (h) are redesignated as paragraphs (b) through (g), respectively.

PART 19—[AMENDED]

11. The authority citation for Part 19 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.
Secs. 19.1(b) and 19.7(a) also issued under 30 U.S.C. 811.

§ 19.2 [Removed]

12. Section 19.2 is removed.

§ 19.13 [Amended]

13. Section 19.13(d) is amended by adding a period after "required" and removing "and of the necessary deposit to cover the fee for the test".

PART 20—[AMENDED]

14. The authority citation for Part 20 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 20.4 [Removed]

15. Section 20.4 is removed.

§ 20.14 [Amended]

16. Section 20.14(d) is amended by adding a period after "required" and removing "and of the necessary deposit to cover the fee for the test."

PART 21—[AMENDED]

17. The authority citation for Part 21 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 21.3 [Removed]

18. Section 21.3 is removed.

§ 21.10 [Amended]

19. Section 21.10(d) is amended by adding a period after "required" and removing "and of the necessary deposit to cover the fee for the test.".

PART 22—[AMENDED]

20. The authority citation for Part 22 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 22.3 [Removed]

21. Section 22.3 is removed.

§ 22.11 [Amended]

22. Section 22.11(d) is amended by adding a period after "required" and removing "and of the necessary deposit to cover the fee for the tests.".

PART 23—[AMENDED]

23. The authority citation for Part 23 is revised to read as follows and the authority citations following the sections in Part 23 are removed:

Authority: 30 U.S.C. 957, 961.
Sec. 23.2(f) also issued under 30 U.S.C. 811.

§ 23.4 [Removed]

24. Section 23.4 is removed.

§ 23.14 [Amended]

25. Section 23.14(d) is amended by adding a period after "required" in the first sentence and removing "and of the necessary deposit to cover the fee for the tests.".

PART 24—[AMENDED]

26. The authority citation for Part 24 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 24.1 [Removed]

27. Section 24.1 is removed.

§ 24.9 [Amended]

28. Section 24.9(d) is amended by adding a period after "required" in the first sentence and removing "and of the necessary deposit to cover the fee for the tests.".

PART 25—[AMENDED]

29. The authority citation for Part 25 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 25.1 [Amended]

30. Section 25.1 is amended by removing the semi-colon following "mines", adding in its place, "and", removing the semi-colon following "certification" the second time it is used and adding a period in its place, and removing "and fees,".

§ 25.4 [Removed]

31. Section 25.4 is removed.

§ 25.12 [Amended]

32. Section 25.12(b) is amended by removing the comma following "required" in the third sentence and adding "and" in its place, removing the comma following "purpose" in the third sentence and adding a period in its place, and removing "and the fee required.".

PART 26—[AMENDED]

33. The authority citation for Part 26 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 26.1 [Amended]

34. Section 26.1 is amended by removing the semi-colon following "certification" the second time it is used, adding a period in its place and removing "and fees.".

§ 26.6 [Removed]

35. Section 26.6 is removed.

§ 26.19 [Amended]

36. Section 26.19(b) is amended by removing the comma following "required" in the third sentence and adding "and" in its place, removing the comma following "purpose" in the third sentence and adding a period in its place, and removing "and the fee.".

PART 27—[AMENDED]

37. The authority citation for Part 27 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 27.1 [Amended]

38. Section 27.1 is amended by removing the semi-colon following "workings", adding "and" in its place, removing the semi-colon following "certification" the second time it is used and adding a period in its place, and deleting "and fees.".

§ 27.8 [Removed]

39. Section 27.8 is removed.

§ 27.11 [Amended]

40. Section 27.11(b) is amended by removing the semi-colon following "required" in the second sentence and adding "and" in its place, removing the semi-colon following "purpose" in the second sentence and adding a period in its place, and removing "and the fee for testing.".

PART 28—[AMENDED]

41. The authority citation for Part 28 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 28.10 [Amended]

42. Section 28.10(d) is removed and paragraphs (e), (f), and (g) are redesignated as (d), (e), and (f), respectively;

43. Section 28.10(c) is amended by adding a sentence at the end reading as follows:

* * * * *

(c) * * * The appropriate fee as prescribed in Part 5 of this chapter shall accompany the certified data and results.

* * * * *

PART 29—[AMENDED]

44. The authority citation for Part 29 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

Subpart C—[Removed]

45. Subpart C of Part 29 consisting of §§ 29.20 and 29.21, is removed;

§ 29.30 [Amended]

46. Section 29.30(c) is amended by adding a period following "fees" and removing "in accordance with Subpart C of this part.".

§ 29.35 [Amended]

47. Section 29.35(e) is removed and paragraph (f) is redesignated as paragraph (e).

§ 29.56 [Amended]

48. The title of § 29.56 is revised to read § 29.56 Withdrawal of applications."; the paragraph designation of (a) is removed; and paragraph (b) is removed in its entirety.

PART 31—[AMENDED]

49. The authority citation for Part 31 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 31.3 [Amended]

50. In § 31.3, paragraph (c) is removed and paragraphs (d) through (j) are redesignated as paragraphs (c) through (i), respectively.

§ 31.8 [Amended]

51. Section 31.8(d) is amended by removing "the fee and".

PART 32—[AMENDED]

52. The authority citation for Part 32 is revised to read as follows and the authority citations following the sections in Part 32 are removed:

Authority: 30 U.S.C. 957, 961.

§ 32.3 [Amended]

53. In § 32.3, paragraph (c) is removed and paragraphs (d) through (j) are redesignated as paragraphs (c) through (i), respectively.

§ 32.8 [Amended]

54. Section 32.8(c) is amended by removing "the amount of the fee and".

PART 33—[AMENDED]

55. The authority citation for Part 33 is revised to read as follows and the authority citations following the sections in Part 33 are removed:

Authority: 30 U.S.C. 957, 961.

§ 33.5 [Removed]

56. Section 33.5 is removed.

§ 33.12 [Amended]

57. Section 33.12(b) is amended by removing the comma following "required" in the third sentence, adding "and" in its place, removing the comma following "purpose" and adding a period in its place, and removing "and the fee.".

PART 35—[AMENDED]

58. The authority citation for Part 35 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 35.1 [Amended]

59. Section 35.1 is amended by removing the semi-colon following "mines", adding "and" in its place, removing the semi-colon following "certification" the second time it is used and adding a period in its place, and removing "and fees".

§ 35.5 [Removed]

60. Section 35.5 is removed.

§ 35.12 [Amended]

61. Section 35.12(b) is amended by removing the comma following "required" in the third sentence, adding a period in its place, and removing "and the fee.".

PART 36—[AMENDED]

62. The authority citation for Part 36 is revised to read as follows and the

authority citations following the sections in Part 36 are removed:

Authority: 30 U.S.C. 957, 961.

§ 36.7 [Removed]

63. Section 36.7 is removed.

§ 36.12 [Amended]

64. Section 36.12(b) is amended by removing the colon following "required" in the third sentence, adding "and" in its place, removing the semi-colon following "purpose" in the third sentence and adding a period in its place, and removing "and the fee.".

PART 74—[AMENDED]

65. The authority citation for Part 74 is revised to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 74.6 [Amended]

66. Section 74.6(a) is amended by removing the second sentence.

67. Chapter I is amended by removing the headings for Subchapters B through E and adding a new Subchapter B—Testing, Evaluation, and Approval of Mining Products, consisting of Parts 5–36.

68. A new Part 5 is added to Chapter I, Subchapter B, Title 30 of the Code of Federal Regulations to read as follows:

PART 5—FEES FOR TESTING, EVALUATION, AND APPROVAL OF MINING PRODUCTS

Authority: 30 U.S.C. 957

§ 5.10 Purpose and scope.

(a) This part establishes a system under which MSHA charges a fee for services performed in connection with testing, evaluation and approval of products manufactured for use in underground mines. Included in this part is the method used to calculate the fees and the manner in which the fee system is administered.

(b) The services for which fees are charged are—

(1) Application processing by engineers, technicians and other specialists (investigators), including administrative review of applications, analysis of drawings, technical evaluation, testing, test set up and tear down, consultation on applications and investigator travel, where necessary to process the application;

(2) Clerical services, computer tracking and status reporting, records control and security and document preparation directly supporting application processing;

(3) A proportionate share of management, administration and operation of the Approval and Certification Center which is in support of application processing; and

(4) Amortization of facility improvements and depreciation of buildings and equipment used for testing and evaluation or otherwise directly associated with application processing.

(c) Fees are not charged for:

(1) Technical assistance not related to processing an approval application;

(2) Technical programs including development of new technology programs;

(3) Participation in research conducted by other government agencies or private organizations;

(4) Regulatory review activities, including participation in the development of health and safety standards, regulations and legislation; and

(5) Post-approval product audits.

§ 5.20 Effective date.

This part is effective October 1, 1987. Applications for approval received by MSHA on or after that date will be subject to this Part. Applications in process on that date will be processed under the appropriate fee provision in effect on the date of its receipt by MSHA.

§ 5.30 Fee calculation.

(a) A standard application fee is charged for initial administrative review of each approval application. This fee will be calculated based on the hourly compensation cost to conduct the review. The fee will be non-refundable. However, payment will be fully credited against subsequent charges for services rendered.

(b) The fee for testing, evaluation and approval of a product is based on the costs of the services provided. Each service provided for a group of similar products is assessed an hourly rate to cover direct and indirect costs. Direct costs are based on current compensation and benefit costs for technical and support personnel directly involved in providing the service. Indirect costs are based on a proportionate share of the cost of activities which support the approval service, including management and administration of the Approval and Certification Center, facility operating costs and amortization and depreciation of facilities and equipment.

(c) Except as provided in paragraphs (d) and (e), fees are charged on an hourly basis. An estimated maximum fee (cap) is determined on an individual basis before the start of technical evaluation. When unforeseen circumstances discovered during evaluation would result in the hourly fee exceeding the cap, the applicant will have the option to cancel the action or receive a new maximum fee estimate. If the actual hourly fee for processing the application is less than the cap, the lesser amount is charged.

(d) The Stamped Notification Acceptance Program (SNAP) and Stamped Revision Acceptance (SRA) program are expedited programs allowing manufacturers to submit minor changes to previously approved products. A flat fee is charged for these services.

(e) Tests conducted by the Bureau of Mines for MSHA under Part 15 are flat rate items. However, these fees will be included with hourly evaluation rates and billed out at the conclusion of the processing.

§ 5.40 Fee administration.

(a) Applicants must submit a check or money order for the application fee to MSHA Finance Branch, P.O. Box 25367, Denver Federal Center, Denver, Colorado 80225, at the time the application is submitted to the Approval and Certification Center. The check or money order must bear the "company assigned application number" of the application for approval. The application for approval must bear the check or money order number, amount of check, the date the payment was mailed to MSHA Finance Branch, and the company-assigned application number identical to the number placed on the check or money order.

(b) Applicants for SNAP and SRA services must submit the full fee to MSHA Finance Branch at the above address at the time the application is submitted to the Approval and Certification Center.

(c) Applicants for services for which an hourly fee is charged will be billed for the fee when processing of the action is completed. Actual travel expenses, if any, incurred in processing the application will be added. Invoices will contain specific payment instructions.

§ 5.50 Fee revisions.

Each fee schedule shall remain in effect for at least one year and be subject to revision at least once every three years.

[FR Doc. 87–10389 Filed 5–7–87; 8:45 am]
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federal register

Friday
May 8, 1987

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 65

Air Traffic Control Tower Operators: Medical Standards; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 65

[Docket No. 25256; Amdt. No. 65-31]

Air Traffic Control Tower Operators: Medical Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This regulation excepts air traffic control tower operators who are employed by, or on active duty with, the Departments of the Air Force, Army, and Navy and the Coast Guard from the requirement that they hold a second-class airman medical certificate. This amendment is necessary to avoid the application of two different programs for physical qualification to Department of Defense and Coast Guard air traffic controllers.

DATES: Effective date of this amendment is June 8, 1987. Comments must be received on or before June 8, 1987.

ADDRESS: Mail or deliver comments on this rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 25256, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Jon L. Jordan, M.D., Acting Federal Air Surgeon (AAM-1), Office of Aviation Medicine, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-3537.

SUPPLEMENTARY INFORMATION:

Background

Section 65.31 of the Federal Aviation Regulations (FAR) now provides, in part, that except for a person employed by the FAA, no person may act as an air traffic control tower operator in connection with civil aircraft unless that person holds at least a second-class medical certificate issued under Part 67 of the FAR. In addition, § 65.33 of the regulations provides that to be eligible for an air traffic control tower operator certificate, except for a person employed by the FAA, a person must hold at least a second-class medical certificate.

Active duty military and Coast Guard air traffic control tower operators, as well as civilians employed as control tower operators by those services, frequently perform duties involving the control of civil aircraft. These controllers, therefore, must now medically qualify under the requirements of Part 67 of the FAR.

In addition to the qualification requirements of the FAR, military and Coast Guard air traffic controllers must qualify in accordance with separate standards set forth in the regulations of the employing service. For the qualification of air traffic controllers, these standards are equivalent to or exceed those contained in Part 67 of the FAR. The FAA has found that a person meeting them is physically able to perform the airman duties of an air traffic control tower operator. Medical examinations of air traffic controllers employed by the military and the Coast Guard are conducted under the direction of physicians who are fully knowledgeable of the medical requirements for performing air traffic control duties.

To aviod the application of two different programs for physical qualification of military and Coast Guard air traffic controllers, this amendment revises §§ 65.31, 65.33 and 65.49. Section 65.49 is also amended with respect to FAA air traffic controllers to make this section consistent with previously amended §§ 65.31 and 65.33. This amendment excepts air traffic controllers employed by, or on active duty with, the Air Force, Army, Navy, and Coast Guard from the requirement to hold a second-class medical certificate to be eligible for and to exercise the privileges of an air traffic control tower operator certificate.

Under this amendment, Part 65 still requires that air traffic control tower operators who are not employed by the FAA or employed by, or on active duty with, the Air Force, Army, Navy, or Coast Guard must hold second-class medical certificates.

Good Cause Justification for Making This Amendment Effective Without Prior Public Comment

Since air traffic control tower operators employed by, or on active duty with, the military and the Coast Guard must now meet medical standards imposed by the employing service that are equivalent to those required by Part 67, notice and public procedure are unnecessary and would not reasonably be expected to result in the receipt of beneficial information. However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator, and this amendment may be changed in response to comments received. All comments received will be available in the rules docket for examination by interested persons before and after the closing date for comments.

Conclusion

The adoption of this rule rescinds the requirement that air traffic control tower operators employed by, or on active duty with, the military and the Coast Guard meet Part 67 medical standards. This amendment relieves a regulatory burden with minor cost savings to certificate holders. Therefore, the FAA has determined that this amendment is not a major rule under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, since no small entities would be affected by this amendment, it is certified that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities. Because this amendment imposes no costs on affected individuals, the FAA has determined that the expected impact is so minimal that it does not warrant a full evaluation.

List of Subjects in 14 CFR Part 65

Airman, Aviation safety, Air transportation, Aircraft.

Adoption of the Amendment

Accordingly, Part 65 of the Federal Aviation Regulations (14 CFR Part 65) is amended as follows:

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

1. The authority citation for Part 65 is revised to read as set forth below, and the authority citations following all the sections in Part 65 are removed:

Authority: 49 U.S.C. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983).

2. By amending § 65.31 by revising paragraph (c) to read as follows:

§ 65.31 Required certificates, and rating or qualification.

* * * * *

(c) Except for a person employed by the FAA or employed by, or on active duty with, the Department of the Air Force, Army, or Navy or the Coast Guard, holds at least a second-class

medical certificate issued under Part 67 of this chapter.

3. By amending § 65.33 by revising paragraph (d) to read as follows:

§ 65.33 Eligibility requirements: General.

* * * * *

(d) Except for a person employed by the FAA or employed by, or on active duty with, the Department of the Air Force, Army, or Navy or the Coast Guard, hold at least a second-class medical certificate issued under Part 67 of this chapter since the beginning of the 12th calendar month before the date the application is made.

* * * * *

4. By amending § 65.49 by revising paragraph (a) to read as follows:

§ 65.49 General operating rules.

(a) Except for a person employed by the FAA or employed by, or on active duty with, the Department of the Air Force, Army, or Navy, or the Coast Guard, no person may act as an air traffic control tower operator under a certificate issued to him or her under this part unless he or she has in his or her personal possession an appropriate current medical certificate issued under Part 67 of this chapter.

* * * * *

Issued in Washington, DC, on May 1, 1987.

Donald D. Engen,

Administrator.

[FR Doc. 87-10459 Filed 5-7-87; 8:45 am]

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federal register

Friday
May 8, 1987

Part IV

Department of Education

Grants Availability, Law Related Education Program; Notices

DEPARTMENT OF EDUCATION

Law-Related Education Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Funding Priorities and Special Awards Under the Law-Related Education Program.

SUMMARY: The Secretary proposes funding priorities to assist elementary and secondary schools in developing and conducting projects related to the bicentennial of the U.S. Constitution. The Secretary proposes to use the regulations for the Secretary's Discretionary Program to conduct this competition under the Law-Related Education Program.

DATE: Comments must be received on or before June 8, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas N. Wikstrom, Secretary's Discretionary Program, U.S. Department of Education, 400 Maryland Ave., SW., Room 1011, FOB-6, Washington, DC 20202. Telephone: (202) 732-3566.

Proposed Rules for Fiscal Year 1987

1. *Regulations:* Notwithstanding 34 CFR 241.3 and 760.3, the Secretary proposes to conduct this competition under the regulations for the Secretary's Discretionary Program at 34 CFR Part 760, rather than under the regulations for the Law-Related Education Program at 34 CFR Part 241.

(Authority: 20 U.S.C. 3851)

2. *Absolute Priority:* The Secretary proposes to reserve $950,000 of the funds appropriated for the Law-Related Education Program for grants to assist elementary and secondary schools in developing and conducting projects related to the bicentennial of the U.S. Constitution. Only those applications meeting this priority will be considered under this competition.

(Authority: 20 U.S.C. 3851)

3. *Competitive Preferences:* The Secretary proposes to award up to 10 points, in addition to the 100 possible points under § 760.31, for applications that propose projects based on existing instructional programs that provide students with a comprehensive grounding in the historical and philosophical origins and the development and workings of the American constitutional order.

The Secretary also proposes to award up to 5 points, in addition to the 100 possible points under § 760.31, for applications that propose to involve within their proposed programs, elementary and secondary students from several schools, their parents, their teachers, and members of the community at large.

(Authority: 20 U.S.C. 3851)

Activities

In addition to meeting the absolute priority (proposed rule number 2), projects must consist of one or more of the following activities under § 760.10:

a. Gathering and disseminating information.

b. Carrying out research and demonstrations.

c. Improving the training of teachers and other instructional personnel.

d. Providing technical assistance to State educational agencies (SEAs) and local educational agencies (LEAs).

The following examples are offered as illustrations of projects an applicant might propose for funding.

- Projects to improve the training of teachers. These projects could, through seminars or workshops, help teachers develop curriculum resources and instructional techniques that address the historical and philosophical development of our constitutional order as well as contemporary problems arising from controversial constitutional issues; or
- Demonstration projects. These projects could link existing exemplary programs which teach about the Constitution to bicentennial events and ceremonies, and involve additional elementary and secondary schools.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the use of the regulations for the Secretary's Discretionary Program for this competition and the proposed absolute priority and competitive preferences.

All comments will be available for public inspection, during and after the comment period, in Room 1011, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance No. 84.122, Secretary's Discretionary Program)

Dated: May 5, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87-10574 Filed 5-7-87; 8:45 am]

BILLING CODE 4000-01-M

Notice Inviting Applications for New Awards Under the Law-Related Education Program for Fiscal Year 1987 (CFDA No: 84.122)

Purpose

To assist elementary and secondary schools in developing and conducting educational programs related to the bicentennial of the U.S. Constitution.

Deadline for Transmittal of Applications: July 27, 1987
Applications Available: May 22, 1987
Available Funds Anticipated: Approximately $950,000
Estimated Range of Awards: $10,000—$75,000
Estimated Average Size of Awards: $36,500
Estimated Number of Awards: 26
Project Period: 12–18 months

Priorities:

A notice which includes a proposed absolute funding priority and competitive preferences is published in this issue of the **Federal Register.** Applicants should note that a notice announcing a separate grant competition for law-related education projects was published in the **Federal Register** on March 3, 1987 (52 FR 6377). Applications under both competitions will be carefully reviewed to ensure that no grantee receives duplicative Federal funding.

Selection Criteria

The program regulations at 34 CFR 760.30, under which this competition will be conducted, authorize the Secretary to distribute 15 reserved points among the criteria described in the regulations at § 760.31 to bring the total to a maximum of 100 points. For the purpose of this competition, the Secretary will distribute the reserved points as follows:

Plan of operation: (§ 760.31(a)) Ten additional points will be added for a possible total of 30 points for this criterion.

Improving elementary and secondary education: (§ 760.31(f)) Five additional points will be added for a possible total of 15 points for this criterion.

In addition to the 100 possible points under §§ 760.30 and 760.31, the Secretary intends to award up to 15 additional points for applications which meet one or both of the competitive preferences described in the notice of proposed priority published in this issue of the **Federal Register.**

Applicable Regulations

(a) Regulations governing the Secretary's Discretionary Program at 34 CFR Part 760 as indicated in the Notice

of Proposed Funding Priorities and Special Awards under the Law-Related Education Program (Notice) published in this issue of the **Federal Register.** Applicants should prepare their applications based on the regulations, the Notice, and this application notice. If there are any substantive changes made in the Notice when it is published in final form, applicants will be given the opportunity to amend or resubmit their applications; and

(b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

For Applications or Information Contact: Dr. Thomas N. Wikstrom, Secretary's Discretionary Program, U.S. Department of Education, 400 Maryland Ave., SW., Room 1011, FOB-6, Washington, DC 20202. Telephone (202) 732-3566.

Program Authority: 20 U.S.C. 3851.

Dated: May 5, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87-10575 Filed 5-7-87; 8:45 am]

BILLING CODE 4000-01-M

federal register

Friday
May 8, 1987

Part V

Department of The Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701 and 773

Surface Coal Mining and Reclamation Operations—Requirements for Permits and Permit Processing; Definition of Previously Mined Area; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701 and 773

Surface Coal Mining and Reclamation Operations—Requirements for Permits and Permit Processing; Definition of Previously Mined Area

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is amending its regulations concerning previously mined areas. The amended regulations provide a new definition of the term *previously mined area*, and require a related finding prior to the issuance of a surface coal mining and reclamation permit.

EFFECTIVE DATE: June 8, 1987.

FOR FURTHER INFORMATION CONTACT: Raymond Aufmuth, Division of State Program Assistance, OSMRE, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: (202) 343-5843, Commercial or FTS.

SUPPLEMENTARY INFORMATION:

I. Background

The Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, sets forth general regulatory requirements governing surface coal mining operations, including the surface impacts of underground coal mines. OSMRE has by regulation implemented or clarified many of the general requirements of the Act and set performance standards to be achieved by surface coal mining operations. See 30 CFR Chapter VII. Sections 816.102 and 817.102 of the regulations, entitled "Backfilling and grading: General requirements," govern areas which have been disturbed by mining, outlining general performance standards for backfilling and grading of surface and underground mines, respectively. Paragraphs (a)(2) of these sections require the complete elimination of highwalls in accordance with section 515(b)(3) of the Act, 30 U.S.C. 1265(b)(3).

In a final rule dated September 16, 1983 (48 FR 41720), OSMRE revised various regulations applicable to remining operations. A performance standard was added to 30 CFR 816.106 and 817.106 for remining operations on previously mined areas. The performance standard which applies to previously mined areas, provides for partial highwall elimination in situations where the remined area was not reclaimed to the standards of the Act. Under sections 816.106 and 817.106 such preexisting highwalls must be eliminated to the maximum extent technically practical using all reasonably available spoil.

In the September 16, 1983 rule, OSMRE also promulgated a definition of the term *previously mined area*. The definition, at 30 CFR 701.5, reads as follows:

"*Previously mined area* means land disturbed or affected by earlier coal mining operations that was not reclaimed in accordance with the requirements of this chapter."

Revised sections 816.106 and 817.106, together with parallel sections in 30 CFR Part 819 for highwalls remaining after auger mining operations, were challenged in *In Re: Permanent Surface Mining Regulation Litigation II*, No. 79-1144 (D.D.C. 1984), as not being specifically excepted by the Act from the complete highwall elimination requirement of section 515(b)(3). In its July 6, 1984, opinion the court upheld the auger mining regulations in part 819. The parties subsequently settled the challenge to sections 816.106 and 817.106, with one issue outstanding, the definition of the term *previously mined area* at 30 CFR 701.5.

In Round III of the case, the plaintiffs asserted that the definition of *previously mined area* was to broad and in direct contravention of the Act. In response, the court remanded the definition. *In Re: Permanent*, No. 79-1144, slip opinion at 122 (D.D.C. July 15, 1985).

On July 31, 1986, OSMRE proposed a new definition at 30 CFR 701.5, which limited the scope of *previously mined area* to those lands on which there were no surface coal mining operations subject to the standards of the Act. The proposed rule, at 30 CFR 773.15(c)(12), also required the regulatory authority, in reviewing a surface coal mining and reclamation permit application where the applicant intended to reclaim a remining operation in accordance with the requirements of 30 CFR 816.106 or 817.106, to find that the site was not previously subject to the requirements of the Act.

II. Discussion of Comments Received

This rule was proposed on July 31, 1986 (51 FR 27508) with a comment period that closed on October 9, 1986. Nine comment letters were received from State regulatory authorities, environmental organizations, mining associations, and other Federal agencies. Their comments are analyzed below.

One commenter said that the proposed definition would perpetuate the problems that inhibit the remining of operations abandoned between 1978 and repermitted under an approved State program. Generally this is true. The Act in section 502 set the effective dates when specific surface coal mining operations became subject to its permitting and performance standards. These standards first applied under section 502(b) to operations which were active after February 3, 1978, and which were conducted under a valid State permit. Other lands mined subsequent to May 3, 1978, were generally subject to the interim performance standards under section 502(c) of the Act. Thus, the operations referred to by the commenter are generally covered by the standards of the Act and would not qualify as a *previously mined area*.

Several commenters were concerned that an operation which was completed prior to 1978 and reclaimed in accordance with existing State requirements at that time could now be remined and reclaimed to lesser standards under the proposed definition. This result is possible, but unlikely. Most operations reclaimed to State standards prior to the effective date of the Act may not be economically feasible for remining at this time. Many of these operations, in addition to extracting the coal seam to the highwall, were also auger mined to various depths behind the highwall and subsequently reclaimed. This auger mining extracts most of the coal that could subsequently be remined. In addition, the variances applicable to previously mined lands under 30 CFR 816.106 and 817.106 require reclamation using all available spoil to eliminate the highwall to the maximum extent technically practical. This insures maximum reclamation using all reasonably available materials. State regulatory authorities have the option of developing standards which are more stringent than the Federal regulations. If a State regulatory authority is concerned that this situation may occur, then it may develop a stricter definition of *previously mined area* to prevent it.

Several commenters suggested that the definition be expanded to include: All operations abandoned and not reclaimed to the standards of the permanent program; lands disturbed by mining and subject to the standards of the Act, but for which there remains no continuing reclamation obligation; lands

illegally mined for which the regulatory authority has been unable to find the responsible party; and to be applicable to the period following May 4, 1978. As stated above, section 502 of the Act identifies effective dates when specific permitting and performance standards become applicable. Any lands once subject to these standards are not eligible as previously mined areas. Since the suggested lands generally were subject to the requirements of the Act, the definition cannot be expanded to include them.

Several commenters said the proposed rule would open the door to abuse the legitimate exemptions of the Act. These commenters identified: The on-site construction exemption; the two acre exemption; coal processing plants in Kentucky; and the other exemptions identified in section 528 of the Act and section 700.11 of the regulations. OSMRE disagrees. This rule is intended to promote the reclamation of lands which have not been reclaimed and on which there were no operations subject to the Act. The rule should have little or no effect on the exemptions identified above. Each of these exemptions is covered by separate regulations, the criteria of which are not affected by this definition.

One commenter believed that the inclusion of post-Act disburbances within the definition is inconsistent with the Act and the Round III *In RE: Permanent* decision. The final definition of *previously mined area* applies only to lands mined prior to the effective date of the Act and lands which qualify as exemptions identified in section 528 of the Act. The Round III decision reasserted that the standards of the Act applied only to surface coal mining operations as defined within the Act. The only post-Act disburbances which fall within this definition are those not subject to the Act.

One commenter said that the language of proposed 30 CFR 773.15 with respect to the finding by the regulatory authority did not accord with the preamble with respect to what the phrase "previously subject" was intended to cover. This was because the rule used the term "site" instead of the term "operation". This ambiguity has been eliminated in the final rule by revising 30 CFR 773.15(c)(12) to require a finding that the operation is a *previously mined area* as defined in 30 CFR 702.5. Since the definition of the term *previously mined area* refers to "operations subject to the Act," the correct standard now applies.

One commenter was concerned that the definition of *previously mined area* would include all the lands overlying the workings of underground mines. Such lands are not generally included in the definition. The Act governs only the surface operations and effects of underground mining. Since the area over the workings of an underground mine generally would not be disturbed during the mining operation (except for possible subsidence) it would not qualify as a previously mined area. As pointed out by the commenter, only the areas disturbed for surface operations and facilities of an underground mine could qualify as previously mined areas.

One commenter suggested a detailed definition of *previously mined area* which included provision for addressing some of the mining and processing activities which are exempt under 30 CFR 700.11, and for lands which have been returned to a condition equal to or better than required by the Act. OSMRE appreciates the comment, but believes that the suggested definition is cumbersome, requires a judgment call on the part of the regulatory authority, and that not all of the exemptions identified in sections 528 and 701(28)(A) of the Act are addressed. The Office believes that it is better to have a concise definition and explain applicability and exceptions within the preamble to the final rule.

One commenter asked OSMRE to clarify the degree of certainty with which the regulatory authority must make the determination required in 30 CFR 773.15(c)(12). OSMRE expects the Regulatory Authority to make this determination based on the information submitted by the applicant to the same degree of certainty that is necessary to make other findings required in this section.

If a situation arises where it is difficult to differentiate between a regulated and an exempt operation, it is expected that the regulatory authority will use its best judgment, keeping in mind the purposes of the standards of the Act and the variances therein.

One commenter was concerned that the definition of *previously mined area* only pertains to highwall elimination and does not provide the flexibility the agency may wish to have with respect to other performance standards at a later date. The commenter suggested that to provide this flexibility the definition should be moved from 30 CFR 701.5 to the specific performance standards which it addresses. This is not desirable because previously mined areas may be referenced in many specific performance standards. To place the definition within each of these performance standards would result in repetition and redundancy. To place it in a central location with all other definitions provides for more concise regulations.

One commenter supported OSMRE in the inclusion of exempt operations in the definition of *previously mined area.*

One commenter recommended that OSMRE retain as much flexibility as possible in the final definition to avoid arbitrary constraints not intended by the Congress. However, the Congress and the courts have been very specific as to what lands are eligible for designation as previously mined area. In view of these constraints, OSMRE believes that the final definition is as flexible as possible.

One commenter noted that the final definition of *previously mined area* would need to be carefully distinguished from the commonsense meaning of this term when developing regulations or guidelines for the identification and consideration of historic properties during permit application and review. The commenter said it was a common practice to exclude areas which already had been mined from requirements for archeological surveys and other efforts to identify historic properties, and that care should be taken to ensure that the new definition does not result in requirements for historic preservation activities where they are not needed. OSMRE agrees, and notes that the final definition does not apply to the context of historic preservation activities.

One commenter felt that OSMRE should remove total operator liability for reclamation of a remaining operation as a means to encourage remining and reclamation of abandoned mine areas, stating that without relaxation of this liability it is simply too risky to remine most areas. OSMRE appreciates the concern of the commenter; however, existing statutory requirements would appear to preclude adoption of such a lesser standard of liability.

One commenter said that using the *effective date* of the Act, as opposed to its *enactment date*, as the cutoff for determining whether an operation was "subject to the Act" under the definition of *previously mined area* was contrary to the opinion of the court in *In Re: Permanent.* OSMRE disagrees. The appropriate cutoff date for determining preexisting highwalls was not an issue in the Round III Opinion on the definition of *previously mined area.* It is reasonable for OSMRE to interpret the definition of *previously mined area* relative to the effective date of the performance standards of the Act, which is a meaningful cutoff for avoiding retroactive application of the Act, rather than relative to the date of passage, which is not.

This conclusion is supported by the lack of any reference to either the

effective date or the date of passage of the Act in the court's Round I opinion on the auger mining regulations. While the court in Round I concluded that the highwall elimination requirement of section 515(b)(3) of the Act, 30 U.S.C. 1265(b)(3), should not have retroactive application in auger mining situations, whether retroactivity should be measured from the effective date or date of passage of the Act was not an issue and not decided.

For these reasons, in applying the definition of *previously mined area*, OSMRE will use the effective date of the Act as the cutoff for determining whether an operation was "subject to the Act."

The same commenter also said it was improper for OSMRE to include under the definition of *previously mined area* those operations which occurred subsequent to the Act, but which were not subject to its requirements because of exemptions specified in the Act. Again, OSMRE disagree. Sections 528 and 701(28)(A) of the Act, 30 U.S.C. 1278 and 1291(28)(A) specified certain coal mining activities (operations) to which the provisions of the Act, including the highwall elimination requirement of section 515(b)(3), 30 U.S.C. 1265(b)(3), do not apply. Because these operations are exempt from the Act, they have essentially the same status with respect to the highwall elimination requirement of section 515(b)(3) as operations which were conducted prior to the effective date of the Act. For this reason, OSMRE has concluded that it is reasonable to base the definition of *previously mined area* on the general condition that there were no surface coal mining operations subject to the standards of the Act, regardless of why the operations were not subject to the Act or when they occurred.

One commenter stated that the proposed rule used the same logic, rationale and scope as the 1983 proposal, which was remanded. The commenter also identified the retention of highwalls on lands mined after passage of the Act. OSMRE disagrees. The logic used in development of this definition was that any lands mined prior to the Act's effective date or lands mined after this date but not subject to the act may be designated as "previously mined area", since they would not be subject to the permitting or performance standards of the Act. As stated previously in this discussion, the Act identifies the specific dates on which its standards became effective. On the other hand, the 1983 rule included as previously mined areas any area not reclaimed to the standards of the Act, reagardless of whether the Act's performance standards applied to the previous mining operation.

III. Discussion of Rules Adopted

Section 502 of the Act established initial regulatory procedures and specified several dates when various surface coal mining operations became subject to its performance standards. Under section 502(b) the performance standards first applied to all operations that were regulated by a State and began operating on or after February 3, 1978. Under this final rule, any lands upon which such operations were conducted do not qualify as a previously mined area. Under section 502(c) of the Act, lands mined after May 3, 1978, generally were subject to the initial performance standards of the Act, and under this rule do not qualify as a previously mined area. Any highwalls on such lands are subject to complete elimination if subsequently remined.

All lands that were mined prior to May 3, 1978 (except where covered under section 502(b)), and that were mined after May 3, 1978, but were not subject to the Act, qualify under this rule as previously mined areas. Lands mined after May 3, 1978, which were not subject to the Act include those that qualify for the exemptions listed in sections 528 and 701(28)(A) of the Act with respect to extraction of coal incidental to the extraction of other minerals. Also, under section 502(c) certain small operations first became subject to the Act on January 1, 1979. The lands on which those small operations were conducted qualify as a previously mined area if the operator received an exemption from OSMRE under 30 CFR 710.12.

For lands on which operations have occurred which were subject to the Act, the original operator will continue to have a reclamation obligation, as would any operator later conducting remining operations. Lands on which unpermitted activities occurred, but were subject to the Act and should have been permitted, do not qualify as a previously mined area.

For a proposed remining operation where a permit applicant intends to reclaim in accordance with the requirements of 30 CFR 816.106 or 817.106, the regulatory authority is required under 30 CFR 773.15(c)(12) to make a finding that the site of the proposed remining operation is a previously mined area as defined in 30 CFR 701.5.

IV. Procedural Matters

Federal Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Executive Order 12291

The Department of the Interior (DOI) has examined that final rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis. This rule will impose no additional cost on the coal industry, since relatively few operations will be affected. Likewise, the impact upon coal consumers will be negligible.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this final rule will not have a significant economic impact on a substantial number of small entities. While it may impact a relatively small number of coal operators, the majority of them would not be small entities. To the extent that small entities are affected, the economic impact of this rule will not be significant.

Author

The author of this final rule is Raymond E. Aufmuth, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: (202) 343-5843, Commercial or FTS.

National Environment Policy Act

OSMRE has prepared an environmental assessment (EA) for this rule, and has made a finding that it would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 433(2)(C). The EA and finding of no significant impact are on file in the administrative record for this rule in the OSMRE Administrative Record Room at 1100 L Street, NW., Washington, DC.

List of Subjects

30 CFR Part 701

Law enforcement, Surface mining, Underground mining.

30 CFR Part 773

Reporting and recordkeeping requirements, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 701 and 773 are amended as set forth below.

Dated: April 7, 1987.

J. Steven Griles,

Assistant Secretary for Land and Mineral Management.

PART 701—PERMANENT REGULATORY PROGRAM

1. The authority citation for Part 701 continues to read as follows:

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

2. Section 701.5 is amended by revising the definition of *previously mined area* as follows:

§ 701.5 Definitions.

* * * * *

Previously mined area means land previously mined on which there were no surface coal mining operations subject to the standards of the Act.

* * * * *

PART 773—PERMANENT REGULATORY PROGRAM

3. The Authority citation for Part 773 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, 16 U.S.C. 470 *et seq.*, 16 U.S.C. 1531 *et seq.*, 16 U.S.C. 661 *et seq.*, 16 U.S.C. 703 *et seq.*, 16 U.S.C. 668a *et seq.*, 16 U.S.C. 469 *et seq.*, and 16 U.S.C. 470aa *et seq.*

4. Section 773.15 is amended by adding paragraph (c)(12) as follows:

§ 773.15 Review of permit applications.

* * * * *

(c) * * *

(12) For a proposed remining operation where the applicant intends to reclaim in accordance with the requirements of §§ 816.106 or 817.106 of this chapter, the site of the operation is a *previously mined area* as defined in § 701.5 of this chapter.

* * * * *

[FR Doc. 87–10481 Filed 5–7–87; 8:45 am]

BILLING CODE 4310–05–M

federal register

Friday
May 8, 1987

Part VI

Department of Education

34 CFR Parts 250 and 251

Indian Education Formula Grants Program; Local Educational Agencies and Tribal Schools; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Parts 250 and 251

Formula Grants; Local Educational Agencies and Tribal Schools

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Indian education formula grant program to include additional criteria governing a local educational agency's (LEA's) authority to count certain children to generate funds under section 303(a) of the Indian Education Act, Title IV of Pub. L. 92–318. Under that section, payments are made, in part, on the basis of the number of Indian children enrolled in the schools of an LEA, and for whom the LEA provides free public education. Under section 303(a) of that Act, payments are made for supplementary services designed to meet the special educational and culturally related academic needs of these Indian children.

DATE: Comments must be received on or before June 22, 1987.

ADDRESSES: Comments should be addressed to Mr. Hakim Khan, Acting Director, Indian Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2177 (Mail Stop 6267), Washington, DC 20202. Telephone (202) 732–1887.

FOR FURTHER INFORMATION CONTACT: Mr. Hakim Khan. Telephone (202) 732–1887.

SUPPLEMENTARY INFORMATION:

A. General

Part A of the Indian Education Act (the Act), Title IV of Pub. L. 92–318 (20 U.S.C. 241aa–241ff), authorizes a formula grant program to help grantees develop and carry out supplementary elementary and secondary education projects that meet the special educational and culturally related academic needs of Indian children. Eligible applicants under this program are certain LEAs and tribal schools. An LEA eligible to apply for funds must have at least ten Indian children enrolled in its schools or have the Indian children enrolled represent at least 50 percent of total enrollment in the LEA. These enrollment limitations do not apply to LEAs in Alaska, California, or Oklahoma or to LEAs that are on, or in proximity to, an Indian reservation.

Under section 1146 of Pub. L. 95–561, the Education Amendments of 1978, a tribal school is deemed to be an LEA for purposes of this program if it meets certain eligibility criteria. Tribal schools eligible to apply for funds are those operated by an Indian tribe or by an organization that is controlled or sanctioned by an Indian tribal government for the children of that tribe, which schools either (1) provide an educational program that meets Bureau of Indian Affairs (BIA), U.S. Department of the Interior standards or, (2) are operated by the tribe or organization under a contract awarded by BIA under Pub. L. 93–638, the Indian Self-Determination and Education Assistance Act. Schools operated directly by BIA (BIA-operated schools) are not considered LEAs under this program.

Under section 303(a) of the Act, formula grant funds are awarded, in part, upon the basis of the number of Indian children enrolled in the schools of an LEA and for whom the LEA provides a free public education.

Section 250.4(b) of the general provisions regulations governing this program (34 CFR Part 250) defines "free public education" as "education that is (1) provided at public expense, under public supervision and direction, without tuition charge; and (2) provided as elementary and secondary school education in the applicable State."

The Department proposes in these regulations to clarify the term "free public education" to resolve issues concerning the authority of an LEA to count certain Indian children to generate payments under this program. At issue is whether an LEA may be deemed to be providing a free public education for a child (and, therefore, count that child under this program) if the child resides within its boundaries but does not attend a school operated by that LEA. Of particular concern to the Department, are situations where an LEA counts a child who attends a school operated by the BIA, a private school, or a school operated by another LEA. Under the Act, an LEA may not count a child to generate funds under this program if the LEA is not providing the child a free public education.

These proposed regulations are similar to the final regulations published under the Impact Aid program on November 17, 1986, at 51 FR 41562. Some of the same schools will be affected. However, tribal schools are not involved to the extent that they serve students directly because they are eligible applicants under this program. The comments made in response to the Impact Aid regulations were considered in the development of these regulations. The financial impact of these regulations will be much smaller than that of the Impact Aid regulations because (1) most of the formula program grants are very small (less than $50,000); (2) the grants support supplementary rather than basic services; and (3) it is not anticipated that any LEA would be denied all funding under this program as a result of these regulations.

The proposed regulations include an Appendix that provides examples of the effect these regulations would have in several factual situations. The Appendix will not be codified in the Code of Federal Regulations.

The Secretary anticipates that these regulations, when published in final form, will govern all payments to LEAs under this program beginning with fiscal year 1987 funds, which will be used to support projects during the 1987–1988 school year. The Department will be publishing in the near future a separate Notice of Proposed Rulemaking which addresses requirements regarding the completion of the Indian Student Certification form (ED Form 506).

B. Proposed § 250.4(b)—Definition of "Free Public Education"

The Secretary proposes this technical amendment to clarify that the term as it applies to this formula grant program is contained in the formula grant program regulations.

C. Proposed § 251.31—Payments to Local Educational Agencies

Proposed § 251.31 describes the basic framework under which an LEA may count an Indian child for formula grant payment. It explains that, among other things, an LEA must be legally responsible for providing, and in fact be providing, a free public education to the children it claims for payment under section 303(a). The Act and its legislative history contemplate that payments are to be made to an LEA only for those children for whom the LEA is providing free public education. An LEA does not need this assistance if it is not responsible for providing, or is not actually providing, a free public education to those children. In most cases, the LEA in which a child resides is responsible under State law for providing that child's free public education, and in fact provides that education in accordance with the requirements of § 251.32.

Examples 1 and 2 in the Appendix illustrate the application of proposed § 251.31. In Example 1, Indian children residing within an LEA attend a BIA-operated school. In Example 2, the children attend a combined BIA/LEA school and the education of some of the

children is financed substantially by the BIA. Although the LEA in each example may have been legally responsible for providing those children a free public education, the BIA in effect has released each LEA of its practical and financial responsibility for educating those children. The LEAs may not claim those children under section 303(a) because the LEAs are no longer responsible for and, in fact, are not providing those children a free public education that meets the requirements of proposed § 251.32 as in the following paragraphs.

D. Proposed § 251.32—Free Public Education

Proposed § 251.32 defines what is meant by a "free public education." That section describes four tests for determining whether an LEA is providing a free public education. An LEA may not claim children under section 303(a) for whom it fails to meet any of those four tests.

First, paragraph (a)(1) of this section defines "free public education" as one that is given at public expense. Paragraph (b) explains that meeting this test requires, among other things, that Federal funds, other than Pub. L. 81–874 (Impact Aid) funds and Pub. L. 93–638 (Indian Self-Determination and Education Assistance Act) contract funds, do not provide a substantial portion of the basic educational program.

In determining whether the portion of a basic educational program supported by Federal funds is substantial, the Department considers all relevant circumstances, including whether the Federal funds are intended to provide the entire cost of the basic educational program. As illustrated in the first and second examples in the Appendix, the public expense requirement would preclude an LEA from claiming, under section 303(a), children whose education is financed primarily by the BIA, a Federal agency whose funds are designed to pay for the entire cost of the basic educational program for children attending its schools, except tribal schools that receive contract funds under Pub. L. 93–638.

Second, paragraph (a)(2) of this section defines "free public education" as a complete elementary or secondary educational program. Paragraph (c) explains that a complete program is the program recognized by the State as meeting all requirements for elementary or secondary education for the children claimed. Supplementary services or instruction, or a portion of the required program, do not constitute a complete elementary or secondary educational program.

The requirement of a complete educational program codifies the existing Department interpretation of the Act. The Department believes that an LEA that provides Indian children only a supplemental portion of their required educational program—unlike an LEA that provides the complete educational program required by the State—is not responsible for and, in fact, is not educating the Indian children within the meaning and purpose of the Act. Under existing Department policy and these proposed regulations, payments are thus made to an LEA only for those Indian children for whom the LEA is responsible and is actually providing the complete educational program. Example 3 illustrates the situation in which children for whom an LEA is providing only supplementary instruction may not be counted.

The Department recognizes that there may be LEAs responsible for providing the complete educational program to the children claimed but which, for any number of reasons, might not be providing a full day of instruction to some of those children. Since State requirements of what constitutes a complete educational program may vary depending on the needs and objectives of individual students, these proposed regulations would not generally preclude LEAs from claiming children who attend one or more classes offered by another institution. The Secretary encourages LEAs to comment on this requirement so that the Secretary may have more complete information on the variety of circumstances in which LEAs may not be providing a full day of instruction to the children claimed.

Third, paragraph (a)(3) of this section defines a free public education as one that is provided either in a school of the LEA or under a tuition arrangement with another LEA or other educational entity. Paragraph (d) specifies what the Secretary regards as necessary for an acceptable tuition arrangement. Because tuition arrangements may vary depending on the circumstances of a particular State and LEA, the Secretary believes it impractical to develop a specific standard that would be applicable to every tuition arrangement. Rather, the Secretary proposes a general standard that requires the arrangement to satisfy all applicable State requirements and to reflect genuinely the applicant LEA's responsibility to provide a free public education to the children it claims. This general standard permits LEA flexibility in developing bona fide tuition arrangements and permits the Secretary to evaluate tuition arrangements on a case-by-case basis, in light of all relevant circumstances.

Although the Secretary believes that most tuition arrangements are bona fide, there may be some arrangements that in the Secretary's judgment would not genuinely reflect the LEA's responsibility to provide a free public education to the children claimed. An example of a tuition arrangement that would violate this requirement is an arrangement in which the amount of tuition paid on behalf of the Indian children is not comparable to that paid on behalf of other children.

Fourth, paragraph (a)(4) of this section reiterates a statutory requirement by defining a free public education as one that is provided under public supervision and direction. Although this requirement is generally met when an LEA provides the education in its own schools or in a school of another LEA (under a tuition arrangement), paragraph (e) is primarily designed to address the situation in which an LEA may be providing education under an arrangement with a private institution.

In the case in which children of an LEA attend a private school, the LEA or other public agency must exercise authority with respect to the significant aspects of the educational program for the children claimed. Because educational programs may differ depending on the needs and objectives of the individual students and the LEA, under these proposed regulations the Secretary determines on a case-by-case basis whether an LEA meets the public supervision and direction requirement. Example 4 in the Appendix illustrates the situation in which an LEA pays tuition for all of its high school students to a private school, which provides those students their complete educational program. In that case, the LEA meets the requirement by maintaining final authority over the significant decisions affecting the educational program for the children claimed. The Secretary encourages LEAs to comment on this requirement so that the Secretary may have more complete information on the variety of circumstances in which children of an LEA attend a private institution.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a

substantial number of small entities. The small entities affected by the regulations are small LEAs. The regulations propose general standards based on requirements in Pub. L. 92-313. The Department estimates that fewer than 30 LEAs (less than 3 percent of the program participants) may be required to provide additional documentation of compliance. Although, under the regulations, a number of LEAs may receive less Indian education formula grant funds than they received in past years and others may receive more, that change will serve the statutory purpose and these regulations will not have a significant economic impact on a substantial number of small LEAs.

Paperwork Reduction Act of 1980

These proposed regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide 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 these proposed regulations. The Secretary is particularly interested in receiving information regarding specific factual situations that may be affected by these proposed regulations. Written comments and recommendations may be sent to the Department of Education address given at the beginning of this document.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 2177, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the requirements of Executive Order 12291 for reducing regulatory burden, the public is invited to comment on whether there may be further opportunities to reduce any regulatory burden found in these proposed regulations.

List of Subjects in 34 CFR Part 251

Education, Elementary and secondary education, Grant programs—education, Grant programs—Indians, Indians—education, Reports and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.060, Formula Grants—Local Educational Agencies and Tribal Schools)

Dated: April 17, 1987.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Parts 250 and 251 of Title 34 of the Code of Federal Regulations as follows:

PART 250—INDIAN EDUCATION ACT—GENERAL PROVISIONS

1. The authority citation for Part 250 is revised to read as follows:

Authority: 20 U.S.C. 241aa-241ff, 1211a, 1211h, 3385a, unless otherwise noted.

2. Section 250.4(b) is amended by revising the introductory text of the definition of "Free public education" to read as follows:

§ 250.4 What definitions apply to these programs?

* * * * *

(b) * * *

"Free public education," except as defined in 34 CFR 251.32, means education that is—* * *

* * * * *

PART 251—FORMULA GRANTS—LOCAL EDUCATIONAL AGENCIES AND TRIBAL SCHOOLS

3. The authority citation for Part 251 is revised to read as follows:

Authority: 20 U.S.C. 241aa-241ff, unless otherwise noted.

4. Sections 251.31 and 251.32 are added to subpart D to read as follows:

§ 251.31 Payments to local educational agencies.

The Secretary makes payments to an applicant local educational agency (LEA) for children claimed under section 303(a), Part A, of the Indian Education Act, only if—

(a) The LEA is responsible under applicable State or Federal law for providing a free public education (as provided in § 251.32) to those children;

(b) The LEA is providing a free public education to those children; and

(c) The State provides funds for the education of those children on the same basis as all other public school children in the State.

(Authority: 20 U.S.C. 241aa-241ff)

§ 251.32 Free public education.

(a) As used in § 251.30 and § 251.31, a free public education means education that is provided—

(1) At public expense;

(2) As the complete elementary and secondary educational program;

(3) In a school of the LEA or under a tuition arrangement with another LEA or other educational entity; and

(4) Under public supervision and direction.

(b) For the purpose of paragraph (a)(1) of this section, education is provided at public expense if—

(1) There is no tuition charge to the child or the child's parents; and

(2) Federal funds, other than Pub. L. 81-874 funds (Impact Aid) and Pub. L. 93-638 contract funds (Indian Self-Determination and Education Assistance Act), do not provide a substantial portion of the basic education program.

(c) For the purpose of paragraph (a)(2) of this section, the complete elementary or secondary educational program is the program recognized by the State as meeting all requirements for elementary or secondary education for the children claimed. It is not a program that provides only—

(1) Supplementary services or instruction; or

(2) A portion of the required educational program.

(d) For the purpose of paragraph (a)(3) of this section, a tuition arrangement must—

(1) Satisfy all applicable legal requirements in the State; and

(2) Genuinely reflect the applicant LEA's responsibility to provide a free public education to the children claimed under section 303(a), Part A, of the Indian Education Act.

(e) For the purpose of paragraph (a)(4) of this section, education provided under public supervision and direction means education that is provided—

(1) In a school of the applicant LEA or another LEA; or

(2) By another educational entity, over which the applicant LEA, or other public agency, exercises authority with respect to the significant aspects of the educational program for the children claimed. The Secretary considers significant aspects of the educational program to include administrative decisions relating to teachers, instruction, and curriculum.

(Authority: 20 U.S.C. 241aa-241ff)

Appendix—Examples Illustrating Application of Regulations in Certain Situations

Note.—This appendix will not be codified in the Code of Federal Regulations.

Example No. 1. Each LEA in a State is held responsible under State law for providing a free public education to all students who reside within its boundaries. This LEA meets its legal responsibility of providing free public education to its resident students by operating schools for grades kindergarten through 12. While all the students residing within this LEA are entitled to attend its schools to receive free public education, they are not required to do so.

Also located in or near this LEA are several schools which are operated by the Bureau of Indian Affairs (BIA) of the Department of the Interior (BIA-operated schools). A large number of Indian students residing on Indian lands in the LEA are eligible and choose to attend the BIA-operated schools where they receive the full program of instruction at the elementary or secondary level required by the State.

The LEA claims to have cooperative school agreements with the BIA-operated schools. These agreements include various arrangements through which the LEA obtains federal funds on behalf of and provides supplementary services or funds from those sources for students enrolled in the BIA-operated schools. The LEA does not provide basic educational services for these children, although the cooperative agreements may include locally financed arrangements for transportation or other supplementary services.

Under one arrangement, the LEA agrees to send to each of the BIA-operated schools the full amount of the Indian education formula grant payments that it anticipates receiving on behalf of students attending each school, less ten percent. Under another arrangement, the LEA provides the services of a tutor whose salary is paid by the LEA with formula grant funds. The tutor works two days a week in the BIA-operated schools and the remaining time in two schools of the LEA.

Under these regulations, the LEA may not claim for formula grant payments the children attending the BIA-operated schools because the BIA has in effect released the LEA from its practical and financial responsibility to educate the children who choose to attend the BIA-operated schools. The fact that the LEA claims to have a tuition agreement or other cooperative agreement with the BIA-operaed schools makes no difference. Once the children enroll in a BIA-operated school, the LEA is, in effect, no longer responsible to provide a free public education to those children. For example, any "tuition" payments it makes to the BIA-operated schools are gratuitous.

Another reason the LEA may not claim the children is that, under § 251.31(b), the LEA is not, in fact, providing those children a free public education. One of the four tests of a free public education in § 251.32 is whether the education is provided at public expense. Because Federal BIA funds provide the full cost of the basic educational program for those children, the education is not provided at public expense as required by § 251.32(b).

Example No. 2. In one community there are two educational entities that serve the school-aged children in the area. One of the entities is an LEA and the other is a BIA-operated school. While the LEA and the BIA operate separate elementary schools, they have decided that it is in their mutual interest to operate, through a joint board, a single high school program for all the children in the community. The members on the joint board who represent the LEA exercise authority with respect to all matters of significance concerning the operation of the high school.

The high school consists of two buildings. One is owned by the LEA and the other is owned by the BIA. The two buildings are used as one facility with all students moving freely from one to the other for their classes. The high school program is provided free of charge to all of the students who attend and is fully accredited and recognized by the State. The LEA and the BIA pool the resources available for the students each is responsible for educating. The LEA contributes funds it raises from local property taxes, and the BIA contributes funds it otherwise would use to operate the school.

Under either § 251.31(a) or (b) of the regulations, the LEA may not, for purposes of section 303(a), claim those high school students for whom the BIA is responsible. This is because the LEA is not practically responsible for providing and is not in fact providing those students a free public education as required by § 251.31. Also, because the education of those students is not provided at public expense as required by § 251.32(b), the LEA is not in fact providing them a free public education as required by § 251.31.

The LEA may, on the other hand, claim the Indian high school students whose education is not funded by the BIA. Even though the joint operation of the high school is somewhat unusual, the LEA is responsible under State law for providing, and is in fact providing, free public education for some of the students. The program for those students is funded by the LEA's local tax revenues and State aid contributions, and therefore the education is provided at public expense in accordance with § 251.32(b). The education consists of the complete secondary educational program recognized by the State, in accordance with § 251.32(c). Finally, because the LEA's representatives on the joint school board exercise authority in all significant decisions regarding the operation of the high school, the education is provided under public supervision and direction in accordance with § 251.32(e).

Example No. 3. A State requires each of its LEAs to provide free public education to all students residing within its boundaries. In this State, these LEAs are referred to as "school districts of residence." A district of residence provides its students the complete educational program required by the State.

A county in this State, containing four districts of residence, is considered an LEA by the State and also meets the Federal requirements for being an LEA because it provides the full required educational program for some children. This county also offers a supplementary program of advanced vocational training that is open to the secondary students of the four districts of residence located within the county. Typically, the secondary students from the districts of residence who attend the county's advanced vocational education program do so for one or two class periods a day. While the advanced vocational classes may be counted as part of a student's secondary program, a student could not meet the State's requirements for high school graduation by attending these classes alone.

Some of the students in one of the districts of residence are Indian students who also participate in the county's supplementary vocational program. The district of residence may, for purposes of section 303(a), claim those students because it is both responsible for providing, and in fact is providing, the complete educational program required by the State. The county, on the other hand, may not claim those students. This is because the county, which provides only a supplementary portion of the students' education, does not provide the complete secondary educational program for those students in accordance with § 251.32(c). Therefore, the county is not providing

their free public education as required by § 251.31.

Example No. 4. An LEA located in a sparsely populated, rural area operates a full program of elementary education, as recognized by its State, for the students residing within its boundaries. For various reasons, the LEA does not have any facilities in which to offer a program for its students at the secondary level.

The LEA provides the recognized secondary education program to its students by entering into a tuition arrangement with a local private school that meets applicable State requirements. The tuition covers the full cost of educating all its students. The program is governed by a joint school board made up of equal numbers of representatives of the LEA and the private school. A representative of the LEA serves as the director of the board. The joint board operates the secondary program by selecting and employing all school personnel, designing the curriculum, and supervising classroom instruction. In the event of a stalemate with regard to any significant decision affecting the education program, the board director is authorized to resolve the issue.

Under these regulations, the LEA may claim, for purposes of section 303(a), the students who are attending the private school for their secondary program. The LEA is both responsible for providing, and in fact is providing, their free public education under § 251.31. The education is provided at public expense (§ 251.32(b)) and is the complete secondary program recognized by the State (§ 251.32(c)). The education is being provided under a tuition arrangement that meets applicable State requirements and that genuinely reflects the LEA's responsibility to provide a free public education to the children claimed under section 303(a), in accordance with § 251.32(d). Finally, because the LEA exercises authority with respect to the significant aspects of the educational program, the education is provided under public supervision and direction as required by § 251.32(e).

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LIST OF PUBLIC LAWS

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

S.J. Res. 57/Pub. L. 100-31

To designate the period commencing on May 3, 1987, and ending on May 10, 1987, as "National Older Americans Abuse Prevention Week." (May 5, 1987; 101 Stat. 296; 1 page) Price: $1.00

S.J. Res. 67/Pub. L. 100-32

To designate the month of May 1987 as "National Digestive Diseases Awareness Month." (May 5, 1987; 101 Stat. 297; 2 pages) Price: $1.00