AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

8-4-87
Vol. 52 No. 149
Pages 28815–28958

federal register

Tuesday
August 4, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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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: September 29, at 9 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Janice Booker, 202–523–5239

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Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 572

Travel and Transportation Expenses; New Appointees

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing regulations setting forth the basic criteria and procedures used to determine whether a shortage of qualified candidates exists for particular positions. The shortage determination is required before Federal agencies may pay the travel and moving costs which new appointees incur when reporting to their first official duty stations. These regulations delegate to agencies the authority to make new shortage determinations in accordance with these criteria, and terminate existing shortage determinations that do not meet the criteria.

EFFECTIVE DATE: September 3, 1987.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 632–6817.

SUPPLEMENTARY INFORMATION: Section 5723 of title 5, United States Code, provides that OPM may find that a shortage of eligibles exists for particular positions and, based on that finding, may authorize agencies to pay travel and transportation expenses to the first post of duty for appointees to those positions. OPM has used its authority under 5 U.S.C. 5723 both to authorize payment of travel and transportation expenses for appointees to individual vacancies, and to authorize agencies to pay such expenses without obtaining approval in individual cases when the agencies had experienced difficulty in recruiting qualified candidates for many vacancies in a particular occupation(s), grade(s), and location(s) and those conditions were likely to continue for the foreseeable future. OPM also entered into delegation agreements with various agencies authorizing those agencies to make shortage determinations for high grade positions and positions in occupations where the agencies were the sole or predominant employers.

Proposed regulations delegating to agencies authority to make shortage determinations for any vacancies were published for comment on March 11, 1987 (52 FR 7427). Under those regulations, agencies were permitted to pay travel and transportation expenses for all new appointees to (1) positions for which special salary rates were established pursuant to 5 U.S.C. 5303; (2) positions filled by members of the National Defense Executive Reserve Program called to active duty in the event of a national emergency; and (3) positions for which direct-hire authorities were in effect. Individual shortage determinations were not to be required for those positions because the criteria used in approving special pay rates and direct-hire authorities were as strict or stricter than those prescribed for approving payment of travel and transportation expenses. For positions not covered by the three general authorizations, agencies were to determine whether a shortage of qualified candidates existed using the criteria set out in the regulations. Both the authority to determine whether a shortage exists for particular positions and the authority to pay travel and transportation expenses for particular appointees were discretionary.

Analysis of Comments

Written comments on the proposed regulations were received from 10 Federal agencies, which generally supported the proposal, from one individual employee, and from two employee organizations. Several agencies suggested editorial changes, which have been incorporated in the final regulations.

Two agencies suggested expanding the list of general authorizations to include all scientific and engineering positions and positions filled by outstanding scholars. Adoption of either proposal would exceed OPM's authority under 5 U.S.C. 5723. The law permits payment of new appointees' travel and transportation expenses only when there is a shortage of well qualified candidates for the positions being filled. Such a shortage may not exist for all positions in the two suggested categories.

Many scientific and engineering occupations are characterized by severe and chronic shortages and are covered by special pay rates and/or direct-hire authorities. We expect that condition to continue. The regulations permit payment of moving expenses for appointees in those occupations. Availability of candidates in the remaining scientific occupations varies considerably among agencies and positions. For example, the biological sciences—which would be covered by any definition of scientific positions—include occupational series in which shortages have been found only for specific job titles and agencies.

The law requires that payment of moving expenses for new appointees be justified by a shortage of candidates for particular *positions*. The law does not authorize OPM to provide such payment for certain *candidates*. While the availability of marginally qualified candidates need not preclude a finding that a shortage exists, the law would not permit payment based on a shortage of outstanding scholars when other well qualified candidates were available.

Two agencies suggested that the shortage determinations currently published in the Federal Personnel Manual remain in effect for a specified period after the new regulations become effective. This would allow agencies that are still experiencing shortages of candidates for any of those positions to continue paying appointees' travel expenses while processing new determinations under their delegated authority. One of the agencies suggested 120 days as an appropriate transition period; the other suggested 18 months. We have adopted the proposed 120-day transition period. Agencies may, at their discretion, continue to use the shortage listings in the Federal Personnel Manual for 120 days following the effective date of these regulations. All written commitments to pay travel and transportation expenses for appointees to such positions may be honored as long as the commitments are dated before the expiration of this 120-day grace period, even though the

appointees do not report for duty until a later date.

One agency suggested that shortage determinations made by agencies should remain in effect indefinitely. We did not adopt this suggestion because the requirement for review and redetermination is necessary to ensure that payments continue to be limited to shortage occupations, as required by law. We did, however, increase the maximum duration of agencies' shortage determinations to 3 years. Labor market conditions for any positions are not likely to change substantially in a 3-year period.

Two agencies and one employee suggested that agencies need authority to pay additional expenses associated with relocation, particularly those associated with real estate costs, house hunting trips, and temporary housing. They note that such expenses are often paid by private employers. This suggestion is outside OPM's jurisdiction. Under the law, OPM is responsible only for determining whether a shortage of candidates exists for particular positions. The General Services Administration (GSA) has legal responsibility for determining what expenses agencies may pay. Copies of these comments were forwarded to GSA for information and appropriate consideration.

The employee organizations expressed concerns about potential misuse of management discretion. One organization, concerned about possible disparate or discriminatory treatment of individual appointees, recommended that payment of travel and transportation expenses be mandatory whenever an agency determines that a shortage of qualified candidates exists for a particular type of position. The other organization, concerned that agencies would waste money paying expenses to bring new appointees into an organization which already had employees who could do the work, recommended that payment be prohibited when an agency has three or more internal employees or applicants on a best qualified list for a particular position.

The disparity between these comments suggests the difficulty of establishing mandatory criteria that would be equally appropriate in all situations. Even in occupations where shortages are widespread (e.g., those for which special pay rates or direct-hire authorities have been approved on a nationwide basis), some agencies experience greater recruiting difficulty than others. The differences may reflect many factors: Public awareness of the agency's programs; established relationships between the agency and academic and professional organizations; and, as one commenter suggested, availability of qualified candidates within the agency's workforce. Positions that require frequent travel or unusual working hours or that are in remote locations may be more difficult to fill than are positions with comparable duties and responsibilities that offer more attractive working conditions. For this reason, we are not adopting the suggestion that payment of travel and transportation expenses be mandatory for positions for which current shortage determinations exist. We believe, however, that sufficient protections already exist against application of this authority in an arbitrary or discriminatory manner.

Payment of travel and transportation expenses for new appointees is subject to 5 U.S.C. 2301 and 2302, which require that all employees and applicants receive fair and equitable treatment, and forbid discrimination for or against any employee or applicant on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation. These principles are restated in the civil service rules (5 CFR 4.2). Because the merit principles and prohibited practices provisions apply to all actions regarding employment, pay, and benefits taken under OPM's regulations, it is unnecessary to restate them in individual regulations.

Agencies may establish whatever internal policies and guidance they find necessary to ensure compliance with merit principles and with the criteria set forth in these regulations. In addition, we have added to the final regulations a provision that each agency will make the reasons for its shortage determination(s) regarding particular positions a matter of record and will furnish information about those reasons to an employee or applicant on request. The record may be in any form (e.g., internal policy manual, memos to agency offices, approved staff recommendations for specific determinations) so this requirement should not create additional paperwork for agencies. We believe that this provision, along with the basic statutory protections, will satisfy the fair treatment concerns expressed by employee organization commenters.

In response to an employee organization's concern that money might be wasted recruiting new appointees who are not better qualified to perform particular jobs than employees already at the agency, we have strengthened the language requiring agencies to consider internal staffing efforts when deciding whether a shortage exists. We have also added availability of well-qualified internal candidates as an example of a situation that may justify an agency's decision not to pay moving costs for a particular position. We are not, however, adopting the suggestion that payments for new appointees be prohibited when at least three candidates are available internally. Quality as well as quantity of candidates may be a factor in determining whether a shortage exists. Many agencies' merit promotion plans provide for referral of the best qualified employees available for a particular position, even when all of the available employees are rated minimally or marginally qualified. Restricting agencies' ability to recruit outside candidates in that situation would not ensure the best return for salary expenses.

We believe that budget and cost controls offer the most effective deterrent to excessive travel payments. No funds are appropriated specifically for the purpose of paying new appointees' travel and transportation expenses; money used for that purpose reduces the funds available to meet other travel or salary needs. Although OPM has authorized payment of moving expenses for appointees to many positions (listed in chapter 571 of the Federal Personnel Manual), agencies have made prudent use of those authorizations. We expect that condition to continue.

Except for the changes discussed above, the final regulations are the same as the proposed regulations published on March 11, 1987. When these regulations become effective, the general delegation of authority to agencies will supersede all delegation agreements covering shortage determinations under 5 U.S.C 5723.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation applies only to Federal agencies and employees.

List of Subects in 5 CFR Part 572

Administrative practice and procedure, Government employees.

U.S. Office of Personnel Management.
Constance Horner,
Director.

Accordingly, OPM is amending 5 CFR Part 572 as follows:

PART 572—TRAVEL AND TRANSPORTATION EXPENSES; NEW APPOINTEES

1. The authority citation for Part 572 is added as set forth below, and the authority citation following any sections in Part 572 is removed:

Authority: 5 U.S.C. 5723.

2. Subpart A is redesignated as Subpart B with the heading revised to read as follows:

Subpart B—Shortage Determinations for Positions Above Grade GS–15 (or Equivalent)

§§ 572.101 and 572.201 [Redesignated as §§ 572.201 and 572.202]

3. Sections 572.101 and 572.201 are redesignated as §§ 572.201 and 572.202, respectively.

4. A new Subpart A is added to Part 572 to read as follows:

Subpart A—General Provisions

Sec.
572.101 Agency authority.
572.102 Agencies' discretion in paying travel and transportation expenses.

Subpart A—General Provisions

§ 572.101 Agency authority.

Subject to the provisions of Subparts B and C of this part, an agency may determine that a shortage of qualified candidates exists for particular positions and that payment of appointees' travel and transportation expenses to the first post of duty is appropriate as a recruiting incentive. An agency may exercise this authority only in accordance with the requirements set out in this part and with standards of performance established by the Office of Personnel Management.

§ 572.102 Agencies' discretion in paying travel and transportation expenses.

Payment of travel and transportation expenses for any individual appointee will be at the discretion of the employing agency. A determination by one agency that a shortage of eligibles exists for a particular title, series, grade and geographical location does not require a like determination by any other agency. A determination made in connection with one specific vacancy does not require a like determination in connection with future vacancies. In deciding whether to pay travel and transportation expenses for an individual appointee, an agency may consider such factors as availability of funds and availability of well-qualified internal candidates, as well as the shortage criteria set out in this part.

5. A new Subpart C is added to Part 572 to read as follows:

Subpart C—Shortage Determinations for Positions at Grades GS–15 and Below (or Equivalents)

§ 572.301 Determination of shortage for positions at grades GS–15 and below (or equivalents).

(a) *Continuing determinations.* The Office of Personnel Management has determined that a shortage of qualified candidates exists for the positions listed below. Agencies may pay travel and transportation expenses to first post of duty for appointees to these positions without making a specific shortage determination, assuming other legal requirements are met.

(1) Positions for which special pay rates established pursuant to 5 U.S.C. 5303 are in effect;

(2) Positions filled by members of the National Defense Executive Reserve program who are called to duty in the event of a national emergency; and

(3) Positions filled under direct-hire authority, when that authority covers all positions in a specific series, grade, and geographic location. Payment of travel and transportation expenses is not authorized under this paragraph when direct-hire authority is granted only for certain candidates for the positions (e.g., candidates attaining a predetermined cutoff score; outstanding scholars).

(b) *Other determinations.* An agency may pay appointees' travel and transportation expenses for positions other than those listed above only when the agency determines that there is a shortage of well qualified candidates for the positions. The criteria in paragraphs (b)(1) and (2) of this section will be used in determining whether a shortage exists for a particular position and whether the shortage will also exist for future vacancies in the same series, grade, and location. Each agency will make the reasons for its shortage determination(s) regarding particular positions a matter of record and will furnish information about those reasons to an employee or applicant on request.

(1) *Reasonable recruitment effort.* Appropriate recruiting efforts for positions in the competitive service will include requests for referral of eligibles from the appropriate competitive examination, contact with the State Employment Service office or offices serving the locality concerned, and, where appropriate, contact with academic institutions, technical and professional organizations, or other organizations likely to produce qualified candidates for the positions. Recruiting for positions in the excepted service will be in accordance with the agency's objectives and staffing procedures, but must include contacts with academic institutions, or State Employment Service offices, or other organizations appropriate for the particular positions. The possibility of relieving a shortage for a certain type of position through broader publicity and recruitment will be considered in determining whether a shortage of qualified candidates exists.

(2) *Internal efforts.* When determining whether a shortage of qualified candidates exists for any position, an agency will consider the number and quality of candidates available within its current workforce. Consideration will also be given to efforts to relieve the shortage situation through such techniques as job engineering, training programs for under utilized employees, or automation.

(3) *Duration of the shortage.* Shortage determinations will be effective for a period not to exceed 3 years and may be renewed by the agency only upon a showing that the criteria of this paragraph are still met. Unless there is evidence that the shortage of qualified candidates for particular positions is continuing, the shortage determination will terminate when the current vacancy or vacancies in the positions are filled. The length of time active recruiting has been conducted for the position(s), the current and projected vacancy rate, and the number of declinations will be considered in determining whether the shortage of qualified candidates for particular positions is continuing.

[FR Doc. 87–17615 Filed 8–3–87; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–NM–26–AD; Amdt. 39–5698]

Airworthiness Directives; Short Brothers PLC Model SD3–60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Short Brothers Model SD3–60 series airplanes, which requires installation of an aluminum cover to protect the flight data recorder

(FDR). This amendment is prompted by reports of corrosion of circuit cards in the electronic section of the recorder, which has resulted in the inability to obtain data from the FDR. This AD is needed to prevent the loss of information that, in the event of an accident, may be used to determine the cause and, thereby, prevent future accidents.

EFFECTIVE DATE: September 10, 1987.

ADDRESSES: The applicable service information may be obtained from Shorts Aircraft, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3702. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires the installation of an aluminum cover to protect the flight data recorder (FDR) on Short Brothers PLC Model SD3-60 series airplanes was published in the **Federal Register** on April 22, 1987 (52 FR 13251).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

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

It is estimated that 43 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $3,440.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($80). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Short Brothers PLC: Applies to Model SD3-60, serial numbers SH3601 through SH3679, certificated in any category. Compliance required within 90 days after the effective date of this AD, unless previously accomplished.

To prevent the potential for the loss of recorded information from the flight data recorder, due to corrosion, accomplish the following:

A. Install a flight data recorder cover in accordance with the Shorts Service Bulletin No. SD360-31-04, Revision No. 2, dated October 1986.

B. Inspect the installed flight data recorder for corrosion of the circuit cards and correct as required in accordance with the appropriate recorder maintenance manual.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Shorts Aircraft, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3702. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 10, 1987.

Issued in Seattle, Washington, on July 28, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-17588 Filed 8-3-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-AWP-23]

Amendment to Various Transition Areas; California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: In 1985, airspace action eliminated alternate airway designations in California. Various transition area descriptions in California still refer to alternate airways. This action removes any reference to alternate airways and substitutes correct airway designations.

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1648.

The Rule

These amendments to Part 71 of the Federal Aviation Regulations amend the description of various transition areas in California. This action will remove any reference to alternate airways and substitute correct airway designations. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor amendments in which the public would not be particularly interested. Section 71.171 of Part 71 of the Federal Aviation Regulations was published 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 will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Fort Jones, CA [Amended]

By removing "V-23W" and substituting "V-287."

Klamath, CA [Amended]

By removing "V-23W" and substituting "V-495."

Priest, CA [Amended]

By removing "V-25E" and substituting "V-248."

San Francisco, CA [Amended]

By removing "V-27W" and substituting "V-494."

Sunol, CA [Amended]

By removing "V-244S" and substituting "V-195."

Ukiah, CA [Amended]

By removing the words "and that airspace extending upward from 5,300 feet MSL bounded on the east by the southwest edge of V-27 and on the west by the east/southeast edge of V-27W" and substituting "and that airspace extending upward from 5,300 feet MSL bounded on the east by the southwest edge of V-27 and on the west by the west/southwest edge of V-494."

Issued in Los Angeles, California, on July 24, 1987.

James A. Holweger,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 87-17590 Filed 8-3-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-AWP-24]

Amendment to Tustin MCAS H, California, and Santa Ana Orange County Airport, CA; Control Zones

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On June 1, 1985, the United States Marine Corps eliminated the helicopter (H) designation from all Marine Corps air stations. This action amends the description of the Tustin MCAS H, California, and Santa Ana Orange County Airport, California, control zones to reflect this change.

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1648.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the Tustin MCAS H, California, and the Santa Ana Orange County Airport, California, control zones. This action eliminates the helicopter (H) designation after Tustin MCAS. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor amendment in which the public would not be particularly interested. Section 71.181 of Part 71 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 will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71), as amended (52 FR 6136), is amended as follows:

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Santa Ana Orange County Airport, CA [Amended]

Remove the words "Tustin MCAS H, California, Control Zone" and substitute "Tustin MCAS, California, Control Zone."

Tustin MCAS H, CA [Amended]

Remove the letter "H" after the words "Tustin MCAS" in the title and text.

Issued in Los Angeles, California, on July 24, 1987.

James A. Holweger,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 87-17591 Filed 8-3-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-AWP-19]

Revision to Winnemucca Transition Area; Nevada

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Winnemucca, Nevada, transition area and changes the airport reference point (ARP) and the coordinates of the Winnemucca non-directional radio beacon (NDB).

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (213) 297-1648.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises the Winnemucca, Nevada, transition area to include the correct coordinates for the ARP and the NDB. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor amendment in which the public would not be particularly interested. Section 71.181 of Part 71 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 will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71), as amended (52 FR 6136), is amended as follows:

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Winnemucca, NV [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Winnemucca Municipal Airport (lat. 40°53'46" N., long. 117°48'16" W.) and within 9 miles west and 5 miles east of the Winnemucca NDB (lat. 40°57'48" N., long. 117°50'26" W.) 342° and 162° bearings, extending from 5 miles south to 10 miles north of the NDB; that airspace extending upward from 1,200 feet above the surface within 5 miles northeast and 11 miles southwest of the 342° and 162° bearings extending from the southeast edge of V–113 to 11 miles southeast of the NDB; within 5 miles each side of the 162° bearing extending from 11 miles southeast of the NDB to the north edge of V–32; within 5 miles each side of the Battle Mountain VORTAC 296° radial extending from 12 miles to 50 miles northwest of the Battle Mountain VORTAC.

Issued in Los Angeles, California, on July 24, 1987.

James A. Holweger,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 87–17589 Filed 8–3–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 25331; Amdt. No. 1353]

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.

DATES: *Effective:* 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–200), 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) 267–8277.

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 Regulations (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 IERPS 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 July 24, 1987.

Robert L. Goodrich,

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)).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

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 September 24, 1987*

Arcata-Eureka, CA—Arcata, ILS RWY 32, Amdt. 27
Chico, CA—Chico Muni, VOR/DME RWY 13L, Amdt. 4
Chico, CA—Chico Muni, VOR RWY 31R, Amdt. 6
Chico, CA—Chico Muni, NDB RWY 13L, Amdt. 3
Chico, CA—Chico Muni, ILS RWY 13L, Amdt. 5
Concord, CA—Buchanan Field, LDA RWY 19R, Amdt. 6
Concord, CA—Buchanan Field, NDB RWY 19R, Orig.
Orland, CA—Haigh Field, VOR-A, Amdt. 2
New Smyrna Beach, FL—New Smyrna Beach Muni, RADAR-1, Amdt. 3
Dodge City, KS—Dodge City Muni, VOR RWY 14, Amdt. 15
Dodge City, KS—Dodge City Muni, VOR/DME RWY 32, Amdt. 3
Fort Scott, KS—Fort Scott Muni, NDB RWY 17, Amdt. 8
Wellington, KS—Wellington Muni, NDB RWY 17, Amdt. 3
Flemingsburg, KY—Fleming-Mason, NDB RWY 25, Amdt. 4
Escanaba, MI—Delta County, ILS/DME RWY 9, Amdt. 3
Austin, MN—Austin Muni, VOR/DME-A, Orig.
Dodge Center, MN—Dodge Center, VOR-A, Amdt. 1
Latrobe, PA—Westmoreland County, RNAV RWY 5, Orig.
Pelion, SC—Corporate, VOR-A, Amdt. 1
Rock Hill, SC—Rock Hill Municipal-Bryant Field, VOR-A, Amdt. 7
Rock Hill, SC—Rock Hill Municipal-Bryant Field, VOR/DME-B, Amdt. 2
Rock Hill, SC—Rock Hill Municipal-Bryant Field, RNAV RWY 1, Amdt. 3
Rice Lake, WI—Rice Lake Muni, NDB RWY 36, Amdt. 5

** * * Effective August 27, 1987*

Milledgeville, GA—Baldwin County, NDB RWY 27, Amdt. 6
Chicago, IL—Chicago-O'Hare Intl, RADAR-1, Amdt. 38, CANCELLED
Williamsport, PA—Williamsport-Lycoming Co., NDB-A, Amdt. 4, CANCELLED

** * * Effective July 16, 1987*

Rome, GA—Richard B Russell, VOR/DME RWY 1, Amdt. 6
Rome, GA—Richard B Russell, VOR/DME RWY 19, Amdt. 5
Rome, GA—Richard B Russell, VOR/DME RWY 1, Amdt. 1
Rome, GA—Richard B Russell, NDB-A, Amdt. 4

The FAA published an Amendment in Docket No. 25327, Amdt. No. 1352 to Part 97 of the Federal Aviation Regulations (VOL 52 FR No. 137 Page 26950; dated Friday July 17, 1987) under § 97.27 effective August 27, 1987, which is hereby amended as follows:

Plymouth, MA—Plymouth Muni, NDB RWY 6, Amdt. 8 CANCELLED

Should Read:

Plymouth, MA—Plymouth Muni, NDB RWY 6, Amdt. 8, PROPOSED CANCELLED EFF 24 SEP 87

[FR Doc. 87-17587 Filed 8-3-87; 8:45 am]

BILLING CODE 4910-13-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket RM 83-5A]

Registration of Claims to Copyright Full Term Retention of Copyright Deposits

AGENCY: Copyright Office, Library of Congress.

ACTION: Final regulation.

SUMMARY: This notice is published to inform the public that the Copyright Office of the Library of Congress is adopting interim regulation 37 CFR 202.23 as a final regulation with minor housekeeping changes. The purpose of the regulation is to implement section 704(e) of the Copyright Act. Section 704(e) directs the Register of Copyrights to issue regulations prescribing the conditions under which requests for full term retention of copyright deposits are to be made and granted including the fees for this service.

The effect of this regulation is to provide a mechanism for requesting retention of copyright deposits, to establish the conditions under which such requests are granted or denied, and to fix the fee to be charged pursuant to section 708(a)(ii), if the request is granted.

EFFECTIVE DATE: August 4, 1987.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559; (202) 287-8380.

SUPPLEMENTARY INFORMATION: Section 704(e) of the Copyright Act of 1976, title 17 of the United States Code, directs the Register of Copyrights to issue regulations prescribing the conditions under which requests for full term

retention of copyright deposits may be made and granted. Effective July 19, 1983 the Copyright Office adopted interim regulations (48 FR 32775) governing the making and granting of requests for full term retention of deposits. The regulations were put into effect on an interim basis because they conferred a benefit on the public and were primarily procedural in nature. The Copyright Office invited comment, however, before issuing the regulations in final form.

None of the nine comment letters received in response to the interim full term retention regulation suggested any changes in the substance of the regulation. Only one letter questioned the amount of the fee. The remaining letters were primarily concerned with the effect of the announced policy decision of the Register of Copyrights and the Librarian of Congress that it is no longer practicable to retain deposit copies of published works for more than five years from the date of deposit, except works of the visual arts which will be retained for ten or more years, if practicable. (48 FR 12862).

The comment letters indicate that there may be some misunderstanding of the effect of the announcement regarding the shortened retention period for copies and the full term retention regulation. First, neither of these has any effect on copyright protection or the length of protection for published works; secondly, the question of the retention of deposit copies applies only to those copies in the custody of the Copyright Office. The Library of Congress is permitted by the Copyright Act to select copies from the copyright deposits to add to its collections. The policy decision to retain copyright deposits for a limited period of time does not apply to copies selected by the Library for its collections. Those copies will continue to be available in the Library. However, such copies are not considered to be in the custody of the Copyright Office and the Copyright Office cannot certify them as the copies used to make the copyright registration. In those cases, certification must be requested from the Library of Congress through the Library's Office of the General Counsel.

The sole purpose of the full term retention of deposit copies regulation is to offer copyright owners the opportunity to assure that the deposit copies of their published works will be retained in the custody of the Copyright Office for the full term of copyright. The Copyright Act itself obligates the Office to retain the deposit copies of unpublished works or their facsimile for the entire term of copyright.

Section 704(e) specifies that deposit material retained for full term storage in response to a request will be kept "under the control of the Copyright Office." Accordingly, deposit material retained under the final regulation pursuant to section 704(e) will be kept within the confines of Copyright Office buildings or under the control of Copyright Office employees, and will not be transferred to the Library of Congress collections. The Copyright Office will exercise normal due care in processing and maintaining copyright deposits in full term retention status, but the Office will not apply special preservation techniques. Moreover, full term deposits are open to public inspection pursuant to 17 U.S.C. 705(b).

The only change in the final regulation appears in paragraph (b)(2) which specifies that requests for full term retention be addressed to the Chief, Information and Reference Division of the Copyright Office. The interim regulation directed that the requests be sent to the Chief, Records Management Division. The Records Management Division has been abolished since the interim regulation was published and its functions were reassigned to the Information and Reference Division.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, Chapter 5 of the U.S. Code, Subchapter 11 and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies and defined in the Administrative Procedure Act.[1] Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined that this final regulation will have no significant impact on small businesses.

[1] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title [17], "except with respect to the making of copies of copyright deposits). [17 U.S.C. 706(b)]. The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA–FOIA requirements.

List of Subjects in 37 CFR Part 202

Claims to copyright, Copyright registration requirements.

Final Regulation

In consideration of the foregoing, Part 202 of 37 CFR, Chapter II is amended as follows:

PART 202—[AMENDED]

1. The authority citation for Part 202 continues to read as follows:

Authority: Section 702, 90 Stat. 2541; 17 U.S.C. 702.

2. Section 202.23 is adopted as final and revised to read as follows:

§ 202.23 Full term retention of copyright deposits.

(a) General. (1) This section prescribes conditions under which a request for full term retention, under the control of the Copyright Office, of copyright deposits (copies, phonorecords, or identifying material) of published works may be made and granted or denied pursuant to section 704(e) of Title 17 of the United States Code. Only copies, phonorecords, or identifying material deposited in connection with registration of a claim to copyright under Title 17 of the United States Code are within the provisions of this section. Only the depositor or the copyright owner of record of the work identified by the copyright deposit, or a duly authorized agent of the depositor or copyright owner, may request full term retention. A fee for this service is fixed by this section pursuant to section 708(a)(11) of Title 17 of the United States Code.

(2) For purposes of this section, "under the control of the Copyright Office" shall mean within the confines of Copyright Office buildings and under the control of Copyright Office employees, including retention in a Federal records center, but does not include transfer to the Library of Congress collections.

(3) For purposes of this section, "full term retention" means retention for a period of 75 years from the date of publication of the work identified by the particular copyright deposit which is retained.

(4) For purposes of this section, "copyright deposit" or its plural means the copy, phonorecord, or identifying material submitted to the Copyright Office in connection with a published work that is subsequently registered and made part of the records of the Office.

(b) Form and content of request for full term retention—(1) *Forms.* The Copyright Office does not provide printed forms for the use of persons requesting full term retention of copyright deposits.

(2) Requests for full term retention must be made in writing addressed to the Chief, Information and Reference Division of the Copyright Office, and shall (i) be signed by or on behalf of the depositor or copyright owner of record, and (ii) clearly indicate that full term retention is desired.

(3) The request for full term retention must adequately identify the particular copyright deposit to be retained, preferably by including the title used in the registration application, the name of the depositor or copyright owner of record, the publication date, and, if registration was completed earlier, the registration number.

(c) *Conditions under which requests will be granted or denied.*—(1) *General.* A request that meets the requirements of subsection (b) will generally be granted if the copyright deposit for which full term retention is requested has been continuously in the custody of the Copyright Office and the Library of Congress has not, by the date of the request, selected the copyright deposit for its collections.

(2) *Time of request.* The request for full term retention of a particular copyright deposit may be made at the time of deposit or at any time thereafter; however, the request will be granted only if at least one copy, phonorecord, or set of identifying material is in the custody of the Copyright Office at the time of the request. Where the request is made concurrent with the initial deposit of the work for registration, the requestor must submit one copy or phonorecord more than the number specified in § 202.20 of 37 CFR for the particular work.

(3) *One deposit retained.* The Copyright Office will retain no more than one copy, phonorecord, or set of identifying material for a given registered work.

(4) *Denial of request for full term retention.* The Copyright Office reserves the right to deny the request for full term retention where:

(i) The excessive size, fragility, or weight of the deposit would, in the sole discretion of the Register of Copyrights, constitute an unreasonable storage burden. The request may nevertheless be granted if, within 60 calendar days of the original denial of the request, the requestor pays the reasonable administrative costs, as fixed in the particular case by the Register of Copyrights, of preparing acceptable identifying materials for retention in lieu of the actual copyright deposit;

(ii) The Library of Congress has selected for its collections the single copyright deposit, or both, if two copies or phonorecords were deposited; or

(iii) Retention would result in a health or safety hazard, in the sole judgment of the Register of Copyrights. The request may nevertheless be granted if, within 60 calendar days of the original denial of the request, the requestor pays the reasonable administrative costs, as fixed in the particular case by the Register of Copyrights of preparing acceptable identifying materials for retention in lieu of the actual copyright deposit.

(d) *Form of copyright deposit.* If full term retention is granted, the Copyright Office will retain under its control the particular copyright deposit used to make registration for the work. Any deposit made on after September 19, 1978 shall satisfy the requirements of 37 CFR 202.20 and 202.21.

(e) *Fee for full term retention.* (1) Pursuant to section 708(a)(11) of title 17 of the United States Code, the Register of Copyrights has fixed the fee for full term retention at $135.00 for each copyright deposit granted full term retention.

(2) A check or money order in the amount of $135.00 payable to the Register of Copyrights, must be received in the Copyright Office within 60 calendar days from the date of mailing of the Copyright Office's notification to the requestor that full term retention has been granted for a particular copyright deposit.

(3) The Copyright Office will issue a receipt acknowledging payment of the fee and identifying the copyright deposit for which full term retention has been granted.

(f) *Selection by Library of Congress.*—(1) *General.* All published copyright deposits are available for selection by the Library of Congress until the Copyright Office has formally granted a request for full term retention. Unless the requestor has deposited the additional copy or phonorecord specified by paragraph (c)(2) of this section, the Copyright Office will not process a request for full term retention submitted concurrent with a copyright registration application and deposit, until the Library of Congress has had a reasonable amount of time to make its selection determination.

(2) A request for full term retention made at the time of deposit of a published work does not affect the right of the Library to select one or both of the copyright deposits.

(3) If one copyright deposit is selected, the second deposit, if any, will be used for full term retention.

(4) If both copyright deposits are selected, or, in the case where the single deposit made is selected, full term retention will be granted only if the additional copy or phonorecord specified by paragraph (c)(2) was deposited.

(g) *Termination of full term storage.* Full term storage will cease 75 years after the date of publication of the work identified by the copyright deposit retained, and the copyright deposit will be disposed of in accordance with section 704, paragraphs (b) through (d), of title 17 of the United States Code.

Date: July 15, 1987.

Ralph Oman,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 87-17482 Filed 8-3-87; 8:45 am]

BILLING CODE 1410-07-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 409 and 442

[BERC-258-CN]

Medicare and Medicaid Programs; Benefit Period Determinations, Drug Regimen Reviews and Other Technical Changes

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction notice.

SUMMARY: **Federal Register** document 87-13449, beginning on page 22638 of the issue of Monday, June 15, 1987 specified conditions for the Medicare and Medicaid programs; Benefit Period Determinations, Drug Regimen Reviews and Other Technical Changes. This document corrects errors in the June 15 publication.

FOR FURTHER INFORMATION CONTACT: Betty Burrier (301) 594-9773.

Corrections

1. On Page 22645, in column 1, the bold faced heading halfway down the column, "PART 409–MEDICARE BENEFITS, LIMITATIONS, AND EXCLUSIONS" is changed to "PART 409–HOSPITAL INSURANCE BENEFITS".

2. On the same page, in column 2, line 7, subparagraph identifier "(F)" is changed to "(i)".

3. On the same page, in column 3, each reference to "42 CFR Part 405, Subpart G" is changed to "Part 405, Subpart G of this chapter", and the reference on line 4 to "42 CFR Part 431, Subpart E." is changed to "Part 431, Subpart E of this Chapter".

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Assistance Program; No. 13.714, Medical Assistance Program).

Dated: July 29, 1987.

James F. Trickett,

Deputy Assistant Secretary for Administrative and Management Services.

[FR Doc. 87–17650 Filed 8–3–87; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3450

[Circular No. 2600; AA—660–87–4121–02]

Management of Existing Leases; Amendment of Inaccurate Cross-Reference

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends 43 CFR Part 3450 regarding existing solid mineral leases to correct an inaccurate cross-reference.

ADDRESS: Any inquiries or suggestions should be sent to: Director (660), Bureau of Land Management, Room 3411 Main Interior Building, 1800 C Street, NW., Washington, DC 20240.

EFFECTIVE DATE: August 4, 1987.

FOR FURTHER INFORMATION CONTACT: Allen B. Agnew (202) 343–7722.

SUPPLEMENTARY INFORMATION: On March 4, 1985 (50 FR 8627), in a Bureau of Land Management (BLM) final rulemaking, the Department of the Interior amended 43 CFR Parts 3400, 3410, 3420, 3430, 3450, 3460, and 3470, including 43 CFR 3451.2(e), by removing all references in those parts to 30 CFR Part 211 and replacing them with references to 43 CFR Part 3480, to conform with an earlier redesignation of Minerals Management Service regulations as regulations of BLM. This rulemaking, however, contained an erroneous cross-reference in § 3451.2(e). The rulemaking of March 4, 1985, should have specifically amended 43 CFR 3451.2(e) by replacing "30 CFR Part 211" with "30 CFR 218.200" instead of "Part 3480 of this title."

The Department of the Interior has determined that because this rulemaking is a nonsubstantive, administrative action, merely correcting across-reference, it is not a major rule for purposes of E.O. 12291, and neither an environmental impact analysis nor a regulatory flexibility analysis is required. Furthermore, for the same reason, notice and public comment are unnecessary, and there is no requirement that the regulation be made effective 30 days after publication.

The principal author of this proposed rulemaking is Allen B. Agnew of the Division of Solid Mineral Operations, Bureau of Land Management, assisted by the staff of the Division of Legislation and Regulatory Management.

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.

List of Subjects in 43 CFR Part 3450

Coal, Government contracts, Intergovernmental relations, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements.

Under the authority of section 2478 of the Revised Statutes (43 U.S.C. 1201), Subpart 3451, Part 3450, Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

J. Steven Griles,

Assistant Secretary of the Interior.

July 27, 1987.

PART 3450—[AMENDED]

1. The authority citation for Part 3450 continues to read as follows:

Authority: 30 U.S.C. 181 *et seq.;* 30 U.S.C. 351–359; 30 U.S.C. 52l–531; 30 U.S.C. 1201 *et seq.;* 42 U.S.C. 7101 *et seq.;* and 43 U.S.C. 1701 *et seq.*

§ 3451.2 [Amended]

2. Section 3451.2(e) is amended by removing from the last sentence thereof the phrase "in Part 3480 of this title" and replacing it with the phrase "in 30 CFR 218.200."

[FR Doc. 87–17669 Filed 8–3–87; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

45 CFR Part 233

Coverage and Condition of Eligibility in Financial Assistance Programs

AGENCY: Family Support Administration (FSA), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects a technical error in final regulations published in the **Federal Register** on March 18, 1986 (51 FR 9191–9207) to promote fiscal savings, reduce the paperwork burden and increase State flexibility in the administration of the Aid to Families with Dependent Children (AFDC) program under title IV–A, and the adult categories under titles I, X, XIV or XVI (AABD) of the Social Security Act.

EFFECTIVE DATE: March 18, 1986.

FOR FURTHER INFORMATION CONTACT: Mark Ragan, (202) 245–3290.

SUPPLEMENTARY INFORMATION: The regulation at 45 CFR 233.90(a)(1) and published March 18, 1986 (51 FR 9206, first column), contained a technical error. In revising paragraph (a)(1) in 45 CFR 233.90, the incorrect placement of the asterisks resulted in the omission of a portion of the regulatory language. By publication of this correction document, the omitted language is hereby reinstated in the regulation.

(Catalog of Federal Domestic Assistance Programs No. 13.808, Public Assistance Maintenance (State Aid)).

Dated: July 29, 1987.

James F. Trickett,

Deputy Assistant Secretary for Administrative and Management Services.

Accordingly, § 233.90 is amended to correct paragraph (a)(1) to read as follows:

§ 233.90 Factors specific to AFDC.

(a) *State plan requirements.* A State plan under title IV–A of the Social Security Act shall provide that:

(1) The determination whether a child has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, or (if the State plan includes such cases) the unemployment of his or her parent who is the principal earner will be made only in relation to the child's natural or adoptive parent, or in relation to the child's stepparent who is married, under State law, to the child's natural or adoptive parent and is legally obligated

to support the child under State law of general applicability which requires stepparents to support stepchildren to the same extent that natural or adoptive parents are required to support their children. Under this requirement, the inclusion in the family, or the presence in the home, of a "substitute parent" or "man-in-the-house" or any individual other than one described in this paragraph is not an acceptable basis for a finding of ineligibility or for assuming the availability of income by the State; and

* * * * *

[FR Doc. 87-17651 Filed 8-3-87; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

[PR Docket No. 84-477; FCC 87-234]

Maritime Service; Amendment of the Rules to Permit the use of Maritime Radar Transponders and Radio Beacons; Action on Petition for Limited Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for limited reconsideration granted.

SUMMARY: The attached Memorandum Opinion and Order changes the maximum range error and antenna polarization directivity for marine radar transponders. This action is taken in response to a Petition for Limited Reconsideration filed by Tideland Signal Corporation (Tideland).

EFFECTIVE DATE: September 3, 1987.

FOR FURTHER INFORMATION CONTACT: William P. Berges, Private Radio Bureau, Washington, DC 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, adopted July 6, 1987 and released July 20, 1987. The full text of this Commission decision and the rule amendment is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The full text of this decision and the rule amendment may also be purchased from the Commission's contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. On January 5, 1987, the FCC adopted a Report and Order in PR Docket No. 84-477 (52 FR 7417) amending Parts 2 and 80 of the rules to permit the operation of radar transponders and radio beacons in the marine services. In response to a Petition for Limited Reconsideration from Tideland the FCC changed the maximum range error of certain marine radar transponders from 75 to 100 meters and the polarization directivity of their antenna from both horizontal and vertical to either horizontal or both horizontal and vertical.

2. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the adopted rule will not have a significant economic impact on a substantial number of small entities. The changes herein will have a minor beneficial effect on the marine community by permitting the use of radar transponders with more relaxed operating requirements. No new equipment will be required by any station. These changes allow greater flexibility and will not cause significant economic impact on any entity.

3. The rules contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information, collection and/or record keeping, labeling, dislosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

A copy of this Memorandum Opinion and Order will be served on the Chief Counsel for Advocacy of the Small Business Administration.

5. Accordingly, *it is ordered*, That under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C.154(i) and 303(r), Part 80 of the FCC rules is amended as shown below.

It is further ordered, that this proceeding *is terminated*.

List of Subjects in 47 CFR Part 80

Radiodetermination.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 80 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. In §80.213 paragraphs (h), (i)(1)(i) and (i)(1)(vii) are changed to read as follows:

§ 80.213 Modulation requirements.

* * * * *

(h) Radar transponder coast stations using the 2920–3100 MHz or 9320–9500 MHz band must operate in a variable frequency mode and respond on their operating frequencies with a maximum error equivalent to 100 meters. Additionally, their response must be encoded with a Morse character starting with a dash. The duration of a Morse dot is defined as equal to the width of a space and ⅓ of the width of a Morse dash. The duration of the response code must not exceed 50 microseconds. The sensitivity of the stations must be adjustable so that received signals below −10 dBm at the antenna will not activate the transponder. Antenna polarization must be horizontal when operating in the 9320–9500 MHz band and either horizontal or both horizontal and vertical when operating in the 2920–3100 MHz band. Racons using frequency agile transmitting techniques must include circuitry designed to reduce interference caused by triggering from radar antenna sidelobes.

(i) * * *

(1) Non-selectable transponders must have the following characteristics:

(i) They must respond on all their frequencies with a maximum range error equivalent to 100 meters;

* * * * *

(vii) Antenna polarization must be horizontal when operating in the 9320–9500 MHz band and either horizontal or both horizontal and vertical when operating in the 2920–3100 MHz band.

* * * * *

[FR Doc. 87-17638 Filed 8-3-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-406; FCC 87-248]

Broadcast Services; Partial Stay of the Public File Retention Rules

AGENCY: Federal Communications Commission.

ACTION: Partial stay.

SUMMARY: This action grants a partial stay of the amendments enacted in the *Report and Order* (*R&O*) in this proceeding (52 FR 21684, June 9, 1987). This decision responds to petitions filed by the National Association of Broadcasters (NAB), Greater Media, Inc. (Greater Media), and a petition filed jointly by Knight Communications Corp., Knight Radio, Inc., and Quality Radio Corp. (Knight Quality Stations). The partial stay of the revised local public inspection file rules was granted to preserve the status quo for existing operations pending a decision on reconsideration.

EFFECTIVE DATE: July 16, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eileen E. Huggard, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order* in MM Docket 86–406, adopted July 16, 1987, and released July 17, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857–3800, 1919 M Street, NW., Room 230, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. This decision places a partial stay on the rule amendments enacted in the *R&O* in this proceeding. The *R&O* amended § 73.1125 of the Commission's Rules to permit television and radio broadcast stations to locate their main studios outside their communities of license at any point within their principal community contours. It also revised §§ 73.3526(d) and 73.3527(d) of the Rules to provide that the station's local public inspection file must be maintained in the community of license.

2. Requests for a stay of the revised public inspection file rules were filed by the National Association of Broadcasters and Greater Media, Inc. A joint motion was filed by Knight Communications Corp., Knight Radio, Inc., and Quality Radio Corp., requesting a limited stay of the same rules.

3. Although the Commission found that the petitioners had not made the requisite showing to warrant grant of the stay request under the applicable standard, the Commission in its own discretion granted a limited stay of the revised public inspection rules. The stay permits licensees who currently maintain their public files at the AM transmitter main studio site, pursuant to § 73.1125(a)(2), or who maintain their files at a main studio location authorized pursuant to § 73.1125(a)(3), to continue to maintain their public files at their present location pending resolution of several Petitions for Reconsideration of the *R&O* in this proceeding. This action was taken to preserve the status quo for existing operations until a decision on reconsideration is made.

Ordering Clause

4. Accordingly, *It Is Ordered, That* NAB's Motion for Partial Stay of Enforcement and For Expedited Action, Greater Media's Petition for Partial Stay and Knight Quality Stations' Motion for Partial Stay *Are Granted* to the extent indicated above and *Are Otherwise Denied.*

Accordingly, the amendments to 47 CFR §§ 73.1125, 73.3526(d), and 73.3527(d) published on June 9, 1987 at 52 FR 21684 are stayed.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–17544 Filed 8–3–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 97

Amateur Radio Service; Waiver of the Amateur Service Rules To Allow Designated Club Stations To Identify Using a Special "200" Call Sign

AGENCY: Federal Communications Commission.

ACTION: Order granting rule waiver.

SUMMARY: The American Radio Relay League, Inc., requested a temporary waiver of the amateur radio station identification requirement so that designated amateur club stations could use a "200" call sign in lieu of their assigned call signs as a means of celebrating the 200th anniversary of the United States Constitution. The use of a special commemorative call sign will encourage radio contacts with the designated club stations during the bicentennial celebration. The effect of granting the waiver is to permit a "200" call sign to be used by designated amateur club stations from September 17, 1987 through December 31, 1988.

EFFECTIVE DATE: August 4, 1987.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION:

Order

Adopted: July 9, 1987.

Released: July 20, 1987.

By the Chief, Private Radio Bureau.

1. By letter of May 27, 1987, the American Radio Relay League, Inc. (ARRL), by its Secretary, Perry F. Williams, has requested a waiver of the station identification requirement provided for in Section 97.84(a) of the amateur service rules. Section 97.84(a) requires that the transmissions of each amateur station be identified by the station's own call sign at the end of each communication. ARRL requests that designated amateur club stations be authorized to use a special commemorative amateur call sign in lieu of their assigned call signs as a means of celebrating the bicentennial of the United States Constitution.

2. In support of its request, the ARRL notes the profound relationship between amateur operators and the Constitution, especially in regard to the First Amendment's guarantee of unhindered communications. The ARRL states that its "People to People" project has been officially recognized by the Bicentennial Commission and that the use of a special bicentennial call sign will enhance and highlight the operating aspects of the project. It includes a "We the People" Worked-All-States award and the participation of non-amateurs as "shortwave listeners" in order to interest them in becoming amateur radio operators.

3. A special "200" call sign would be authorized to amateur club stations that preregister with the ARRL. The designated club stations would receive high visibility since they would be located as state capitals (and capitols) around the country. ARRL states that dignitaries at the state and national level would be invited to participate at the display amateur radio stations which would also be open to the public. The ARRL believes that the use of a special commemorative call sign would enable amateur operators to recognize the significance of the bicentennial and encourage radio contact with the designated club stations during the celebration.

4. We believe that the ARRL's request has merit and is in keeping with our statutory mandate to encourage the larger and more effective use of radio in the public interest. Accordingly, the ARRL's request for a waiver of

§ 97.84(a) is granted under the following terms and conditions:

a. All amateur club stations that pre-register with the ARRL are authorized to replace the numeral in the call sign with the number "200" for a one week period, in accordance with a schedule to be published by the ARRL. The state where the club station is located will be noted and the schedule will correspond closely with the date of entry of that state into the Union. The operation for a designated week begins as 0001Z Saturday through 2359Z the following Friday.

b. The ARRL must provide each FCC field office with a data base printout of all preregistered club stations using the numeral "200" to facilitate ready identification of the trustee.

c. The waiver of § 97.84(a) is for the period beginning 0001Z September 17, 1987 through 2359Z December 31, 1988.

Federal Communications Commission.

Michael T.N. Fitch,

Chief, Private Radio Bureau.

[FR Doc. 87-17552 Filed 8-3-87; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 507, 508, 552 and 553

[APD 2800.12 CHGE 47]

General Services Administration Acquisition Regulation; Implementing FAC 84-25

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5, is amended to revise Part 507 to clarify the requirement for use of the Report of Employment Under Commercial Activities clause at 552.207-70 and to modify the reference to a GSA order on the implementation of OMB Circular A-76 Productivity Improvement Program; to revise Part 508 to identify the central printing authority for the General Services Administration (GSA) and to delete section 508.870; to revise section 552.203-70 to modify Alternate II; to revise section 552.207-70 to delete material in the introductory paragraph that repeats the prescriptive language in Part 507; to revise section 553.270-1 to permit modification of the GSA Form 3503, Representations and Certifications, pending a revision of the form, and to revise section 553.270-2 to permit modification of the GSA Forms 3501, Solicitation Provisions (Sealed Bid), and 3502, Solicitation Provisions (Negotiated), pending a revision to the forms. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: July 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. John Joyner, Office of GSA Acquisition Policy and Regulations on (202) 523-4916.

SUPPLEMENTARY INFORMATION:

Background

This rule was not published in the **Federal Register** for public comment because it is merely implementing a higher level issuance, the Federal Acquisition Regulation (FAR), and making minor changes which do not impact offerors or contractors. Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rule simply revised the GSAR regulation to make it conform to the FAR as amended by FAC 84-25. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which are subject to OMB approval under the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 507, 508, 552 and 553.

Government procurement.

1. The authority citations for 48 CFR Parts 507, 508, 552, and 553 continue to read as follows:

Authority: 40 U.S.C. 486(c).

PART 507—ACQUISITION PLANNING

2. Section 507.305 and 507.307 are revised to read as follows:

§ 507.305 Solicitation provisions and contract clauses.

The contracting officer shall insert the clause at Section 552.207-70, Report of Employment Under Commercial Activities, in solicitations which may result in a conversion from in-house performance to contract performance of work currently being performed by the Government and in contracts that result from the solicitations, whether or not a cost comparison is conducted.

§ 507.307 Appeals.

Appeal procedures for informal administrative review of the initial cost comparison results are contained in GSA Order, Implementation of the OMB Circular A-76 Productivity Improvement Program (ADM P. 5400.40).

PART 508—REQUIRED SOURCES OF SUPPLIES AND SERVICES

3. Section 508.802 is revised to read as follows:

508.802 Policy.

The Director of the Reproduction Services Division (CAR) has been designated as the central printing authority for GSA and serves as the liaison with the Joint Committee on Printing and the Public Printer on all matters related to printing.

508.870 [Removed]

4. Section 508.870 is removed in its entirety.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 552.203-70 is amended by revising alternate II to read as follows:

552.203-70 Advertising of Award.

* * * * *

Alternate II

The following clause shall be included in solicitations and contracts when the Experimental Technology Incentive Program (ETIP) provisions are included:

Advertising of Award (Jun 1987)

The Contractor agrees not to refer to awards in commercial advertising in an inaccurate or misleading manner or in such a manner as to state or imply that the product or service is endorsed by the Federal Government. The Contractor may state that a contract was awarded pursuant to the Experimental Technology Incentive Program (ETIP) criteria provided that the information given is complete and accurate.

(End of Clause)

6. Section 552.207-70 is amended to revise the introductory paragraph to read as follows:

552.207-70 Report of Employment Under Commercial Activities.

As prescribed in § 507.305, insert the following clause:

* * * * *

PART 553—FORMS

7. Section 553.270–1 is revised to read as follows:

553.270–1 Representations and certifications.

(a) GSA Form 3503, Representations and Certifications, may be used as a part of all solicitations and contracts, except contracts for utilities and leases of real property. Until the form is revised, contracting officers must modify paragraph 9 of the form to include the July 1987 version of the FAR clauses at 52.214–2 and 52.215–6. The form may also be used for small purchases when Standard Form 33, Solicitation, Offer, and Award, or Standard Form 1442, Solicitation, Offer, and Award, is used.

8. Section 553.270–2 is amended by revising paragraphs (a) and (b) to read as follows:

553.270–2 Solicitation provisions.

(a) GSA Form 3501, Solicitation Provisions (Sealed bid), is for use in connection with all sealed bid solicitations. Until the form is revised, contracting officers must modify paragraph 1 of the form to include the July 1987 version of the FAR clause at 52.214–1.

(b) GSA Form 3502, Solicitation Provisions (Negotiated), is for use in connection with all negotiated procurements, including small purchases when offers are solicited by the use of SF 33 or SF 1442. Until the form is revised, contracting officers must modify paragraph 1 of the form to include the July 1987 version of the FAR clause at 52.215–5.

* * * * *

Dated: July 20, 1987.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 87–17596 Filed 8–3–87; 8:45 am]

BILLING CODE 6820–61–M

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48 CFR Part 525

[Acquisition Circular AC–86–8, Supplement 1]

General Services Administration Acquisition Regulation, Threshold for Application of Trade Agreements Act

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to the General Services Administration Acquisition Regulation, Acquisition Circular AC–86–8 extends the expiration date to January 1, 1988. The intended effect is to extend the policies and procedures as established in AC–86–8, which revised section 525.402 to provide the newdollar threshold required for the applicability of the Trade Agreements Act of 1979 as authorized by the U.S. Trade Representative under E.O. 12260.

DATES: *Effective date:* July 2, 1987. *Expiration date:* January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Ms. Marjorie Ashby, Office of GSA Acquisition Policy and Regulations (VP), (202) 523–3822.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted agency procurement regulations from Executive Order 12291. The exemption applies to this rule. When AC–86–8 was originally issued, the GSA certified under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that the document would not have a significant economic effect on a substantial number of small entities. Therefore, no regulatory analysis was prepared. This circular does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 525

Government procurement.

PART 525—[AMENDED]

1. The authority citation for 48 CFR Part 525 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. 48 CFR Part 525 is amended by the following supplement toAcquisition Circular AC–86–8:

General Services Administration Acquisition Regulation Acquisition Circular AC–86–8; Supplement 1

July 23, 1987.

To: All GSA contracting activities.

Subject: Threshold for Application of Trade Agreements Act.

1. *Purpose.* This supplement extends the expiration date of the General Services Administration Acquisition Regulation (GSAR) Acquisition Circular AC–86–8.

2. *Effective date.* July 2, 1987.

3. *Expiration date.* Acquisition Circular AC–86–8 and this supplement will expire on January 1, 1988, unless cancelled earlier.

Richard H. Hopf, III,

Acting Associate Administrator for Acquisition Policy.

[FR Doc. 87–17597 Filed 8–3–87; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Puerto Rican Crested Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Puerto Rican crested toad (*Peltophryne lemur*) to be a threatened species pursuant to the Endangered Species Act (Act) of 1973, as amended. The species is endemic to two islands on the Puerto Rican Shelf, but is presently thought to exist only on the main island of Puerto Rico, where a single large population is known from the southwest coast and a few small populations are believed to survive on the north coast. Threats to this species include filling and drainage of its breeding sites, and direct loss of adults and their habitat during land development. This final rule will implement the Federal protection and recovery provisions afforded by the Act for this toad.

DATE: The effective date of this rule is September 3, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622, and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Pace at the Caribbean Field Office address (809/851–7297) or Mr. Richard P. Ingram at the Atlanta Regional Office address (404/331–3583 or FTS 242–3583).

SUPPLEMENTARY INFORMATION:

Background

The Puerto Rican crested toad (*Peltophryne lemur*) was first described in 1868 by E.D. Cope, and was later placed in the genus *Bufo* (Stejneger 1904). Recently, the native bufonids of the Greater Antilles have been regrouped under the genus *Peltophryne*, in recognition of their presumed monophyletic origin (Pregill 1981). *Peltophryne lemur* is a medium-sized toad, 64 to 120 millimeters (2.5 to 4.5 inches) in snout-vent length, yellowish-olive to blackish-brown in color, with prominent supraorbital crests and a

distinctive long, upturned snout. Males are considerably smaller than females, and exhibit less prominent crests.

The Puerto Rican crested toad is endemic to two islands on the Puerto Rican Shelf (the main island of Puerto Rico and the island of Virgin Gorda in the British Virgin Islands). The known historic distribution on Virgin Gorda is very limited, and the species has not been observed there for at least two decades; it is assumed to have been extirpated from that island. It has historically been considered rare on Puerto Rico, and prior to 1966 (Garcia Diaz 1967) was thought to be extinct there. Recent surveys suggest that the toad is confined to certain areas on the coastal plain of Puerto Rico. It has been found as single individuals or very small populations at several locations on the northern coastal plain, and is known from two areas on the southern coastal plain. Since 1975 it has been known to occur in Guánica Commonwealth Forest on the southern coast (Richard Thomas, University of Puerto Rico, pers. comm. 1976), and a large breeding aggregation estimated to contain more than a thousand individuals was found there in 1984 (Moreno 1985). The species has also been in captive propagation (Paine 1985), and approximately 850 toadlets were released in Cambalache Commonwealth Forest on the north coast in 1984 and 1985.

The Puerto Rican crested toad occurs at low elevations (below 200 meters or 660 feet) where there is exposed limestone or porous, well-drained soil offering an abundance of fissures and cavities. Adults toads are semifossorial and widely dispersed when not breeding. Although not completely understood, breeding appears to be sporadic and highly dependent upon occasional heavy rains (Rivero *et al.* 1980, Moreno 1985). When rainfall and surface water are adequate, more than one breeding event may occur in a single season. Breeding is concentrated in a very short period, and within a few weeks the toadlets metamorphose and quickly disperse. There is a high fidelity to breeding sites that offer the right combination of elevation, topography, and ponded fresh water.

The Puerto Rican crested toad appears to be susceptible to a variety of threats at various stages of its life cycle. Because of their cryptic behavior, the location or even presence of adult toads in an area being developed is difficult to detect in advance. More importantly, destruction of its breeding sites by filling or alteration of drainage may indirectly destroy even a large population. Many breeding sites are known to have been eliminated on both the north and south coasts of Puerto Rico, and with so few breeding sites known to remain, further losses could place the species in danger of extinction.

The Puerto Rican crested toad was included as a category 2 species in a notice of vertebrate wildlife review on December 30, 1982 (47 FR 58454). Category 2 includes taxa for which information in the possession of the Service indicates that proposing to list the species is possibly appropriate, but for which available data are not judged sufficient to support such a proposal. The Puerto Rico Department of Natural Resources petitioned the Service to list the Puerto Rican crested toad as endangered on December 27, 1984. On August 20, 1986 (51 FR 29671), the Service announced a 12-month finding that the action requested by the petitioner was warranted but precluded by other listing actions in accordance with section 4(b)(3)(B)(iii) of the Act, and that available evidence indicated the species should be listed as threatened. The Service proposed listing the Puerto Rican crested toad on December 23, 1986 (51 FR 45923).

Summary of Comments and Recommendations

In the December 23, 1986, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, municipal governments, Federal agencies, scientific organizations, private landowners, and other interested parties were contacted and requested to comment. Newspaper notices inviting general public comment were published in the *San Juan Star* (in English) and in *El Nuevo Dia* (in Spanish) on January 18, 1987. Seven letters of comment were received and are discussed below. No public hearing was requested or held.

Comments were received from the Secretary of the Puerto Rico Department of Natural Resources, administrators of the Federal Highway Administration and the Environmental Protection Agency, two scientists, and two private landowners. The Department of Natural Resources supported the proposal, while the Federal Highway Administration and Environmental Protection Agency acknowledged the proposal, and stated that they could not identify any specific projects that might affect the species. Of the two scientists who responded, one stated unqualified support for the proposal, while the other thought more status information should be gathered before proceeding with listing, although he acknowledged that the threats posed by development in or near breeding areas would be sufficient justification for listing the species as threatened. Neither scientist provided any additional data. The two private landowners, who own the property proposed for resort development adjacent to the Guánica breeding area, did not object to the proposal.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Puerto Rican crested toad should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Puerto Rican crested toad (*Peltophryne lemur*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Although the Puerto Rican crested toad has historically been rare, the species has undoubtedly declined further as its coastal lowland habitats have been destroyed by agricultural and urban development. In particular, known breeding sites have been filled or drained for construction, cultivation, and mosquito control. The Puerto Rico Department of Natural Resources has been considering construction of visitor facilities within the species' only known major breeding area in Guánica Commonwealth Forest. In addition, a major resort development has recently been proposed for a tract of private land adjacent to this site, and road construction through this site to improve access to the proposed resort area has been proposed by the Municipality of Yauco. This sudden acceleration of development pressure where the only known healthy toad population survives has increased concern over the species' continued existence. However, discussions between Federal and Commonwealth agencies are continuing in an effort to find alternatives to the proposed developments that will avoid destruction of toad breeding habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The taking of toads has occurred for the purpose of captive breeding (Paine 1985), although only a

few adults have been taken. However, overcollecting of other species of Puerto Rican herpetofauna is known to have occurred, and may become a factor affecting the continued existence of this species. This would be more likely if collectors were aware of the location of breeding sites and were present during breeding when large numbers of toads may be concentrated in a small area.

C. *Disease or predation.* Disease and predation have not been documented as factors in the decline of this species. However, predation on dispersing toadlets may be heavy, particularly from wading birds (M. Canals, Guánica Commonwealth Forest, pers. comm. 1986), and could become a significant factor if populations are greatly reduced by other problems.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Puerto Rico has recently adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. The Puerto Rican crested toad is classed as threatened on the Commonwealth list. Federal listing enhances this protection and applies the recovery and enforcement provisions of the Act to this species.

E. *Other natural or manmade factors affecting its continued existence.* Reproduction in this species appears to rely on climatic events, sometimes one or more years apart, that occur at irregular intervals. Such reliance may create natural fluctuations in population sizes that could, when compounded by a reduced availability of breeding sites, increase the likelihood of whole subpopulations being eliminated. Extremes in sex ratios have also been reported; a low incidence of males in one area (Rivero *et al.* 1980), and a low incidence of females at another locality (Moreno 1985). However, the significance of these observations is difficult to assess without more information about the reproductive biology of this species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Puerto Rican crested toad as threatened. Due to the species' low numbers, restricted distribution, and apparent susceptibility to extirpation, threatened status seems an accurate assessment of the species' condition. Endangered status is not appropriate, since the species does not appear to be faced with imminent extinction. It is not prudent to designate critical habitat because doing so would increase the risk to this species, as detailed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the Puerto Rican crested toad at this time. As discussed under threat factor "B" above, collecting could threaten the toad's continued existence. The publication of critical habitat maps and other publicity accompanying critical habitat designation could increase collecting pressure and enforcement problems. The Service believes that Federal involvement in the areas where this species occurs can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not be prudent to determine critical habitat for the Puerto Rican crested toad at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. These may include support for additional study to determine more concisely the distribution and reproductive biology of this secretive animal, Service advice and cooperation in the ongoing program of captive propagation for this species in zoos, and other cooperation with the Commonwealth government on specific management measures. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for the Puerto Rican crested toad, as discussed above, and no Federal involvement is known or expected to occur.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and Commonwealth conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination

was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Garcia Diaz, J. 1967. Rediscovery of *Bufo lemur* Cope and additional records of reptiles from Puerto Rico. Stahlia 10:1–6.

Moreno, J.A. 1985. Notes on *Peltophryne lemur*. Unpublished report. 6 pp.

Paine, F.L. 1985. International studbook of the Puerto Rican crested toad (*Peltophryne lemur*). Buffalo Zoological Gardens, New York. 33 pp.

Pregill, G. 1981. Cranial morphology and the evolution of West Indian toads (Salientia: Bufonidae): Resurrection of the genus *Peltophryne* Fitzinger. Copeia 1981:273–285.

Rivero, J.A., H. Mayorga, E. Estremera, and I. Izquierdo. 1980. Sobre el *Bufo lemur* Cope (Amphibia, Bufonidae). Carib. J. Sci. 15:33–40.

Stejneger, L. 1904. The herpetology of Porto Rico. Rept. U.S. Natl. Mus., 1902:549–724.

Author

The primary author of this final rule is Mr. David Densmore, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622 (809/851–7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following, in alphabetical order under "AMPHIBIANS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
AMPHIBIANS							
Toad, Puerto Rican crested	*Peltophryne lemur*	U.S.A. (PR), British Virgin Islands	Entire	T	283	NA	NA

Dated: July 9, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–17509 Filed 8–3–87; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 50239–5115]

Atlantic Tuna Fisheries

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

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA issues this notice to increase the Harpoon Boat category quota of giant Atlantic bluefin tuna from 60 short tons (st) to 75 st and to decrease the inseason adjustment amount from 104 st to 89 st accordingly. The increase is necessary to prevent an early closure of this segment of the fishery.

EFFECTIVE DATE: July 31, 1987.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617–281–3600, extension 262; or David S. Crestin, 617–281–3600, extension 253.

SUPPLEMENTARY INFORMATION: Final regulations governing the Atlantic bluefin tuna fishery were published on October 25, 1985 (50 FR 43396). Section 285.22(g) provides that the Director, Northeast Region, NMFS, may allocate during the fishing season any portion (from zero to 100 percent) of the inseason adjustment amount (104 st) to any segment of the fishery. The Regional Director is required to publish a notice of allocation in the **Federal Register** before such allocation becomes effective. Consistent with § 285.22(g), the Regional Director has considered the following factors:

(1) The usefulness of information obtained from catches of the particular gear segment of the fishery for biological sampling and monitoring the status of the stock;

(2) The catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made;

(3) The projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season; and

(4) The estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

The Regional Director has determined that a 15 st allocation to the Harpoon Boat category is appropriate based on these factors.

Current landing reports indicate that the Harpoon Boat quota of 60 st of giant Atlantic bluefin tuna will be taken by the effective date. Without an allocation from the inseason adjustment amount, fishing for giant Atlantic bluefin tuna by vessels permitted in the Harpoon Boat category will cease for the remainder of 1987. A significant increase in the number of vessels permitted in the Harpoon Boat category has occurred from 1980 to the present (30 to 261). This increase in the number of vessels actively engaged in this fishery has occurred at the same time as a substantial reduction in the quota (150 st to 60 st). There is little doubt that, with the many vessels and landings to date, a 15 st increase in the quota could be taken prior to the end of the 1987 fishing season.

An allocation of 15 st from the Inseason Adjustment Amount would leave 89 st available for potential allocation to other gear categories later in the fishing season. Based on current landings data for all gear categories in the Atlantic bluefin tuna fishery, the 89 st remaining in the Inseason Adjustment Amount should be more than sufficient to provide for potential shortages in other gear segments.

The Regional Director, therefore, increases the Harpoon Boat quota in § 285.22(b) from 60 st to 75 st and decreases the Inseason Adjustment Amount in § 285.22(g) from 104 st to 89 st. When the adjusted Harpoon Boat quota is reached, the further taking and retention of Atlantic bluefin tuna by

vessels permitted in this category will be prohibited for the remainder of 1987.

Notice of this action has mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.22, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

(16 U.S.C. 971 *et seq.*)

Dated: July 30, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-17612 Filed 8-3-87; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 149
Tuesday, August 4, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 297

Privacy Procedures for Personnel Records

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: Under the authority of the Privacy Act of 1974, the Office of Personnel Management (the Office) proposes revised regulations regarding privacy procedures for personnel records. These revised regulations would provide for more effective management of records maintained by the Office and by other Federal agencies that are under the Office's control and ownership. These regulations would also promulgate exemptions for a new system of records.

DATE: Comments must be submitted on or before October 5, 1987.

ADDRESS: Send or deliver written comments to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, Office of Personnel Management, Room 5415, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: John Sanet, (202) 632–4455.

SUPPLEMENTARY INFORMATION: These proposed regulations would clarify and simplify the existing regulations to provide uniform policies and procedures for maintaining, accessing, disclosing, and amending personnel records on Federal civilian employees that are within the scope of the Office's authority. Management of personnel records will be better accomplished through these procedures that, in accordance with the Privacy Act of 1974, provide requirements on protecting, accessing, amending, and disclosing Office records.

The regulations reflect a statutory change in the Privacy Act (5 U.S.C. 552a(b)(12)) implemented since the regulations were last rewritten. This change is in 5 CFR 297.401(l). The regulations also add exemptions 5 U.S.C. 552a(k)(4) and (k)(7) to the list of exemptions claimed for three of the Office's systems of records, and adds the Office's OPM/CENTRAL–4, Inspector General Case File system of records to the list of systems for which the Office claims exemptions.

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 have determined that this regulation will not have a significant impact on a substantial number of small entities because it is concerned only with the administration of personnel records for certain civilian employees.

List of Subjects in 5 CFR Part 297

Privacy, Records, Government employees.

Office of Personnel Management,
James E. Colvard,
Deputy Director.

Accordingly, OPM proposes to revise Part 297 of Title 5 of the Code of Federal Regulations to read as follows:

PART 297—PRIVACY PROCEDURES FOR PERSONNEL RECORDS

Subpart A—General Provisions

Sec.

297.101 Purpose and scope.
297.102 Definitions.
297.103 Designations of authority by system manager.
297.104 Types of records.
297.105 Agency and Office responsibilities for systems of records and applicability of the regulations.
297.106 Contact point for Privacy Act matters.

Subpart B—Request for Access

297.201 General provisions.
297.202 Methods of access.
297.203 Access by the parent of a minor or by the legal guardian of an individual declared to be incompetent.
297.204 Access by the representative of the data subject.
297.205 Access to medical records.
297.206 Fees charged by the Office.
297.207 Denials of access and appeals with respect to such denials.
297.208 Judicial review.

Subpart C—Amendment of Records

297.301 General provisions.
297.302 Time limits.
297.303 Applicability of amendment provisions.
297.304 Approval of requests to amend records.
297.305 Denial of requests to amend records.
297.306 Appeal of a denial of a request to amend a record.
297.307 Statement of disagreement.
297.308 Judicial review.

Subpart D—Disclosure of Records

297.401 Conditions of disclosure.
297.402 Disclosure pursuant to compulsory legal process served on the Office.
297.403 Disclosure pursuant to a subpoena served on the Office.
297.404 Accounting of disclosure.

Subpart E—Exempt Records

297.501 Exemptions.

Authority: Sec. 3, Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

Subpart A—General Provisions

§ 297.101 Purpose and scope.

This part sets forth the regulations of the U.S. Office of Personnel Management (the Office) to govern the maintenance, protection, disclosure, and amendment of records within the systems of records as defined by the Privacy Act of 1974 (5 U.S.C. 552a), Pub. L. 93–579.

§ 297.102 Definitions.

In this part, the terms "agency," "individual," "maintain," "record," "statistical records," and "systems of records" have the same meanings as defined in the Privacy Act, 5 U.S.C. 552a. In addition:

"Access" means providing a copy of a record to, or allowing review of the original record by, the data subject or the data subject's authorized representative, parent, or legal guardian;

"Act" means the Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 552a, as amended;

"Agency" means any department or independent establishment in the Executive Branch of the Federal Government, including a Government corporation, or Government-controlled corporation, except those specifically excluded from the Office recordkeeping requirements by statute, this title, or formal agreement between the Office and the agency.

"Amendment" means the correction, addition, deletion, or destruction of a record or specific portions of a record;

"Data subject" means the individual to whom the information pertains and by whose name or other individual identifier the information is retrieved;

"Disclosure" means providing personal review of a record, or a copy thereof, to someone other than the data subject or the data subject's authorized representative, parent, or legal guardian;

"Office" means the Office of Personnel Management;

"Personnel record" means any record concerning an individual which is maintained and used in the personnel management or personnel policy-making process; and

"System manager" means the Office or agency official, designated by the head of the agency, who has the authority to decide Privacy Act matters relative to each system of records maintained by the Office.

§ 297.103 Designations of authority by system manager.

The responsible office system manager having jurisdiction over a system of records may designate in writing an Office employee to evaluate and issue the Office's decision on Privacy Act matters relating to either internal, central, or Governmentwide systems of records.

§ 297.104 Types of records.

The Office manages three generic types of personnel records systems:

(a) Internal systems of records are under the Office's physical control and are established and maintained by the Office solely on its own employees and, when appropriate, on others in contact with the Office regarding matters within its authority.

(b) Centralized systems of personnel records are physically established and maintained by the Office with regard to most current and former Federal employees and some applicants for Federal employment.

(c) Governmentwide systems of personnel records are maintained by the Office, and through Office delegations of authority, by Federal agencies with regard to their own employees or applicants for employment. Although they are Office records, they are in the physical custody of those agencies. Though in the physical custody of agencies, the Office retains authority under its record management authority and under the Privacy Act to decide appeals of initial agency determinations regarding access to and amendment of material in these systems.

§ 297.105 Agency and Office responsibilities for systems of records and applicability of the regulations.

(a) These regulations apply to processing requests from both current and former Office employees for records contained in internal, central, and Governmentwide systems of records managed by the Office.

(b) Agencies are solely and totally responsible for processing requests regarding records maintained in their internal systems of records. Agency regulations, and not these Office regulations, govern the implementation of the Privacy Act for agency internal systems; there is no right of appeal to the Office from an agency's determination regarding its internal agency records.

(c) For records maintained in the Office's central systems of records, the data subject should contact the appropriate Office system manager concerning Privacy Act matters. These regulations will apply to inquiries regarding records located in the central systems of records.

(d) For records maintained within the Office's Governmentwide systems of records, each agency is responsible, unless specifically excepted by the Office, for responding to initial Privacy Act access and amendment requests from its own current employees. For records in Office Governmentwide systems, including those in Official Personnel Folders, Employee Performance Folders, and Employee Medical Folders, the Office is responsible for responding to initial Privacy Act access and amendment requests from former Federal employees.

(e) The procedures in this part apply to all such requests. The procedures in this part also apply to appeals from an agency initial determination regarding access to or amendment of records contained in the Office's Governmentwide systems of records.

(f) The Office follows the procedures in this part when—

(1) Processing initial requests regarding access to or amendment of records by its own employees and others that the Office is maintaining information on in its systems of records, including requests from former employees of an agency whose records properly reside in an Office Governmentwide system of records.

(2) Processing Privacy Act appeals regarding access to and amendment of records generated by another Federal agency, but which are contained in the Office's Governmentwide systems of records, after an agency has issued the initial decision.

(3) Processing initial requests and appeals concerning access to and amendment of records contained in the central systems of records.

(g) For requests concerning records and material of another agency that are in the custody of the Office, but not under its control or ownership, the Office reserves the right to either refer the request to the agency primarily responsible for the material or to notify the individual of the proper agency that should be contacted.

§ 297.106 Contact point for Privacy Act matters.

To determine what records the Office maintains in its system of records, requesters must write to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415. Using the Office's response, requesters can contact the particular system manager indicated in the Office's notices of its systems published in the **Federal Register** for further assistance in determining if the Office maintains information pertaining to them.

Subpart B—Request for Access

§ 297.201 General provisions.

(a) Individuals requesting access to records pertaining to them that are maintained in a system of records should submit a written request to the appropriate system manager and state that the request is being made pursuant to the Privacy Act of 1974.

(b) The Office or agency will require proof of identity from a requester. The Office or agency reserves the right to determine the adequacy of any such proof. The general identifying items the Office will require a requester to provide when a request is made to the Office are—

(1) Full name, signature, and home address;

(2) Social security number (for systems of records that include this identifier);

(3) Current or last place and dates of Federal employment, when appropriate and,

(4) Date and place of birth.

(c) An individual may be represented by another when requesting access to records.

§ 297.202 Methods of access.

(a) The methods for allowing access to records, when such access has been granted by the Office or agency, are:

(1) Inspection in person in the designated office during the hours specified by the Office or agency; or

(2) Transfer of records at the option of the Office or agency to another more convenient Federal facility.

(b) Generally, Office of Personnel Management offices will not furnish certified copies of records. When copies are to be furnished, they may be provided as determined by the Office and may require payment of any fee levied in accordance with the Office's established fee schedule.

(c) When the requester seeks to obtain original documentation, the Office reserves the right to limit the request to copies of the original records. Original records should be made available for review only in the presence of the system manager or designee. An agency should consult with the Office when it receives a request for original documentation. Section 2701(a) of title 18 of the United States Code makes it a crime to conceal, mutilate, obliterate, or destroy any record filed in a public office, or to attempt to do so.

§ 297.203 Access by the parent of a minor or by the legal guardian of an individual declared to be incompetent.

(a) A parent, legal guardian, or custodian of a minor, upon presentation of suitable personal identification, may access on behalf of a minor any record pertaining to the minor in a system of records maintained by the Office.

(b) A legal guardian, upon presentation of documentation establishing guardianship, may access on behalf of an individual declared to be incompetent by a court of competent jurisdiction, any record pertaining to that individual in a system of records maintained by the Office.

(c) Minors are not precluded from exercising personally those rights provided them by the Privacy Act.

§ 297.204 Access by the representative of the data subject.

A record may be disclosed to a representative of the individual to whom the record pertains after tne system manager receives written authorization from the individual who is the subject of the record.

§ 297.205 Access to medical records.

When a request for access involves medical or psychological records that the system manager believes requires special handling, the requester should be advised that the material will be provided only to a physician designated by the data subject. Upon receipt of the designation and upon verification of the physician's identity, the records will be made available to the physician, who will have full authority to disclose those records to the data subject when appropriate.

§ 297.206 Fees charged by the Office.

(a) No fees will be charged for search and review time expended by the Office to produce a record for a data subject when a record is retrieved from a system of records pertaining to that data subject. Additional copies provided may be charged under the Office's established fee schedule.

(b) When the fees chargeable under this section will amount to more than $25, the requester will be notified and payment of fees may be required before the records are provided.

(c) Remittance should be made by either a personal check, bank draft, or a money order that is made payable to the U.S. Office of Personnel Management and addressed to the appropriate system manager.

§ 297.207 Denials of access and appeals with respect to such denials.

(a) If an access request is denied, the Office or agency response will be in writing and will include a statement of the reasons for the denial and the procedures available to appeal the denial, including the name, position title, and address of the Office official responsible for the review.

(b) Nothing in this part should be construed to entitle a data subject the right to access any information compiled in reasonable anticipation of a civil action or proceeding.

(c) For denials of access made under this subpart, the following procedures apply:

(1) For initial denials made by an agency, when the record is maintained in an Office Governmentwide system of records, a request for administrative review should be made only to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

(2) For denials initially made by an Office official, when a record is maintained in an internal or central system of records, a request for administrative review should be made to the General Counsel, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

(3) Any administrative review decision that either partially or fully supports the initial decision and denies access to the material the individual originally sought should state the requester's right to seek judicial review of the final administrative decision.

§ 297.208 Judicial review.

Upon receipt of notification that the denial of access has been upheld on administrative review, the requester has the right to judicial review of the decision for up to 2 years from the date on which cause of action arose. Judicial review may be sought in the district court of the United States in the district in which: (a) The requester resides; (b) the requester has his or her principal place of business; or (c) the agency records are situated; or it may be sought in the district court of the District of Columbia.

Subpart C—Amendment of Records

§ 297.301 General provisions.

(a) Individuals may request, in writing, the amendment of their records maintained in an Office system of records by contacting the appropriate system manager. The Office or agency will require proof of identity from a requester. The Office or agency reserves the right to determine the adequacy of any such proof. The general identifying items the Office will require a requester to provide when a request is made to the Office are—

(1) Full name, signature, and home address;

(2) Social security number (for systems of records that include this identifier);

(3) Current or last place and dates of Federal employment, when appropriate; and

(4) Date and place of birth.

(b) An individual may be represented by another party when requesting amendment of records.

(c) A request for amendment should include the following:

(1) The precise identification of the records to be amended;

(2) The identification of the specific material to be deleted, added, or changed; and

(3) A statement of the reasons for the request, including all available material substantiating the request.

(d) Requests for amendment of records should include the words "PRIVACY ACT AMENDMENT REQUEST" in capital letters on both the envelope and at the top of the request letter.

(e) A request for administrative review of an agency denial to amend a record in the Office's systems of records should be addressed to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

(f) A request for administrative review of a denial to amend a record by an Office official should be addressed to the General Counsel, Office of Personnel

Management, 1900 E Street, NW., Washington, DC 20415.

(g) The burden of proof demonstrating the appropriateness of the requested amendment rests with the requester; and, the requester must provide relevant and convincing evidence in support of the request.

§ 297.302 Time limits.

The system manager should acknowledge receipt of an amendment request within 10 working days and issue a determination as soon as practicable. This timeframe begins when the request is received by the proper Office or agency official.

§ 297.303 Applicability of amendment provisions.

(a) The amendment procedures are not intended to allow a challenge to material that records an event that actually occurred nor are they designed to permit a collateral attack upon that which has been or could have been the subject of a judicial, quasi-judicial, or administrative proceeding. The amendment procedures are also not designed to change opinions in records pertaining to the individual.

(b) The amendment procedures apply to situations when an occurrence that is documented was challenged through an established judicial, quasi-judicial, or administrative procedure and found to be inaccurately described; when the document is not identical to the individual's copy; or when the document is not created in accordance with the applicable recordkeeping requirements. (For example, the amendment provisions are not designed to allow a challenge to the merits of an agency adverse action that is documented in an individual's Official Personnel Folder.)

§ 297.304 Approval of requests to amend records.

(a) If the system manager determines that amendment of a record is appropriate, the system manager will take the necessary steps to have the necessary changes made and will see that the individual receives a copy of the amended record.

(b) When practicable and appropriate, the system manager will advise all prior recipients of the fact that an amendment of a record has been made.

§ 297.305 Denial of requests to amend records.

(a) If the Office or agency system manager decides not to amend the record in the manner sought, the requester should be notified in writing of the reasons for the denial.

(b) The decision letter should also include the requester's right to appeal the denial and the procedures for appealing the denial to the appropriate official.

§ 297.306 Appeal of a denial of a request to amend a record.

(a) An individual who disagrees with an initial denial to amend a record may file a written appeal of that denial to the appropriate official. In submitting an appeal, the individual should provide a copy of the original request for amendment, a copy of the initial denial decision, and a statement of the specific reasons why the initial denial is believed to be in error. Any appeal should be submitted to the official designated in the initial decision letter. The appeal should include the words "PRIVACY ACT APPEAL" in capital letters on the envelope and at the top of the letter of appeal.

(b) The reviewing official should complete the review and make a final determination in writing no later than 30 working days from the date on which the appeal is received. When circumstances warrant, this timeframe may be extended.

(c) If the Office grants the appeal, it will take the necessary steps either to amend the record itself or to require the originating agency to amend the record. When appropriate and possible, prior recipients of the record should be notified of the Office's action.

(d) The Office reserves the right to hold in abeyance any Privacy Act appeal concerning a record when an individual is involved in challenging an action involving that record in another administrative, judicial, or quasi-judicial forum. At the conclusion of such a challenge, the individual can resubmit the appeal.

(e) If the Office denies the appeal, it will include in the decision letter notification of the appellant's right to judicial review.

§ 297.307 Statement of disagreement.

(a) Upon receipt of a final administrative determination denying a request to amend a record, the requester may file a concise statement of disagreement. Such a statement should be filed with the appropriate system manager and should include the reasons why the requester believes the decision to be incorrect.

(b) The statement of disagreement should be maintained with the record to be amended and any disclosure of the record must include a copy of the statement of disagreement.

(c) When practicable and appropriate, the system manager should provide a copy of the statement of disagreement to any individual or agency to whom the record was previously disclosed as noted by the disclosure accounting.

§ 297.308 Judicial review.

Upon receipt of notification that the denial to amend a record has been upheld on administrative review, the requester has the right to judicial review of the decision for up to 2 years from the date the cause of action arose. Judicial review may be sought in the district court of the United States in the district in which: (a) the requester resides; (b) the requester has his or her principal place of business; or (c) the agency records are situated; or it may be sought in the district court of the District of Columbia.

Subpart D—Disclosure of Records

§ 297.401 Conditions of disclosure.

An official or employee of the Office or agency should not disclose a record retrieved from a Governmentwide system of records to any person, another agency, or other entity without the express written consent of the subject individual unless disclosure is—

(a) To officers or employees of the Office who have a need for the information in the performance of their duties.

(b) Required by the provisions of the Freedom of Information Act.

(c) For a routine use as published in the **Federal Register.**

(d) To the Bureau of the Census for uses pursuant to title 13 of the United States Code.

(e)(1) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record. The record will be transferred in a form that is not individually identifiable. The written statement should include as a minimum:

(i) A statement of the purpose for requesting the records; and

(ii) Certification that the records will be used only for statistical purposes.

(2) These written statements should be maintained as records. In addition to deleting personal identifying information from records released for statistical purposes, the system manager will reasonably ensure that the identity of the individual cannot be deduced by combining various statistical records.

(f) To the National Archives of the United States as a record that has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or his or her designee to

determine whether the record has such value.

(g) To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality or his designated representative has made a written request to the Office or agency that maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought.

(h) To a person showing compelling circumstances affecting the health and safety of an individual, not necessarily the individual to whom the record pertains. Upon such disclosure, a notification should be sent to the last known address of the subject individual.

(i) To the Congress or to a Congressional committee, subcommittee, or joint committee to the extent that the subject matter falls within its established jurisdiction.

(j) To the Comptroller General or any authorized representatives of the Comptroller General in the course of the performance of the duties of the General Accounting Office.

(k) Pursuant to the order of a court of competent jurisdiction.

(l) To a consumer reporting agency in accordance with section 3711(f) of title 31 of the United States Code.

§ 297.402 Disclosure pursuant to a compulsory legal process served on the Office.

(a) The Office may disclose, without prior consent of the data subject, specified information from a system of records whenever such disclosure is pursuant to an order signed by the appropriate official of a court of competent jurisdiction or quasi-judicial agency. In this subpart, a court of competent jurisdiction includes the judicial system of a state, territory, or possession of the United States.

(b) Notice of the order will be provided to the data subject by the Office as soon as practicable after service of the order. The notice should be mailed to the last known address of the individual and state the name and number of the case or proceeding, and the nature of the information sought.

(c) Before complying or refusing to comply with the order, an official with authority to disclose records under this subpart should consult legal counsel to ensure that the response is appropriate.

§ 297.403 Disclosure pursuant to a subpoena served on the Office.

(a) The Office may disclose, without prior consent of the individual, specified information from a system of records whenever such disclosure is pursuant to a subpoena signed by the appropriate official and issued in connection with a judicial or administrative proceeding.

(b) Before responding to a subpoena, an official with authority to disclose records under this part, should consult, as appropriate, with legal counsel to ensure that—

(1) The requested materials are relevant to the subject matter of the related judicial or administrative proceeding;

(2) Motion is made to quash or modify a subpoena that is unreasonable or oppressive;

(3) Motion is made for a protective order when necessary to restrict the use or disclosure of any information furnished for purposes other than those of the involved proceeding; or

(4) Request is made for an extension of the time allowed for response, if necessary.

(c) If a subpoena for production of documents also requests appearance of an Office employee, the response should be to furnish certified copies of the appropriate records.

(d) If oral testimony is requested by the subpoena, an explanation, which sets forth the testimony desired, must be furnished to the Office system manager. The individual who has been subpoenaed to testify should consult with legal counsel to determine the matters about which the individual may properly testify.

(e) In all situations concerning a subpoena or other demand for an employee of the Office to produce any material or testimony concerning the records that are subject to the subpoena, that are contained in the Office's systems of records, and that are acquired as part of the employee's official duties, the employee should not provide the information without prior approval of the appropriate Office official.

(f) If it is determined that the information should not be provided, the individual subpoenaed should respectfully decline to comply with the demand based on the instructions from the appropriate Office official.

(g) When the records for an individual residing in an Office system of records are subpoenaed, the disclosing Office official should notify the individual whose records are sought of the subpoena's issuance. Notice should be mailed to the last known address of the individual and contain the following information: The date the subpoena is returnable; the court, quasi-judicial, or administrative authority to which it is returnable; the name and number of the case or proceeding; and the nature of the record sought. Such notice should be accomplished within 10 working days after receipt of the subpoena or as soon as practicable. In the case of a grand jury subpoena, such notice should be accomplished within 10 working days of its becoming a matter of public record.

§ 297.404 Accounting of disclosure.

(a) The Office or agency will maintain a record of disclosures in cases where records about the individual are disclosed from an Office system of records except—

(1) When the disclosure is made pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552); or

(2) When the disclosure is made to those officers and employees of the Office or agency who have a need for the record in the performance of their duties.

(b) This accounting of the disclosures will be retained for at least 5 years or for the life of the record, whichever is longer, and will contain the following information:

(1) A brief description of the record disclosed;

(2) The date, nature, and purpose for the disclosure; and

(3) The name and address of the person, agency, or other entity to whom the disclosure is made.

(c) Except for the accounting of disclosure made to agencies, individuals, or entities in law enforcement activities or disclosures made from the Office's exempt systems of records, the accounting of disclosures will be made available to the data subject upon request in accordance with the access procedures of this part.

Subpart E—Exempt Records

§ 297.501 Exemptions.

(a) Several of the Office's internal, central, and Governmentwide systems of records contain information for which exemptions appearing at 5 U.S.C. 552a(k) (1), (2), (3), (5), and (6) may be claimed. The systems of records for which the exemptions are claimed, the specific exemptions determined to be necessary and proper with respect to these systems of records, the records exempted, the provisions of the act from which they are exempted, and the justifications for the exemptions are set forth below.

(b) Specific exemptions:

(1) *Inspector General Investigations Case File Records (OPM/CENTRAL–4).* All information in these records that meets the criteria stated in 5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6), and (7) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records. The specific applicability of the exemptions to this system and the reasons for the exemptions are as follows:

(i) Inspector General investigations may contain properly classified information that pertains to national defense and foreign policy obtained from other systems or another Federal agency. Application of exemption (k)(1) may be necessary to preclude the data subject's access to and amendment of such classified information under 5 U.S.C. 552a(d).

(ii) Inspector General investigations may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2); e.g., investigations into the administration of the merit system. Application of exemption (k)(2) may be necessary to preclude the data subject's access to or amendment of such records under 5 U.S.C. 552a (c)(3) and (d).

(iii) Inspector General investigations may contain information obtained from another system or Federal agency that relates to providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. Application of exemption (k)(3) may be necessary to preclude the data subject's access to and amendment of such records under 5 U.S.C. 552a(d).

(iv) Inspector General case files may contain information that, by statute, is required to be maintained and used solely as a statistical record. Application of exemption (k)(4) may be necessary to ensure compliance with such a statutory mandate.

(v) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). This exemption is claimed because this system contains investigatory material that if disclosed may reveal the identity of a source who furnished information to the Government under an express promise that the source's identity would be held in confidence or, prior to September 27, 1975, under an implied promise. The application of exemption (k)(5) will be required to honor promises of confidentiality should the data subject request access to or amendment of the records, or access to the accounting of disclosures of the record.

(vi) All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d) relating to access to and amendment of records by the data subject. This exemption is claimed because portions of a case file record may relate to testing and examining material used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(vii) Inspector General case files may contain evaluation material used to determine potential for promotion in the armed services. Application of exemption (k)(7) may be necessary, but only to the extent that the disclosure of the data would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(2) *Administrative Law Judge Applicant Records OPM/CENTRAL–6).* (i) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirement of 5 U.S.C. 552a (c)(3) and (d). The exemptions are claimed because this system contains investigatory material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment. To the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the application of exemption (k)(5) will be required to honor promises of confidentiality should the data subject request access to the accounting of disclosures of the record, or access to or amendment of the record.

(ii) All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of the records by the data subject. This exemption is claimed because portions of this system relate to testing and examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examing process.

(3) *Litigation and Claims Records (OPM/CENTRAL–7).* (i) When litigation or claim cases occur, information from other existing systems of records may be incorporated into the case file. This information may be material for which exemptions have been claimed by the Office in this section. To the extent that such exempt material is incorporated into a litigation or claim case file, the appropriate exemption (5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6), or (7)] shall also apply to the material as it appears in this system. The exemptions will be only from those provisions of the Act that were claimed for the systems from which the records originated.

(ii) During the course of litigation or claims cases, it may be necessary to conduct investigations to develop information and evidence relevant to the case. These investigative records may include material meeting the criteria stated in 5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6), and (7). Such material is exempt from the requirement of 5 U.S.C. 552a (c)(3) and (d). These provisions of the Act relate to making accounting of disclosures available to the data subject and access to and amendment of records. The specific applicability of the exemptions to this system and the reasons for the exemptions are:

(A) Such investigations may contain properly classified information that pertains to national defense and foreign policy obtained from another Federal agency. Application of exemption (k)(1) may be necessary to preclude the data subject's access to and amendment of such classified information under 5 U.S.C 552a(d).

(B) Such investigations may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), e.g., administration of the merit system, obtained from another Federal agency. All information about individuals in these records that meets the criteria of 5 U.S.C 552a(k)(2) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). Application of exemption (k)(2) may be necessary to preclude the data subject's access to or amendment of those records.

(C) Such investigations may contain information obtained from another agency that relates to providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. All information about individuals in these records that meets the criteria of 5 U.S.C. 552a(k)(3) is exempt from the

requirements of 5 U.S.C. 552a(d), relating to access to or amendment of records by the data subject. Application of exemption (k)(3) may be necessary to preclude the data subject's access to and amendment of such records.

(D) Such investigations may contain information that, by statute, is required to be maintained and used solely as a statistical record. Application of exemption (k)(4) may be necessary to ensure compliance with such a statutory mandate.

(E) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). These exemptions are claimed because this system contains investigatory material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment. To the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the application of exemption (k)(5) will be required to honor such a promise should the data subject request access to the accounting of disclosure, or access to or amendment of the record, that would reveal the identity of a confidential source.

(F) All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of the records by the data subject. This exemption is claimed because portions of this system relate to testing or examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment by the data subject of this information would compromise the objectivity and fairness of the testing or examining process.

(G) Such investigations may contain evaluation material used to determine potential for promotion in the armed services. Application of exemption (k)(7) may be necessary, but only to the extent that the disclosure of the data would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(4) *Privacy Act/Freedom of Information Case Records (OPM/CENTRAL–8).* In this subpart, the Office has claimed exemptions for its other systems of records where it felt such exemptions are appropriate and necessary. These exemptions are claimed under 5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6) and (7). During the processing of a Privacy Act/Freedom of Information Act request (which may include access requests, amendment requests, and requests for review for initial denials of such requests) exempt materials from those other systems may in turn become part of the case record in this system. To the extent that copies of exempt records from those other systems are entered into this system, the Office hereby claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary system of which they are a part.

(5) *Personnel Investigations Records (OPM/CENTRAL–9).* All information in these records that meets the criteria stated in 5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6), and (7) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records. The specific applicability of the exemptions to this system and the reasons for the exemptions are as follows:

(i) Personnel investigations may contain properly classified information which pertains to national defense and foreign policy obtained from another Federal agency. Application of exemption (k)(1) may be necessary to preclude the data subject's access to and amendment of such classified information under 5 U.S.C. 552a(d).

(ii) Personnel investigations may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2); e.g., investigations into the administration of the merit system. Application of exemption (k)(2) may be necessary to preclude the data subject's access to or amendment of such records under 5 U.S.C. 552a(c)(3) and (d).

(iii) Personnel investigations may contain information obtained from another Federal agency that relates to providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. Application of exemption (k)(3) may be necessary to preclude the data subject's access to and amendment of such records under 5 U.S.C. 552a(d).

(iv) Personnel investigations may contain information that, by statute, is required to be maintained and used solely as a statistical record. Application of exemption (k)(4) may be necessary to ensure compliance with such a statutory mandate.

(V) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). These exemptions are claimed because this system contains investigatory material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment. To the extent that the disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the applicability of exemption (k)(5) will be required to honor promises of confidentiality should the data subject request access to or amendment of the record, or access to the accounting of disclosures of the record.

(vi) All information in these records that meets the criteria stated in 5 U.S.C. 552a (k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the data subject. This exemption is claimed because portions of this system relate to testing or examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(vii) Personnel Investigations may contain evaluation material used to determine potential for promotion in the armed services. Application of exemption (k)(7) may be necessary, but only to the extent that the disclosure of the data would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(6) *Presidential Management Intern Program Records (OPM/CENTRAL–11).* All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the data subject. This exemption is claimed because portions of this system relate to testing or examining materials used solely to determine individual qualifications for appointment or

promotion in the Federal service and access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(7) *Recruiting, Examining, and Placement Records (OPM/GOVT–5).* (i) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records. These exemptions are claimed because this system contains investigative material compiled solely for determining the appropriateness of a request for approval of an objection to an eligible's qualification for employment in the Federal service. To the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the application of exemption (k)(5) will be required to honor promises of confidentiality should the data subject request access to the accounting of disclosures of the record, or access to or amendment of the record.

(ii) All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to an amendment of records by the subject. This exemption is claimed because portions of this system relate to testing or examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service and access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(8) *Personnel Research Test Validation Records (OPM/GOVT–6).* All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of the records by the data subject. This exemption is claimed because portions of this system relate to testing or examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(c) The Office also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request. The Office may refuse access to information compiled in reasonable anticipation of a civil action or proceeding.

[FR Doc. 87–17614 Filed 8–3–87; 8:45 am]
BILLING CODE 6325–01–M

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5 CFR Part 540

Performance Management and Recognition System; Minimum Performance Award Funding

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing the minimum percentage for calculating funds to pay performance awards to Performance Management and Recognition System (PMRS) employees for Fiscal Years 1988 and 1989. Establishing a new minimum percentage for each year is required by title II of the Civil Service Retirement Spouse Equity Act of 1984, which established the PMRS.

DATE: Comments will be considered if received no later than September 3, 1987.

ADDRESS: Send or deliver written comments to: Barbara L. Fiss, Assistant Director for Pay and Performance, Personnel Systems and Oversight Group, Room 7H28, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jack Pokoyk, (202) 632–7620.

SUPPLEMENTARY INFORMATION: The funding for performance awards to be paid to PMRS employees is determined as a percentage of the estimated aggregate amount of PMRS employees' pay for each Fiscal Year. Section 5406(c)(2)(A)(i)(II) of title 5, U.S. Code, provides that the minimum percentage used by an agency to determine the aggregate amount of performance awards paid during any Fiscal Year shall, for each of the four Fiscal Years after FY 85 " * * * be adjusted incrementally (by equal increments or otherwise) over the percentage for the preceding Fiscal Year by the appropriate agency head in accordance with regulations which the Office of Personnel Management shall prescribe;".

The regulations implementing the PMRS, issued on August 30, 1985 (50 FR 169), provide that the minimum percentage will be adjusted each year in accordance with OPM instructions. This proposed rule provides instructions on calculating the aggregate amount of performance awards to be paid for Fiscal Years 1988 and 1989.

OPM is proposing that the minimum percentage for calculating the aggregate amount of PMRS performance awards to be paid by each agency during Fiscal Year 1988 will be 1.05 percent of the estimated aggregate amount of PMRS employees' pay for Fiscal Year 1988. Additionally, Fiscal Year 1989 is the final year to make adjustments to the minimum percentage for PMRS awards amounts. Therefore, as required by 5 U.S.C. 5406(c)(2)(A)(i)(III), the minimum percentage under this proposed rule to be spent on performance awards for Fiscal Year 1989 will be 1.15 percent.

Procedures agencies must follow to calculate the aggregate amount of performance awards to be paid for each Fiscal Year are described at 5 CFR 540.109(b).

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulations will only affect Government employees and agencies.

Reduction of Comment Period for Proposed Rulemaking

I find that, because agencies are required to compute FY 88 awards funds at the beginning of the Fiscal Year, good cause exists for setting the comment period on this proposed rulemaking at 30 days.

List of Subjects in 5 CFR Part 540

Government employees, Wages.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM proposes to amend 5 CFR Part 540 as follows:

PART 540—PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

1. The authority citation for Part 540 continues to read as follows

Authority: 5 U.S.C. Chapters 43 and 54

2. In § 540.109, paragraphs (b)(1)(i) and (b)(1)(ii) are revised to read as follows:

§ 540.109 Performance awards.

* * * * *

(b) * * *

(1) * * *

(i) Each agency is required to pay a minimum of 1.05 percent of the estimated aggregate amount of PMRS employees' basic pay for Fiscal Year 1988 for performance awards;

(ii) In accordance with chapter 54 of title 5 United States Code, the minimum percentage to be spent for performance awards will be 1.15 percent for Fiscal Year 1989.

* * * * *

[FR Doc. 87-17624 Filed 8-3-87; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Parts 870 and 874

Standardization of Terms Used Under the Federal Employees Group Life Insurance Program

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing to issue regulations that would define terms commonly used under the statutory order of precedence for making payments under the Federal Employees' Group Life Insurance (FEGLI) Program. Conflicts have arisen concerning entitlements to these payments because of different interpretations given these terms by the various States. These proposed regulations would provide uniform definitions for such terms as "child" and "parent" and thereby initiate a standardized approach to inheritance rights under the order of precedence in the FEGLI Program no matter where the potential heirs might reside. In addition, OPM is proposing to clarify the existing regulations concerning designations of beneficiary to specify that designations must be witnessed by two people, and is proposing to set a maximum age of majority at age 18 for FEGLI purposes.

DATE: Comments must be received on or before October 5, 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, DC.

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

SUPPLEMENTARY INFORMATION: Section 8705(a) of title 5, U.S. Code, specifies the order of precedence under which the amounts of FEGLI coverage are to be paid upon the death of an insured employee or annuitant. According to the order of precedence: (1) A designated beneficiary is first; (2) if there is no designated beneficiary, payment is made to the widow or widower of the insured; (3) if no widow or widower survives, payment is made to the children of the insured; (4) if no children survive the insured, payment is made to the parents of the insured, the executor or administrator of the insured's estate, or the next of kin, in that order.

Metropolitan Life Insurance Company's Office of Federal Employees' Group Life Insurance (OFEGLI) is responsible for determining the proper payee(s) under the above order of precedence following the death of the insured FEGLI participant and for disbursing the proceeds to the appropriate claimants in a timely manner. OFEGLI has brought to our attention the administrative complexities and inherent delays associated with recognizing the various states' definitions of heirs and inheritance rights in the absence of published definitions in the FEGLI regulations for this purpose. Therefore, OPM proposes to add a new section for definitions in the FEGLI regulations to eliminate this administrative burden and to provide uniform definitions for such terms used in the FEGLI law's order of precedence as "child" and "parent."

Many of the states define the term "child" differently and distinguish between the inheritance rights of different categories of children. For example, some states differentiate between "legitimate," "recognized natural children," "half blood," "whole blood," and "adopted children," and specify the conditions under which they inherit. Depending upon the definitions in place in the state of domicile of the insured at the time of his or her death, or depending upon the inheritance laws of the state where the parent-child relationship was established, the potential heirs may be subject to various interpretations on inheritance rights and may experience subsequent delays in the settlement from OFEGLI. To a lesser degree, the same set of problems exist with the working definitions of "parent." OPM proposes to fill the existing void of standardized definitions under the FEGLI Program by defining several of the tenns used in the FEGLI order of precedence.

In addition to providing standardized definitions, OPM's proposed regulations would also set a maximum age of majority at age 18. Most states have legislated the "age of majority" (i.e., the age at which an individual is accorded full civil rights and considered to be an adult) at age 18. OPM's proposed regulations would make the attainment of age 18 universally accepted as having attained adulthood under the FEGLI Program. In those few states which recognize the age of majority at less than age 18, an individual will be considered to be an adult upon attaining the lesser age.

OPM is also proposing to clarify the existing regulations concerning designations of beneficiary to specify that designations must be witnessed by two people. The form itself has always had two lines provided for the signatures and addresses of "witnesses." The instructions to agencies and employees on the completion of the form have always envisioned two witnesses to the execution of the document. However, the regulations have never specifically stated this requirement. We propose to correct this deficiency in the regulations at this time.

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 the regulations will primarily serve to clarify the status of family members under the FEGLI Program.

List of Subjects in 5 CFR Parts 870 and 874

Administrative practice and procedure, Government employees, Life insurance, Retirement, Worker's compensation.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM proposes to amend Parts 870 and 874 of Title 5 of the Code of Federal Regulations as follows:

1. The authority citation for Parts 870 and 874 continues to read as follows:

Authority: 5 U.S.C. 8716.

PART 870—BASIC LIFE INSURANCE

2. In Subpart I of Part 870, § 870.901 is redesignated as § 870.902 and a new § 870.901 is added to read as follows:

§ 870.901 Order of precedence.

(a) *Definitions.* For the purposes of this part, the following terms are defined as follows:

(1) "Child" means a legitimate child, an adopted child, or a recognized natural child but does not include a stillborn child, a stepchild, or a foster child. An individual who has attained age 18 is considered to be an adult. However, if the age of majority in the jurisdiction in which that individual is domiciled is set at a lower age, he or she is considered to be an adult upon attaining the age designated in that jurisdiction. An adopted child does not inherit under the order of precedence specified in 5 U.S.C. 8705, other than as a designated beneficiary, from his/her natural parents but inherits from and through his or her adoptive parents. However, a child who is adopted by the spouse of his or her natural parent does inherit from that natural parent.

(2)(i) A "recognized natural child," with respect to paternity, is one for whom the father meets one of the following:

(A) Has acknowledged paternity in writing;

(B) Has been judicially ordered to provide support;

(C) Has, before his death, been judicially decreed to be the father;

(D) Has been established as the father by a certified copy of the public record of birth or church record of baptism if the insured was the informant and so named himself as the father of the child; or

(E) Has established paternity on public records, such as school or social welfare agencies, which show that with his knowledge the insured was named as the father of the child.

(ii) Secondary evidence to support the alleged paternity, such as evidence of eligibility as a recognized natural child under other State or Federal programs or proof of inclusion of the child as a recognized natural child on the insured's income tax returns, may also be considered in the determination process.

(3) "Parent" means the mother or father of a legitimate child or an adopted child. The term "parent" includes the mother of a recognized natural child and the father of a recognized natural child but only if the recognized natural child meets the definition provided in paragraph (a)(2) of this section. An individual can not inherit from a child who has been adopted by someone else. However, an individual whose spouse adopted his or her child can inherit from that child.

3. In the redesignated § 870.902, paragraph (a) is amended, by adding the words "by two people," to read as follows:

§ 870.902 Designation of beneficiary.

(a) A designation of beneficiary shall be in writing, signed, and witnessed by two people, and received in the employing office (or in OPM, in the case of (1) an annuitant or (2) a compensationer whose basic life insurance is continued) before the death of the insured.

* * * * *

PART 874—ASSIGNMENT OF LIFE INSURANCE

4. In Part 874, § 874.701(d) is revised to read as follows:

§ 874.701 Designations of beneficiary.

* * * * *

(d) The provisions of § 870.902 of this chapter apply to designations of beneficiary filed by assignees.

[FR Doc. 87-17616 Filed 8-3-87; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 87-026]

Cleaning and Disinfecting of Export Aircraft

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reopening of comment period for proposed rule.

SUMMARY: We published a document in the **Federal Register** on December 24, 1986, proposing to amend the regulations governing the exportation of animals and animal products from the United States by requiring the cleaning and disinfecting of aircraft prior to their being used to export animals from the United States. We are reopening the comment period for the proposal. This action will provide interested persons with additional time to prepare comments on the proposed rule. It will also allow us to consider comments that we received after the comment period for the proposed rule closed on February 23, 1987.

DATE: Consideration will be given only to comments postmarked on or before August 19, 1987.

ADDRESS: Send written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 84-042. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Najam Q. Faizi, Import-Export Operations Staff, VS, APHIS, USDA, Room 726, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8383.

SUPPLEMENTARY INFORMATION:

Background

On December 24, 1986, we published in the **Federal Register** (51 FR 46684-46685, Docket No. 84-042), a proposal to amend the regulations in 9 CFR Part 91 by requiring the cleaning and disinfecting of aircraft prior to their being used to export animals from the United States.

The proposed rule provided that written comments would be accepted for 60 days until February 23, 1987. We are reopening the comment period to the public for an additional 15 days. This action will provide interested persons with additional time to prepare comments on the proposed rule. It will also allow us to consider comments that we received after the comment period for the proposed rule closed on February 23, 1987.

Done in Washington, DC, this 29th day of July 1987.

J.K. Atwell,

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

[FR Doc. 87-17657 Filed 8-3-87; 8:45 am]

BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this proposed rule is to increase the examination fees imposed upon small business investment companies. The objective of this proposed rule is to reduce the difference between costs and billings.

DATE: Written comments should be submitted in duplicate not later than September 3, 1987.

ADDRESSES: Comments should be

addressed to: Robert G. Lineberry, Deputy Associate Administrator, for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: John L. Werner, Director, Office of Investment (202)653-6584.

SUPPLEMENTARY INFORMATION: Section 310(b) of the Small Business Investment Act, as amended, mandates that each small business investment company be examined by the Agency at least once each year. The section further provides that "the cost of such examinations, including the compensation of the examiners, may in the discretion of the Administration, be assessed against the company examined. . . ." The proposed rule would revise the fee schedule set forth in 13 CFR 107.1002(c) to increase the fees set forth therein by approximately 60 percent. For example, under the present rule, a small business investment company with assets of $2,000,000 must pay an examination fee of $1,700. If the proposed rule is adopted, such company would pay an examination fee of $2,720.

An analysis of expenses incurred in Fiscal 1986 in SBA Regions II (New York), III (Philadelphia), VI (Dallas) and IX (San Francisco) disclosed that SBA's direct costs, including the expense of review in the Central Office, were $1,524,619, while billings were only $976,502. The objective of this proposed rule is to reduce the difference between costs and billings.

For the purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) SBA hereby certifies that the proposed rule will not, if promulgated in final form, have a significant impact on a substantial number of small entities. For the average small business investment company, the increase in the examination fee would represent about .05 percent of its assets.

For the purposes of Executive Order 12291 (February 17, 1981), SBA certifies that this Proposed regulation would not, if adopted as a final rule, be likely to result in an annual economic effect of as much as $100,000,000, or a major increase in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based businesses to compete with foreign-based businesses in domestic or export markets. The intended economic effect of the rule is the recovery, from the entire small business investment company industry, of approximately $600,000.

List of Subjects in 13 CFR Part 107

Small business investment companies, operational requirements.

Accordingly, pursuant to the authority set forth in sections 308(c) [15 U.S.C. 687(c)] and 310(b)[15 U.S.C. 687b(b)] of the Small Business Investment Act, as amended, it is proposed to amend 12 CFR Part 107 as follows:

PART 107—[AMENDED]

1. The authority citation for 13 CFR Part 107 continues to read as follows:

Authority: Sec. 308(c), 72 Stat. 694, as amended (15 U.S.C. 687(c)); sec. 310, 78 Stat. 147 (15 U.S.C. 687d).

2. In § 107.1001, the rate table in paragraph (c) is revised to read as follows:

§ 107.1001 Examination and fees.

* * * * *

(c) *Rates.* * * *

Total assets of licensee	Base rate	Percent of assets
$500,000 or less	$1,280	+0
$500,001 to $1,000,000	$1,280	+0.1920 over $500,000
$1,000,001 to $3,000,000	$2,240	+0.0480 over $1,000,000
$3,000,001 to $5,000,000	$3,200	+0.0256 over $3,000,000
Over $5,000,001	$3,712	+0.0096 over $5,000,000

For example, a Licensee with total assets of $2,000,000 would pay an examination fee of $2,720 ($2,240 +0.0480% of $1,000,000).

* * * * *

(Catalog of Federal Domestic Assistance Programs No. 59.011)

Dated: July 13, 1987.

James Abdnor,

Administrator

[FR Doc. 87-17579 Filed 8-3-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 85N-0061]

Food Labeling; Public Health Messages on Food Labels and Labeling

AGENCY: Food and Drug Administration.

ACTION: Notice of propose rulemaking.

SUMMARY: In this notice, the Food and Drug Administration (FDA) discusses a new and innovative initiative concerning the placing of health-related claims or information on food labeling and the criteria it will apply in evaluating the propriety of such labeling. Consistent with this new initiative, FDA proposes to amend certain regulations on food labeling to codify and clarify its policy on the appropriate use of health-related messages. The agency also announces its intention to form a Public Health Service (PHS) committee that will attempt to develop "health messages" appropriate for use on food labeling. FDA recognizes that this new initiative represents a substantive change in past agency policy, and because of the complexity of the matter and the broad public interest, wishes to proceed cautiously and deliberately in its regulatory approach.

Pending this rulemaking proceeding, the agency will employ the criteria discussed in the preamble to this notice in evaluating the propriety of bringing enforcement action against products bearing health messages on food labeling.

DATE: Written comments by November 2, 1987.

ADDRESS: Written comments on this notice and on four related citizen petitions to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. The four citizen petitions may be reviewed in the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: David Hattan, Center for Food Safety and Applied Nutrition (HFF-204), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3117.

SUPPLEMENTARY INFORMATION:

Statement

Consumers are becoming increasingly conscious of the relationship between diet and health. As a result, food manufacturers have begun to show an interest in developing a mechanism to inform consumers about this relationship and how specific foods may be used to improve one's diet, thereby

promoting good health. FDA believes that it is important to consider ways to improve the public's understanding about the health benefits that can result from adhering to a sound and nutritious diet. Accordingly, in this notice, FDA discusses its views concerning the current state of knowledge about the relationship between diet and health; sets forth general criteria it intends to apply in evaluating health and disease-related information and claims on food labeling; announces the formation of a PHS committee to devise suggested health messages for use on food labeling; proposes amendments to 21 CFR 101.9 on nutrition labeling; and calls for comment on the initiatives discussed in this notice as well as on related initiatives suggested in pending citizen petitions.

The Relationship Between Good Nutrition and Good Health

Good nutrition is essential to good health, and in fact the increased longevity of Americans can in part be attributed to the availability of a plentiful, wholesome, and nutritious food supply that enables consumers to select generally well-balanced diets based on a variety of foods. Increasingly, consumers are taking a greater interest in healthful dietary practices, as "evidence keeps mounting that certain food factors and current dietary habits may be linked with health problems as diverse as heart disease, tooth decay, obesity, and some types of cancer * * *." (Ref. 1; see also Ref. 2.)

The field of nutrition, health, and disease is a dynamic one. Many intriguing and promising findings have been reported in recent years. Some have been studied and confirmed to the point of emerging consensus, while others have not. Recommendations for major dietary changes should not be advanced until sufficient evidence has been developed. The rapid growth of scientific and public interest in nutrition argues for recognition and dissemination of such new knowledge, and food labels offer one appropriate vehicle for this dissemination.

Good nutrition is a function not of individual foods, but of a total diet over time. The conscious construction of useful recommendations for a healthful diet is complicated by the fact that the composition of a healthful diet will vary among individuals according to such factors as age, sex, size, level of physical activity, and state of health. Thus, recommendations for subpopulations with certain risk factors or characteristics may be unnecessarily restrictive or otherwise inappropriate for the population as a whole. PHS agencies (including FDA), the United States Department of Agriculture (USDA), and a number of health-related organizations have implemented various initiatives to provide the public with dietary guidance that acknowledges the differences in the nutritional needs of different people, and have targeted more specific advice to special subpopulations.

PHS has formally recognized good nutrition and diet as an essential component of good health (Ref. 2) and has also included nutrition and diet as part of its health promotion, health education, and health protection initiatives (Ref. 3). Industry, consumer advocacy groups, professional societies, and PHS components such as the National Cancer Institute (NCI) have suggested that food labels, by virtue of their proximity during the purchase, preparation, and consumption of food, are suitable vehicles for conveying information to the general public or target subpopulations regarding the relationship between diet and health, including specific health problems.

Historic Regulation of Health-Related Information on Food Labeling

Truthful, nonmisleading general information regarding nutrition has appeared for years on food labeling. For example, the list of ingredients has been used by health professionals and consumers to identify valued ingredients having specific nutrients. More recently, nutrition labeling (21 CFR 101.9) has provided more complete and explicit information. As noted above, however, there is now information that shows that following certain dietary patterns, including increasing or decreasing relative intake of certain types of food, may help maintain health by decreasing the risk of developing specific health problems, including chronic diseases that account for a large proportion of morbidity and mortality in the United States. Including health- or disease-related information on food labeling, however, may affect the regulatory status of the product, if it results in the food's being deemed a drug within the meaning of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 et seq.).

The act defines a drug, in part, as "articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man * * *" (21 U.S.C. 321(g)(1)(B)), and sets forth rigorous requirements to ensure that drugs are proven in controlled studies to be both safe and effective. FDA has promulgated regulations that further provide that a food shall be deemed to be misbranded "if its labeling represents, suggests, or implies: (1) That the food because of the presence or absence of certain dietary properties, is adequate or effective in the prevention, cure, mitigation, or treatment of any disease or symptom" (21 CFR 101.9(i)). These provisions have served a public health protection function by safeguarding consumers from fraudulently promoted and sometimes dangerous products. A brief review of relevant legal precedents illustrates this point.

The intended use of a product may be determined from its "label, accompanying labeling, promotional material, advertising and any other relevant source." *United States* v. *An Article Consisting of 216 bottles * * * Sudden Change*, 409 F.2d 734, 739 (2d Cir. 1969). Accordingly, courts have found food products to be drugs on the basis of promotional material as diverse as oral representations on a radio broadcast, *United States* v. *An Article of Drug Consisting of Undetermined Quantities of Vitamin, Mineral, and Other Dietary Preparations * * * Food Plus, Inc.*, 239 F. Supp. 465 (D. N.J. 1965), *aff'd*, 362 F.2d 923 (3d Cir. 1966); brochures and magazine reprints, *United States* v. *Articles of Drug * * * Neptone*, No. C–83–0864 (N.D. Cal., October 25, 1983) (ground and whole New Zealand green-lipped mussels); and product labeling, *United States* v. *Hohensee*, 243 F.2d 367 (3d Cir. 257) (tea leaves); and *United States* v. *250 Jars of * * * Honey*, 218 F. Supp. 208 (E.D. Mich. 1963), *aff'd*, 344 F.2d 288 (6th Cir. 1965).

Having found that a food can also be a drug, depending on the marketing claims made, courts have concluded that the product is misbranded if it does not contain adequate directions for use (21 U.S.C. 351(f)(1)). See, for example, *United States* v. *Article of Drug Consisting of Undetermined Quantities of Vitamin, Mineral, and Other Dietary Preparation * * * Foods Plus, Inc., supra; United States* v. *Articles of Drug * * * Neptone, supra.*

In a number of other instances, courts have also found that health or disease prevention claims on food labeling or on material which serves the function of labeling (books, pamphlets, written advertisements), may cause the food to fall under the new drug provisions of the act (21 U.S.C. 321(p), 335). See, for example, *United States* v. *Article of Drug * * * Vit-Ra-Tox*, 263 F. Supp. 212, 215 (D. Neb. 1967), where vitamins accompanied by advertising and labeling representing the vitamins to be an effective cure for conditions ranging from backaches to cancer were found to be drugs and new drugs within the

meaning of the act. See also, *United States* v. *Article of Drug * * * Neptone, supra.*[1]

As a practical matter, food products are not likely to be able to meet the adequate directions for use requirement or to have disease prevention claims substantiated in a manner necessary for approval of a new drug application. While effectively protecting the public from fraudulent, unsubstantiated, and potentially dangerous claims, the law, regulations, and past legal precedent in this area have also had the effect of generally discouraging the use of any health-related messages on food labeling.

In summary, using food labeling to communicate health-related messages may raise complex legal and procedural concerns. In some instances, as illustrated above, health-related claims may directly call into play the misbranding and new drup provisions of the act. In light of advances in current knowledge, however, the agency now believes that health-related messages, when appropriately formulated for use on food labels and consistent with existing law and regulations, may provide valuable information to health-conscious consumers.

FDA's Criteria for Evaluating the Propriety of Health-Related Claims and Information on Food Labeling

FDA believes that it is worthwhile to consider new ways to inform and educate the general public or target subpopulations concerning the relationship between diet and health. The agency believes that, if proper criteria are followed, it is possible to use the food label to communicate more explicit health-related information. The agency acknowledges that in the past, foods labeled with information of this type could have been viewed as subject to action under 21 CFR 101.9(i) and the new drug provisions of the act. The agency's current view is that appropriate health messages would not be inconsistent with either of these provisions. Consistent with its current view, FDA is proposing in this notice to amend § 101.9(i) (21 CFR 101.9(i)) and to add new § 101.9(j) to clarify its enforcement policy. The proposed amendments reflect the criteria which are discussed in this notice and which the agency intends to apply to help determine the propriety of health-related claims and information. The criteria, as well as the proposed clarifications to the regulations, reflect a cautious and deliberate approach and do not change FDA's basic interpretation of the act or legal precedent in cases of false or misleading claims. FDA's use of the criteria may prove helpful in ordering the agency's priorities in combating health fraud and nutrition quackery. (This use of agency discretion is consistent with FDA's authority over food labeling. *National Milk Producers Federation* v. *Harris*, 653 F.2d 339, 343 (8th Cir. 1981). *Cf. Heckler* v. *Chaney*, 105 S.Ct. 1649 (1985).)

These criteria will apply to health claims made on food labels but not to health claims made in food advertising, except in those limited circumstances which fall under the labeling provisions of the act. FTC has primary jurisdiction over advertising of foods and over-the-counter drugs. Similarly, meat and poultry products are subject to the jurisdiction of the Food Safety and Inspection Service (FSIS), USDA, which administers the Federal Meat Inspection Act and the Poultry Products Inspection Act. As a matter of policy, the agency will work closely with both FTC and FSIS on issues involving public health messages. The ultimate propriety of the labeling of meat and poultry products that fall under the Federal Meat Inspection Act or the Poultry Products Inspection Act will remain a matter governed by FSIS and USDA (21 U.S.C. 601 et seq.; 21 U.S.C. 451 et seq.). Food advertising which is not labeling will continue to be regulated by FTC.

FTC has set forth relevant policies and criteria in the FTC Policy Statement Regarding Advertising Substantiation, included as an appendix to the Commission's Opinion in *Thompson Medical Co.*, 104 F.T.C. —— (D. 9149, November 23, 1984); the Deception Policy Statement, included as an appendix to the Commission's Opinion in *Cliffdale Associates*, 103 F.T.C. 110, 174 (D. 9156, 1984); and the Commission Statement of Polciy on the Scope of the Consumer Unfairness Jurisdiction, included as an appendix to the Commission's Opinion in *International Harvester Co.*, 104 F.T.C. —— (D. 9147, December 21, 1984).

The agency's criteria for evaluating health-related claims and information on food labeling are as follows:

1. Information on the labeling must be truthful and not misleading to the consumer. The information should not imply that a particular food be used as part of a drug-like treatment or therapy oriented approach to health care. Information on food labeling must not over emphasize or distort the role of a food in enhancing good health. The term "health" includes specific health problems, including disease.

2. The information should be based on and be consistent with valid, reliable, scientific evidence that is publically available (prior to any health related claim being made), including data derived from clinical and other studies performed and evaluated by persons qualified by experience and training to evaluate such studies, and should conform to generally recognized medical and nutritional principles. Preliminary findings should be confirmed. Conclusions supported by a less-than-clear data base may prove in time to be correct, but are not appropriate for use on food labeling if they do not reflect the weight of scientific evidence. This approach will ensure that the substance of the message has achieved sufficient recognition to be appropriate and nonmisleading. This, in turn, will provide a measure of assurance that the information, if followed, will help an individual to develop a sound, total dietary pattern that may enhance health.

3. Available information regarding the relationship between nutrition and health shows that good nutrition is a function, not of specific foods, but of total diet over time. Appropriate information on food labeling should describe the role of a specific food or a specific ingredient in tems that are consistent with generally recognized medical and nutritional principles for a sound total dietary pattern. The dietary characteristics of the food must be consistent with the message being used.

4. The use of health-related information constitutes a nutritional claim that triggers the requirements of FDA's regulations regarding nutrition labeling. Therefore, any product bearing health-related information must comply with the nutrition labeling requirements found in 21 CFR 101.9. However, the use of health-related information in conformity with the agency's criteria will not be deemed misbranding within the meaning of 21 CFR 101.9(i) and will not be deemed to invoke the new drug provisions of the act.

Manufacturers may make health-related claims on food labels that conform to these guidelines without prior approval, with the understanding that, if a manufacturer fails to adhere to

[1] As discussed further below, the Federal Trade Commission (FTC) has primary jurisdiction over advertising. "FDA's authority to control labeling extends only to 'literature' which 'supplements' a drug's package label and which is 'distributed to consumers as part of an integrated distribution program' and 'constitutes an essential supplement to the label' * * *. See *Kordel* v. *United States*, 335 U.S. 345, 349–50, 69 S.Ct. 106, 109–10 (1948)." *McNeilab, Inc.* v. *Heckler*, No. 84–1617, slip op. at 4 (D.D.C. June 5, 1985). In *Kordel, supra*, the Supreme Court noted that FDA's authority relates to the function served by labeling. The Court stated specifically that "No physical attachment * * * is necessary. It is the textual relationship that is significant" for the purposes of enforcing the act.

the criteria, the product and the manufacturer's activity may be subject to regulatory action. FDA welcomes discussions with any manufacturer who wishes to consult with the agency on health-related claims before making changes in existing labeling.

Labeling of Dietary Supplements

The agency will apply the same criteria to dietary supplements (products of isolated vitamins, minerals, or other nutrients intended to supplement the diet by increasing total intake of one or more nutrients). However, the extent to which the criteria can be met may be limited. Although supplements are useful for individuals suffering from particular nutrient deficiencies, the available scientific information and data regarding good nutrition and health referred to in this notice focus primarily on the role of traditional foods, not dietary supplements. For example, the National Academy of Sciences (NAS) expressly stated that the findings of its comprehensive study on diet, nutrition, and cancer do not aply to the consumption of dietary supplements (Ref. 4). NAS so limited the findings of its study because scientists have not generally identified the specific compounds that are responsible for the apparently beneficial effects of certain foods and because whole foods and isolated components of food may not be similar in their nutritional attributes.

For a further discussion of the nutritional effects of traditional foods, compared to dietary supplements, see *Federal Trade Commission* v. *Pharmtech Research, Inc.*, No. 83–2247 (D.D.C., November 30, 1983), where in determining that the health claims made on behalf of certain dietary supplement products constituted false advertising, the court analyzed the NAS report and found that the conclusions in the report applied only to conventional foods and not to dietary supplements. This finding is consistent with the joint DHHS/USDA Dietary Guidelines for Americans containing the statement that: "There are no known advantages and some potential harm in consuming excessive amounts of any nutrient. Large dose supplements of any nutrient should be avoided." (Ref. 5, p. 7.)

Moreover, the identification of an association between a dietary component and a disease condition is complicated not only by the composite nature of foods but also by the interrelated variations in the intakes of a number of foods in any given diet. A reduced intake of animal products, for example, might be accompanied by an increased intake of substances such as starches, fibers, and certain vitamins and minerals that are present in the substituted vegetable and cereal grain foods. Because these dietary constituents increase and decrease simultaneously, it is difficult to determine which ones, if any, are causal factors when a change in the prevalence of a disease condition is also observed. Individual diets are not composed of isolated substances or even isolated foods; rather, they contain thousands of combinations of nutrients and other compounds. From the standpoint of general public health education, it has generally been found more practical and effective to emphasize overall dietary patterns that enhance good health than to attempt to identify individual compounds.

For these reasons, although the agency will apply the same criteria to the labeling of dietary supplements, it may be more difficult for dietary supplements to meet the criteria. Accordingly, the agency specifically asks for comments and available information concerning the value of and need for dietary supplements in enhancing good nutrition and health.

Proposed Amendment to 21 CFR 101.9

As stated above, FDA is proposing clarifying changes in its current rules on nutrition labeling. Specifically, the proposed amendments to 21 CFR 101.9(i) clarify that information on a food label representing, suggesting, or implying a food is adequate or effective in the prevention, cure, mitigation, or treatment of any disease or symptom will be deemed misbranded pursuant to sections 201(n) and 403(a) of the act (21 U.S.C. 321(n) and 343(a)) unless it complies with the criteria for health messages set forth in proposed section 101.9(i)(1) (i), (ii), (iii) and (iv), and is consistent with the criteria described above.

Section 101.9(i)(1)(i) requires that claims be truthful and nonmisleading. This provision incorporates the key elements of the criteria elaborated in this document and is the fundamental principle underlying FDA's evaluation of health messages on food labels. If a health-related claim is false or misleading (e.g., by implying that the food be used as part of a drug-like treatment or therapy-oriented approach to health care), the agency may take action under the misbranding and/or new drug provisions of the act.

Section 101.9(i)(1)(ii) requires that the claim be supported by valid, reliable, publicly available scientific evidence derived from well-designed and well-conducted studies consistent with generally accepted scientific procedures and principles, performed and evaluated by persons qualified by expertise and training in the appropriate disciplines. This criterion further clarifies what a "truthful" claim means by describing the type of evidence necessary to support a claim. It also would not be appropriate to use the results of a single study to support a label claim if it conflicts with the majority of available pertinent evidence.

Section 101.9(i)(1)(iii) requires that the claim be consistent with generally recognized medical and nutritional principles. This criterion also further elaborates the concept of "truthful and nonmisleading" by ensuring that a claim would not conflict with accepted medical and nutritional principles.

Section 101.9(i)(1)(iv) requires that a food label containing a health-related claim also contain the nutrition labeling information required by all of 21 CFR 101.9. This provision is proposed as a further safeguard against misleading statements and will ensure that consumers have relevant information about the characteristics of the food to assess the claim in the context of the overall nutritional properties of the food.

PHS Committee for Devising Public Health Messages on Food Labeling

The Assistant Secretary for Health will establish a standing committee, to be chaired by the Commissioner of Food and Drugs, with representatives of other PHS agencies and the Food Safety and Inspection Service of the U.S. Department of Agriculture. The committee will develop suggested health messages for use on food labeling that are truthful and not misleading to consumers and that are in compliance with FDA policy, the act, and FDA regulations. The Federal Trade Commission will also participate in committee meetings in a liaison function. Based on available information, the committee will develop examples of appropriate health messages that will convey, in a nonmisleading manner, the advantages of following certain preferred dietary patterns that it believes would help to improve the public health. These messages could be used on the labeling of food products. The messages developed by the committee will avoid referring to specific brands of products and will emphasize the important effects that a total dietary plan has on good health. Health messages developed by the committee will be subjected to consumer research where relevant such as field testing to help ensure that the message is understood by the consumer. The committee will also consider whether messages are appropriate for

use on the labeling of a dietary supplement. The committee will determine its own priorities and pace concerning the evaluation of data and information and the preparation of a given health message; however, manufacturers may proceed to develop their own health messages in advance of the committee's deliberations.

FDA will announce in the **Federal Register** the public health messages suggested by the committee and in compliance with the criteria on the labeling of food. A principal purpose in establishing the PHS committee is to provide examples of health message labeling that are clear, accurate, and meaningful to the consumer. Manufacturers may use the public health messages recommended by the committee with assurance that they are consistent with FDA criteria. As noted above, however, manufacturers are not required to use these messages and may develop and use their own messages consistent with the policy criteria outlined in this notice and in compliance with nutrition labeling regulations. Manufacturers who choose to develop their own messages or to modify or create their own versions of a message developed by the committee are free to do so, but in so doing they assume both the responsibility of devising an acceptable message consistent with the criteria discussed in this notice and the risk of violating applicable provisions of the act if the labeling exceeds legal bounds. This approach is consistent with that followed by the agency in regulating the labeling of over-the-counter drugs (see the **Federal Register** of May 1, 1986 (51 FR 16258)).

Citizen Petitions

To date FDA has received four citizen petitions from interested persons concerning the use of health-related claims on food labeling. Three include guidelines for using health claims on food labeling. FDA announces the availability of these petitions and encourages comments on them. Comments are to be submitted to the Dockets Management Branch (address above) and should be identified with Docket No. 85N-0061. Below, FDA summarizes the content of the petitions.

1. Center for Science in the Public Interest

In its petition, the Center for Science in the Public Interest (CSPI) suggested that FDA:

1. Prohibit health claims for nutrients that are not linked to major health problems facing Americans today.

2. Prohibit health claims for foods which contain nutrients that both prevent and promote the same disease.

3. Allow health claims for problem nutrients such as fats, fatty acids and cholesterol, sodium, and fiber.

4. Require that food manufacturers who make health claims disclose any nutritional flaws in the food that may have a negative impact on health.

5. Require that health claims refer to specific nutrients, not the brand name of the food containing the nutrients.

6. Require that health claims be accompanied by an explanation stating that one's total diet, not an individual food, can reduce the risk of disease.

7. Establish a moratorium on health claims until firm guidelines are in place. Once such guidelines are in effect, FDA should proceed on a case-by-case basis.

2. The Council for Responsible Nutrition

The Council for Responsible Nutrition (CRN) also submitted in its petition proposed enforcement guidelines for FDA to follow in evaluating the propriety of food and, specifically, dietary supplement advertising and labeling regarding the relationship between diet and health. The guidelines discuss suggested FDA policy considerations, enforcement policy philosophy, and legal precedents. The guidelines also include detailed enforcement standards and criteria designed to differentiate "therapeutic" statements from "nutritional" statements.

CRN suggests that those statements that discuss the relationship between diet and disease in nutritional terms—that is, in terms of the effect of the food on the structure or function of the body—be distinguished from those that discuss the prevention of disease in a therapeutic or pharmacological context. To this end, CRN submits that statements that speak in terms of modifying the diet so as to enhance the body's ability to fight off disease, or to reduce the long-term risks of developing disease, should not be regarded as therapeutic. On the other hand, CRN believes that statements that suggest that consumption of a particular product can, by itself and without regard to other factors, stop a disease from developing should be viewed by FDA as therapeutic and subject to the drug and new drug provisions of the act.

Regarding substantiation, CRN proposes that nutritional statements would be required to be substantiated by "peer-reviewed published studies or other well-controlled studies of the type that scientists qualified in the relevant field would consider reliable for such purposes." The studies relied on would have to be "reasonably representative of the state of research in the area," but a statement would not be inadequately substantiated solely because it did not reflect a consensus of scientific or medical opinion. Manufacturers would be prohibited, however, from exaggerating or distorting the degree of supporting evidence, and could be required to disclose the existence of conflicting studies when such disclosure is necessary to avoid misleading consumers.

3. National Food Processors Association

The National Food Processors Association (NFPA) submitted a petition that does not propose guidelines. The petition calls for a change in agency policy that would allow a manufacturer to substantiate a health or disease-related statement for use on food labeling. NFPA suggests that a statement could be substantiated in three different ways:

1. The statement is consistent in material respects with nutrition information disseminated by governmental bodies with public health responsibilities, or a private body, generally recognized as an authoritative source of health and nutrition information; or

2. The statement is determined to be adequately substantiated by a governmental body with public health responsibilities, or a private body, generally recognized as an authoritative source of health and nutrition information; or

3. The statement is substantiated by peer-reviewed published studies, or other well-controlled studies, of the type that scientists qualified in the relevant field would consider reliable for such purposes.

NFPA also suggests that label statements concerning the relationship between the amount of a particular dietary property or nutrient in a well-balanced diet and the incidence of a specific disease or disorder should only be made on the label or in labeling of foods for which such a statement would be appropriate. Thus, if a U.S. Recommended Daily Allowance (U.S. RDA) has been established for a nutrient, then a statement concerning the health effects of the nutrient could be made only with respect to a food that is a significant source of the nutrient within the meaning of the nutrition labeling regulations. If there were no U.S. RDA for the nutrient, then the label statement would have to be accompanied by an accurate statement of the quantity of a nutrient supplied in a serving of the food, and the

appropriateness of the claim for a particular food would have to be supported by substantiating data.

4. Kellogg Co.

In its citizen petition, the Kellogg Co. has proposed guidelines that would confirm the ability of manufacturers to make health-related claims for their products if certain conditions are met. Specifically, the guidelines provide that a food should be allowed to bear labeling which refers to the relationship between diet and health, inlcuding, but not limited to, the relationship between diet and specific diseases, disorders, or conditions, and identify food(s) that may serve as component(s) of that diet, provided that such statements comply with all of the following:

1. The statements are substantiated by studies, both published and unpublished, generally recognized as valid by some experts qualified by scientific training and experience to evaluate such studies, and agreement exists concerning the conclusions which can be drawn from the studies, at the time at which the statement is made, among some experts who have examined the studies;

2. The statements are made only in the context of a diet and refer only to a food that is an appropriate component of that diet.

3. The statements specify the dietary properties or ingredients of the food which make that food an appropriate component of the diet, and the amount of the property(ies) or ingredient(s) in a serving of the food is disclosed on the label; and

4. The statements are not false or misleading to consumers.

Conclusion

FDA and other components of PHS believe that it is important to consider ways to improve the public's understanding about the health benefits that can result from adhering to a sound and nutritious diet. Accordingly, FDA has considered new ways to inform and educate the public concerning the relationship between diet and health. This effort, however, is complicated by the fact that making the public aware of the current knowledge about what constitutes good nutrition raises complex issues of public health education, science, and legal policy. The new policy FDA has discussed in this notice, as well as the formation of the PHS health messages committee, are steps toward establishing a mechanism for providing educational information on food labeling that presents a nonmisleading message about good nutrition and health. In addition to soliciting comments on the citizen petitions, on the agency's criteria discussed in this notice, and on the establishment of the PHS health message committee, FDA specifically requests comments on the following issues:

1. Whether it is in the interest of the public health that health information, including information regarding specific diseases, appear on food labeling;

2. Whether the basic principles upon which FDA has based its criteria are reasonable;

3. What types of valid, reliable, recognized scientific evidence should be considered adequate to support healthy information which might appear on food labeling;

4. Whether there are sufficient scientific data and information to allow the use of health information on dietary supplements; and

5. What priority FDA should assign to enforcement actions against the use of therapeutic or misleading health-related information on food labeling.

FDA will evaluate all the comments it receives. FDA will consider the comments in determining its response to the citizen petitions as well as in assessing the propriety of the criteria and policy discussed in this notice. Based upon FDA's evaluation of comments received, the agency will determine the necessary subsequent steps in establishing final agency policy on public health messages on food labels and labeling.

In accordance with Executive Order 12291, FDA has analyzed the economic effects of this proposal and has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal does not impose involuntary requirements on either large or small business. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

The agency has determined under 21 CFR 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

References

The following information has been placed on file in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

(1) "Nutrition Activities of the Department of Health and Human Services," DHHS (PHS) Publication No. 83-5023, 42 pages.

(2) "Healthy People," The Surgeon General's Report on Health Promotion and Disease Prevention, DHEW (PHS) Publication No. 79-55071, 177 pages.

(3) "Promotion Health/Preventing Disease: Objectives for the Nation," Department of Health and Human Services, Public Health Service, 197 pages, November 1980.

(4) *Diet, Nutrition, and Cancer*, National Research Council, Committee on Diet, Nutrition, and Cancer, National Academy Press, Washington, DC 20418, 1982.

(5) "Nutrition and Your Health: Dietary Guidelines for Americans," 1985, USDA/DHHS Publication, *USDA Home and Garden Bulletin* No. 232, 23 pages.

Interested persons may, on or before November 2, 1987, submit to the Dockets Management Branch (address above) written comments regarding this interim policy. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 101

Food labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 101 be amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR Part 101 continues to read as follows:

Authority: Secs. 4, 6, Pub. L. 89-755, 80 Stat. 1297, 1299, 1300 (15 U.S.C. 1453, 1455); secs. 403, 701, Pub. L. 717, 52 Stat. 1047-1048 as amended, 1055-1056 as amended (21 U.S.C. 343, 371); 21 CFR 5.10 and 5.11; § 101.11 is issued only under secs. 201(s), 403(p), 409, 701(a), Pub. L. 717, 52 Stat. 1055, 72 Stat. 1784-1788 as amended, 91 Stat. 1453 (21 U.S.C. 321(s), 343(p), 348, 371(a)) and Pub. L. 95-203, 91 Stat. 1451-1454 (21 U.S.C. 301 note); § 101.100(a)(4) is issued only under secs. 201 (n) and (s), 403, 409, 701, 52 Stat. 1041 as amended, 1047-1048 as amended, 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321 (n) and (s), 343, 348, 371).

2. In § 101.9 by revising paragraph (i)(1) and adding new paragraph (j) to read as follows:

§ 101.9 Nutrition labeling of food.

* * * * *

(i) * * * (1) That the food, because of the presence or absence of certain dietary properties, is adequate or effective in the prevention, cure, mitigation, or treatment of any disease or symptom unless the food bears a health-related nutritional claim and:

(i) The claim is truthful and not misleading;

(ii) The claim is supported by valid, reliable, publicly available scientific evidence derived from well-designed and conducted studies consistent with generally accepted scientific procedures and principles performed and evaluated by persons qualified by expertise and training in the appropriate disciplines;

(iii) The claim is consistent with generally recognized medical and nutritional principles for a sound total dietary pattern; and

(iv) The food is labeled in accordance with the requirements of this section.

* * * * *

(j) If the Food and Drug Administration determines that a food meets the requirements of the exception to paragraph (i)(1) of this section, the agency will not consider the food to be a drug within the meaning of 21 U.S.C. 321(p) solely because the labeling contains a health-related message.

Dated: July 30, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

Otis R. Bowen,

Secretary of Health and Human Services.

[FR Doc. 87-17736 Filed 7-31-87; 2:11 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Proposed Regulatory Amendment on Payment of Fees and Taxes Under Alternative Bonding System; Virginia

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the receipt of a proposed amendment to the Virginia permanent regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment is intended to correct a technical error in section 480-08-19.801.12 of Virginia's program.

This notice sets forth the times and locations that the Virginia program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m., on September 3, 1987; if requested, a public hearing on the proposed amendment will be held on August 31, 1987; and requests to present testimony at the hearing must be received on or before 4:00 p.m., August 19, 1987.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to Mr. William R. Thomas, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Room 220, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219; Telephone (703) 523-4303. If a hearing is requested, it will be held at the same address.

Copies of the proposed amendment, the Virginia program, the Administrative Record on the Virginia program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the following locations during normal business hours Monday through Friday, excluding holidays.

Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSMRE Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5315, 1100 "L" Street, NW., Washington, DC 20240; Telephone (202) 343-5492.

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, Building 10, Parkway Center, Pittsburgh, PA 15220; Telephone (412) 937-2910.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, P.O. Box 626, Room 220, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219; Telephone (703) 523-4303.

Virginia Division of Mined Land Reclamation, P.O. Drawer U, 622 Powell Avenue, Big Stone Gap, Virginia 24219; Telephone (703) 523-2925.

FOR FURTHER INFORMATION CONTACT: Mr. William R. Thomas, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Room 220, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219; Telephone: (703) 523-4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program

The Secretary of the Interior approved the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the December 15, 1981 **Federal Register** (46 FR 61085-61115). Subsequent actions concerning the conditions of approval and proposed amendments are identified at 30 CFR 946.12, 946.13 and 946.15.

II. Discussion of the Proposed Amendments

By letter dated July 2, 1987, (Administrative Record No. VA 633) Virginia submitted a proposed amendment to Section 480-03-19.801.12(a) of its Coal Surface Mining Control Reclamation Regulations. The proposed changes are briefly summarized below:

Under Virginia's Surface Coal Mining Reclamation Fund (alternate bonding program) each permit bonded through the fund must pay an entry fee of $1,000 and a tax based upon production. Virginia had elected to allow personal checks as one form of suitable payment of the fee and taxes. In its amendment submittal of November 8, 1985, (Virginia Administrative Record Number 571) the allowance for accepting personal checks was included in section 480-03-19.777.17 and 480-03-19.801.15(b) but inadvertently omitted from section 480-03-19.801.12(a). The November 8, 1985, submittal was approved by the Secretary on November 25, 1986 (51 FR 42548-42555) before this omission was discovered. This proposed amendment is intended to correct this oversight.

The full text of the proposed program amendment submitted by Virginia is available for public inspection at the addresses listed above. The Director now seeks public comment on whether the proposed amendments are no less effective than the Federal regulation. If approved, the amendment will become part of the Virginia program.

III. Public Comments Procedures

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comment on whether the amendment proposed by Virginia satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Virginia program.

Written Comments

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

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by close of business on August 19, 1987. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

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

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

If only one person requests a hearing, a public meeting, rather than a public hearing, may be held. A summary of the meeting will be included in the Administrative Record.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the Big Stone Gap Field Office by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT**". All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made part of the Administrative Record.

IV. Procedural Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this section is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

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

List of Subjects in 30 CFR Part 946

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

Dated: July 22, 1987.

A.E. Whitehouse,

Acting Assistant Director, Eastern Field Operations.

[FR Doc. 87-17644 Filed 8-3-87; 8:45 am]

BILLING CODE 4310-05-M

National Park Service

36 CFR Part 9

Mineral Management; Mining and Mining Claims

AGENCY: National Park Service, Interior.

ACTION: Proposed Rule; extension of comment period.

SUMMARY: On Friday, April 3, 1987, the National Park Service (NPS) published a proposed rulemaking to clarify the scope of its regulations governing mineral development on mining claims within units of the National Park System and the relationship of these regulations to those governing access in Alaska at 43 CFR Part 36 (52 FR 10866). On May 28, 1987, the NPS extended the 45-day public comment period on the proposed rule an additional 30 days, ending June 29, 1987. On June 12, 1987, the Department of the Interior received a letter dated June 9, 1987, from the Alaska Land Use Council requesting that NPS not implement a final rule until the Council "had an opportunity to review the public comments and make its recommendation(s) to the Secretary of the Interior." The Council noted in its letter that it was "tentatively scheduled to meet at the end of August and at that time [would] consider the public comments and submit its recommendation(s) to the Secretary." After much deliberation, the Department of the Interior has decided to reopen the public comment period in order to provide the Council and all other interested parties a third and final opportunity to submit comments on the proposed rule.

DATES: Written comments will be accepted through September 4, 1987. Comments postmarked after September 4, 1987, will not be considered in finalizing the proposed rule.

ADDRESS: Comments should be addressed to: Land Resources Division (660), National Park Service, P.O. Box 37127, Washington, DC 20013-7127.

FOR FURTHER INFORMATION CONTACT: Ms. Carol McCoy, Land Resources Division (660), National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202-523-5120.

Dated: July 29, 1987.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-17620 Filed 8-3-87; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Land Management

43 CFR Parts 5400 and 5440

Sales of Forest Products; General; Conduct of Sales; and Procedures for Debarment of Contractors

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking is a reproposal of a rulemaking proposed on July 18, 1985 (50 FR 29324), and would amend provisions of the existing regulations in 43 CFR Part 5400, *Sales of Forest Products: General,* and Part 5440, *Conduct of Sales.* The Department of the Interior has determined that it is necessary to amend the existing regulations concerning debarment of timber sale purchasers in order to define

more precisely when debarment will occur and to provide notice and opportunity for a hearing to purchasers who are subject to debarment. The provisions of the proposed rulemaking are similar to provisions in the revised Federal Procurement Regulations on debarment, and have been determined to be suitable for timber sale contracts and to meet the requirements of the law. The Department of the Interior has determined that it is necessary to provide an opportunity for additional public review because of changes in the proposed rulemaking and the time that has passed since the rulemaking was initially proposed.

DATE: Comments should be submitted by October 5, 1987. Any comments received or postmarked after this date may not be considered in the decisionmaking process on a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Department of the Interior, Bureau of Land Management, Room 5555 MIB, 1800 C Street, NW., Washington, DC 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gary Ryan, (202) 653–8864.

SUPPLEMENTARY INFORMATION: A proposed rulemaking to amend provisions of the existing regulations in 43 CFR Part 5400, *Sales of Forest Products; General,* and Part 5440, *Conduct of Sales,* was published in the **Federal Register** on July 18, 1985 (50 FR 29324). The proposed rulemaking was designed to correct certain deficiencies in the existing regulations on debarment.

This proposed rulemaking includes the proposal announced in 1985. Changes have been made to coordinate this rulemaking more closely with those on debarment proposed by the United States Forest Service and to respond to suggestions received during the public comment period on the 1985 rulemaking. These changes are discussed in this preamble.

Debarment excludes a person from contracting with the United States Government for a specified period of time. The Government ordinarily uses debarment to protect itself from contractors lacking present responsibility, those whose actions as a contractor indicate that for the Government to do business with them would be too risky.

The Department of the Interior, through the Bureau of Land Management (BLM), currently provides in 43 CFR 5441.1(c) that a person who defaults under a contract to purchase timber from the agency may not bid on any subsequent timber purchase contract until satisfactory arrangements have been made for payment of damages due the United States. However, the existing regulations do not focus on whether a purchaser's default was coupled with a lack of present responsibility to do business with the Government. The significant criterion in considering debarment is not a contractor's default itself, but rather whether it indicates a lack of present responsibility, so that the contractor would be a bad risk for future contracting with the Government. Also, the existing regulations provide timber purchasers no notice or opportunity to be heard when they are being considered for debarment, raising questions of due process.

To correct these problems, this proposed rulemaking would state more precisely when and under what circumstances purchasers of timber from BLM might be debarred by further defining specific actions by contractors that could indicate a present lack of responsibility, and would provide purchasers with notice and hearing procedures. This proposed rulemaking also includes provisions on the effect of debarment by another Federal agency, the appeals process to the Interior Board of Contract Appeals, and the status of potential debarees during the debarment process. These provisions are similar to those governing debarment under the Federal Procurement Regulations, but they apply only to purchasers of Federal timber. They also reflect in many instances the public comments received in response to the 1985 proposed rulemaking.

The July 18, 1985, proposed rulemaking provided the public a comment period of 60 days. A 30 day extension was granted on September 26, 1985 (50 FR 39024). The Department of Interior received 2 comments from the public. The letters were from a timber association and a law firm. The 2 letters together made 13 recommendations. Many of the recommendations are incorporated in this proposed rulemaking.

One comment contained 5 suggestions.

First, it suggested that default for failure to make timely payment on timber sales bid prior to January 1, 1982, should not be grounds for consideration for debarment. This suggestion has not been incorporated in this proposed rulemaking. The debarment regulations are not limited to timber sales made after January 1, 1982. Timber contract relief legislation enacted in 1984, commonly known as the Federal Timber Contract Payment Modification Act, afforded the forest products industry an opportunity for substantial relief. The legislative history of the statute shows that Congress deemed this relief sufficient to justify an expectation that the remaining pre 1982 timber contracts held by purchasers would be performed. There is, therefore, no reason to excuse default on these contracts. Companies currently obligated under high priced timber sales may arrange with the Bureau of Land Management to insure payment. Only in the event that such arrangements are not made, and the company lacks present responsibility to do business, would debarment be initiated.

Second, the comment suggested that only timber sales made after January 1, 1982, should be considered under the new rulemaking. For the same reason stated for the response to the first recommendation, it is not necessary to include such a provision. The rulemaking will apply prospectively to all purchasers who default on timber sale contracts after the date of final publication of this rulemaking, and to all purchasers who defaulted prior to final publication of this rulemaking and whose cases are still pending before the Department. This applicability to pending cases is justified by due process considerations.

Third, the comment offered a definition of "contract expiration date" to be incorporated in the regulations. The definition has been included in this proposed rulemaking.

Fourth, the comment recommended that a purchaser under review for possible debarment be allowed to continue to bid on timber sales. The comment suggested, however, that award of a contract should not occur until debarment review has been completed. This recommendation is equitable. Provisions clarifying a purchaser's right to continue to bid on timber sales pending debarment have been added to this proposed rulemaking through the introduction of the term "suspension" to describe the status of purchasers under review for debarment.

Fifth, the comment suggested that default on a timber sale should trigger automatic debarment. This suggestion has not been included in this proposed rulemaking. Automatic debarment for timber sale contract default cannot be considered. First, default is not the sole criterion for debarment. There also must be a showing that the purchaser lacks present responsibility to do business with the Government. Second, due process requires that notice and an

opportunity to be heard be provided for defaulting purchasers who are subject to potential debarment.

The second comment made 8 suggestions. First, the comment pointed out that the 1985 proposed rulemaking did not provide for a specific duration for debarment, if it is imposed, and suggested that paragraph (p) of proposed § 5400.0–5 be amended to establish a reasonable term for a debarment to last, not to exceed 3 years. During this time, the debarred purchaser would be excluded from award of timber sale contracts by the Bureau of Land Management. This suggestion has been included in this proposed rulemaking.

Second, the comment suggested that paragraph (q) of § 5400.0–5, the definition of Debarring Official, be changed to distinguish his or her authority from that of the Authorized Officer. The comment requested that the definition make clear that the debarring official will act solely in an adjudicatory capacity, and that all prosecutorial functions will be handled by someone else, such as the authorized officer. This suggestion has been included in this proposed rulemaking because of the importance of assuring impartiality in debarment proceedings.

Third, the comment suggested that paragraphs (c) (1) and (2) of § 5441.1 be amended to clarify that debarment cannot occur solely for failure to pay. This suggestion has been included in this proposed rulemaking. Debarment can only occur when it is shown that the purchaser has demonstrated a lack of present responsibility to do business with the Government.

Fourth, the comment suggested that paragraph (c)(3) of § 5441.1, which states the role of the Authorized Officer, should be clarified to show a separation of function between the Debarring Official and the State Director. This suggestion has been included in this proposed rulemaking, which would provide, in effect, that the authorized officer, in a quasi-prosecutorial role, will report, investigate, and refer all matters appropriate to the debarring official.

Fifth, the comment suggested that paragraph (c)(4) of § 5441.1 be expanded to provide additional information in the notice informing the purchaser that debarment is being considered. This suggestion has been included in this proposed rulemaking. The notice now would fully inform the purchaser that debarment is being considered, and state the reasons for the proposed action in terms sufficient to put the purchaser on notice of the transaction(s) upon which it is based, the potential effect of the proposed debarment, the opportunity to submit in writing information and argument opposing the proposed debarment, and the opportunity for a hearing if a genuine dispute over material facts exists.

The comment also questioned the debarring official's "preliminary approval" required before commencing debarment proceedings. The Department agrees that the term is ambiguous and has removed it from this proposed rulemaking. Under this rulemaking, debarments would be initiated by notice from the debarring official, as described above, after he or she has determined, upon reviewing the authorized officer's recommendation, that there is sufficient cause to consider debarment.

The comment also questioned why notice should be sent to the purchaser's affiliates, stating that no provision exists for debarring affiliates. The provision is not an indication that a purchaser's affiliates would automatically be subjected to debarment because of the purchaser's lack of present responsibility. Rather, this notice would advise affiliates of the difficulty in which their affiliated company is involved. However, depending upon the circumstances warranting debarment, and the nature of the affiliation, the authorized officer might initiate debarment proceedings against the affiliate of a purchaser lacking present responsibility. The key question would be whether there is sufficient cause to believe the purchaser's lack of present responsibility also affects the affiliate's present responsibility to contract with the Government. The definition of purchaser has been expanded to include affiliates of the purchaser so that this possibility can be considered. In addition, the term "affiliate" has been added to the definitions in reproposed § 5400.0–5.

Sixth, the comment suggested that § 5441.1(c)(6), the provision governing debarment proceedings, be revised to provide more fully for due process of law. This section has been amended in this proposed rulemaking to provide for a hearing in cases of disputed facts, and to state in greater detail the procedural requirements to guarantee due process.

Seventh, the comment suggested that § 5441.1(c)(7) should include a requirement that the debarring official prepare written findings of fact based upon the preponderance of the evidence. This section has been amended in this proposed rulemaking to require that the debarring official prepare written findings of fact based upon the evidence in deciding the case.

Eighth, the comment suggested that § 5441.1(d)(4) should be amended to state when and to whom applications for reinstatement should be submitted by debarred purchasers, and what standards would be applied in considering such applications. This suggestion has been included in this proposed rulemaking. The revisions reflect the view that debarment is not a punishment and will last only so long as the purchaser is a risk as a contractor with the Government. The suggestion in the comment that reinstatement should be mandatory upon a showing by the purchaser of present responsibility is rejected. Under this proposed rulemaking, reinstatement of a debarred purchaser would remain discretionary.

The principal author of this proposed rulemaking is Gary Ryan, Division of Forestry, assisted by the staff of the Office of Legislation and Regulatory Management.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) Its effect would be the same regardless of the size of the regulated entity, and would not be greater than $100,000,000 annually on the national economy.

Under this proposed rulemaking, individuals or firms who receive notice from the Bureau of Land Management of proposed debarment would be permitted to present facts and information pertaining to an allegation of failure to perform under a timber sale contract and/or to mitigation of damages. The rulemaking would not require any specific information or any format for the information to be provided. Therefore, the rulemaking would not impose an information collection requirement as that term is defined in Office of Management and Budget regulations at 5 CFR 1320.7.

List of Subjects

43 CFR Part 5400

Administrative practice and procedure, Forests and forest products, Public lands, Reporting and recordkeeping requirements.

43 CFR Part 5440

Forest and forest products, Government contracts, Public lands.

Under the authority of section 5 of the Act of August 28, 1937 (43 U.S.C. 1181e), and the Act of July 31, 1947, as amended (30 U.S.C. 601 *et seq.*), Subchapter E, Chapter II of Title 43 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 5400—[AMENDED]

1. The authority citation for Part 5400 is revised to read as follows:

Authority: 61 Stat. 681, as amended, 69 Stat. 367, 48 Stat. 1269, section 11, 30 U.S.C. 601 *et seq.*, 43 U.S.C. 315, 423, 1181a *et seq.* unless otherwise noted.

2. Section 5400.0–5 is amended by adding new paragraphs (p) through (x) at the end thereof to read:

§ 5400.0–5 Definitions.

* * * * *

(p) "Debarment" means action taken by a debarring official under § 5441.1–4 of this title to exclude a purchaser from bidding on or entering into contracts with the Bureau of Land Management for sale of timber for a specified period not to exceed 3 years.

(q) "Debarring official" is a Bureau of Land Management official who has been delegated adjudicatory authority to make debarment decisions under this part.

(r) "Purchaser" means any person that: (1) Submits bids or proposals for or is awarded, or reasonably may be expected to submit bids or proposals for or be awarded, a Bureau of Land Management timber sale contract, or (2) conducts business with the Government as an agent or representative of another purchaser. Affiliates of the purchaser may be considered as the purchaser.

(s) "Expiration date" means the date shown on the timber sale contract or the date of cancellation of the contract, whichever occurs first.

(t) "Affiliates" means business concerns or individuals who (1) control or are controlled by another party; or (2) are related to another party by virtue of a third party that controls or can control both. In determining whether or not affiliation exists, the Bureau of Land Management shall consider all appropriate factors, including but not limited to common ownership, common management, and contractual relationships.

(u) "Control" means the power to exercise, directly or indirectly, a controlling influence over the management, policies, or activities of an individual or business concern, whether through the ownership of voting securities, through one or more intermediary individuals or business concerns, or otherwise. For purposes of actions under these guidelines, ownership in excess of 50 percent constitutes control, ownership of 20 through 50 percent creates a presumption of control, and ownership of less than 20 percent creates a presumption of noncontrol. Such presumptions may be rebutted by evidence.

(v) "Conviction" means a judgment or conviction for a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

(w) "Notice" means a written communication served in person or by certified mail, return receipt requested, or its equivalent, to the last known address of a party, its identified counsel, or agent for service of process. In the case of an organization, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer.

(x) "Suspension" means the status of a purchaser not being eligible to be awarded a BLM timber purchase contract due to being considered for debarment, but without an official determination having been made by the debarring official. During suspension, a purchaser may continue to bid on timber contracts, which shall not be awarded to any purchaser until the suspension period ends. Suspension shall not exceed 120 days.

PART 5440—[AMENDED]

3. The authority citation for Part 5440 continues to read as follows:

Authority: Sec. 5, 50 Stat. 875, 61 Stat. 631, as amended, 69 Stat. 367; 43 U.S.C. 1181e, 30 U.S.C. 601 *et seq.*

4. Section 5441.1 is amended by revising paragraph (c) to read:

§ 5441.1 Qualification of bidders.

* * * * *

(c)(1) A suspended purchaser may continue to bid on timber purchase contracts until a final debarment determination has been made by the debarring official. Contract award will not be made during the suspension.

(2) Debarred purchasers are prohibited from bidding on timber purchase contracts.

5. A new § 5441.1–4 is added to read as follows:

§ 5441.1–4 Debarment.

(a) Debarment shall be considered where a purchaser demonstrates a lack of present responsibility to do business as a government contractor. The debarring official may consider debarring a purchaser for any of the following causes:

(1) Conviction of the purchaser or an affiliate for:

(i) Theft, forgery, bribery, embezzlement, falsification or destruction of records, making false statements, or receiving stolen property;

(ii) Fraud, a criminal offense, or violation of Federal or State antitrust laws, any of which occurred in connection with (A) obtaining, (B) attempting to obtain, or (C) performing a public contract or subcontract.

(iii) Any other offense indicating a lack of business integrity or honesty that seriously and directly affects the present responsibility of the purchaser.

(2) A civil judgment against the purchaser or an affiliate for claims arising out of any of the offenses listed in paragraph (a)(1) of this section.

(3) Cutting and/or removal of more than incidental volumes of undesignated timber from public land.

(4) Substantial violation of the terms of one or more government timber sale contracts so serious that debarment is necessary to protect the government's interest, including but not limited to:

(i) Willful failure to perform in accordance with contract terms; or

(ii) A history of failure to perform contract terms or of unsatisfactory performance of contract terms. Among actions regarded as serious enough to justify debarment are the willful violation of or repeated failure to perform or satisfactorily perform timber sale contract provisions relating to the following:

(A) Fire suppression, fire prevention, and the disposal of slash;

(B) Protection of soil, water, wildlife, range, cultural and timber resources, and protection of improvements when such failure causes significant environmental, resource, or improvements damage;

(C) Removal of designated timber when such failure causes substantial product deterioration or conditions favorable to insect epidemics;

(D) Observance of restrictions on export of timber;

(E) Observance of restrictions on the disposal of timber from small business set-aside sales;

(F) Payment for timber designated for cutting and removal;

(G) Providing access, upon request by the authorized officer, to purchaser's books and accounts;

(H) Payment of damages relating to failure to cut and/or remove designated timber by the termination dates.

(5) Debarment of the purchaser or an affiliate by another Federal agency that sells timber.

(6) Any other cause so serious or compelling that it affects the present responsibility of a purchaser of Government timber.

(7) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with a purchaser may be imputed to a purchaser when the conduct occurred in connection with the individual's performance of duties for or on the behalf of the purchaser or with the purchaser's knowledge, approval, or acquiescence. The purchaser's acceptance of the benefits derived from the contract shall be prima facie evidence of such knowledge, approval, or acquiescence.

(8) The fraudulent or criminal of a purchaser may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the purchaser who participated in, knew of, or had reason to know of the purchaser's conduct.

(9) The fraudulent, criminal, or other seriously improper conduct of one purchaser participating in a joint venture or similar arrangement may be imputed to other participating purchasers if the conduct occurred for or on behalf of the joint venture or similar arrangement or with the knowledge, approval, or acquiescence of those purchasers. Acceptance of the benefits derived from the conduct shall be prima facie evidence of such knowledge, approval, or acquiescence.

(b) The authorized officer shall report to the debarring official any information relating to the basis for debarment of a timber purchaser, including a complete statement of the facts, appropriate exhibits, and a recommendation for action, and shall advise the State Director of all debarment activity.

(c) When the debarring official determines that sufficient cause exists to consider debarment, he or she shall initiate formal debarment proceedings by giving notice to purchasers being considered for debarment and any specially named affiliates by certified mail, return receipt requested, as follows:

(1) That debarment is being considered.

(2) The reasons for the proposed debarment in terms sufficient to put the purchaser on notice of the transaction(s) upon which it is based;

(3) The potential effect of the proposed debarment; and

(4) That the purchaser is entitled to a hearing if a dispute over material facts exists.

(d) The purchaser, within 30 days after receipt of the notice, may submit in writing, either in person or through a representative, information in opposition to the proposed debarment, including any additional specific information that raises a genuine dispute over the material facts.

(e) If a dispute over material facts exists, the debarring official at the purchaser's request shall hold an informal hearing within 20 calendar days of such request. Any statements, records, or exhibits submitted by the purchaser and by the Bureau of Land Management at this hearing shall become part of the debarment decision record.

(f) The debarring official shall make a decision on the basis of all the information in the record, including any submission made by the purchaser. The decision shall be made within 30 days after receipt of any information and arguments submitted by the purchaser, unless the debarring official determines that there is good cause to extend this period. If a hearing was convened at the purchaser's request, the debarring official shall prepare written findings of fact based upon the evidence in the record.

(g)(1) If the debarring official decides to impose debarment, the purchaser and any affiliates involved shall be given prompt notice by certified mail, return receipt requested, as follows:

(i) The notice of proposed debarment shall be referred to:

(ii) The reasons for debarment shall be specified; and

(iii) The period of debarment including effective date shall be stated.

(iv) Instructions as to how an appeal of the debarring official's decision is to be filed with the Interior Board of Contract Appeals.

(2) If a debarment is not imposed the debarring official shall promptly notify the purchaser and any affiliates involved of the decision by certified mail return receipt requested.

(h)(1) The debarring official shall compile and maintain a current list of debarred timber purchasers. This list shall be distributed to all State Directors, the General Services Administration, the General Accounting Office, and other Federal agencies requesting it.

(2) The list of debarred purchasers shall contain the following information:

(i) The names and addresses of all debarred purchasers.

(ii) The cause of the action.

(iii) Any limitations to or deviations from the normal effect of debarment.

(iv) The effective date of the action.

(v) The name and telephone number of the person in the Bureau of Land Management with information about the debarment.

(3) Purchasers debarred in accordance with this section shall be excluded from receiving Bureau of Land Management timber sale contracts and the Bureau shall not solicit offers from, award contracts to, or consent to subcontracts with these purchasers unless the Director or authorized representative determines that there is a compelling reason for such action. This determination shall be documented in writing.

(4) During the period of debarment, a debarred purchaser may apply to the debarring official to contract with the Bureau of Land Management and may be reinstated if the debarring official determines that he or she demonstrates a present responsibility to do business as a government contractor.

James E. Cason,

Acting Assistant Secretary of the Interior.

July 6, 1987

[FR Doc. 87-17670 Filed 8-3-87; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1206 and 1249

[Docket No. 39953 Sub-No. 1]

Revision to the Accounting and Reporting Requirements for Motor Carriers of Passengers

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission proposes to change the levels of gross annual carrier operating revenues which define the classes of motor carriers of passengers for accounting and reporting purposes. The Commission also proposes to make operating revenues of motor carriers of passengers subject to Commission indexing procedures for classification purposes. The Commission recommends that the current $3 million Class I classification level be increased to $5 million after applying the revenue deflation formula. These changes would further reduce the number of carriers subject to the Commission's accounting requirements and further reduce the reporting burden.

DATES: This proposed revision would be effective for the year beginning January 1, 1988, based on reports of operations for the year 1987 and prior years, after applying the revenue deflator formula. Comments are due 45 days from the date of publication in the **Federal Register**.

ADDRESS: An original and 10 copies, if possible, of any comments should be sent to: Docket No. 39953 Sub-No. 1, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: William F. Moss, III, Chief, Section of Audit and Accounting, (202) 275-7510.

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).

This action will not significantly affect either the quality of the human environment or energy conservation. This rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

49 CFR Part 1206

Buses, Motor carriers, Uniform system of accounts.

49 CFR Part 1249

Motor carriers, Reporting and recordkeeping requirements.

Parts 1206 and 1249 of Title 49 of the Code of Federal Regulations are proposed to be amended as set forth below.

Decided: July 27, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Vice Chairman Lamboley and Commissioner Simmons would have rejected the decision and notice.

Noreta R. McGee,

Secretary.

Parts 1206 and 1249 of Title 49 of the Code of Federal Regulations would be amended as follows:

PART 1206—PASSENGERS

1. In 49 CFR Part 1206, the authority citation would continue to read as follows:

Authority: 49 U.S.C. 10321, 11142 and 11145; 5 U.S.C. 553.

§ 1206.2 [Amended]

2. In § 1206.2, under INSTRUCTIONS, Instruction 2-1, *Classification of Carriers*, is revised to read as follows:

2-1 Classification of carriers.

(a) For the purpose of accounting and reporting regulations, common and contract carriers of passengers subject to the Interstate Commerce Act are grouped into the following two classes:

Class I—Carriers having average annual gross transportation operating revenues (including interstate and intrastate) of $5 million or more passenger motor carrier operations after applying the revenue deflator formula as shown in the Note.

Class II—Carriers having average annual gross transportation operating revenues (including interstate or intrastate) of less than $5 million from passenger motor carrier operations after applying the revenue deflator formula as shown in the Note.

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after applying the revenue deflator formula as shown in the Note. Upward and downward reclassification will be effected as of January 1 of the year immediately following the third consecutive year of revenue qualification.

(2) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual carrier operating revenues after applying the revenue deflator formula shown in the Note.

(3) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective as of January 1 of the next calendar year on the basis of the combined revenues for the year when the combination occurred after applying the revenue deflator formula shown in the Note.

(4) Carriers shall notify the Commission of any change in classification or when their annual operating revenues exceed the Class I limit by writing to the Bureau of Accounts, Interstate Commerce Commission, Washington, DC 20423. In unusual circumstances where the classification regulations and reporting requirements will unduly burden the carrier, the carrier may request from the Commission a waiver from these regulations. This request shall be in writing specifying the conditions justifying the waiver. The Commission then shall notify carriers of any change in classification or reporting requirements.

(c) For classification purposes, the Commission shall publish in the **Federal Register** annually an index number which shall be used for adjusting gross annual operating revenues. The index number (deflator) is based on the Producer Price Index of Finished Goods and is used to eliminate the effects of inflation from the classification process.

Note: Each carrier's operating revenues will be deflated annually using the Producers Price Index (PPI) of Finished Goods before comparing them with the dollar revenue limits prescribed in paragraph (a). The PPI is published monthly by the Bureau of Labor Statistics. The formula to be applied is as follows:

$$\text{Current year's annual operating revenues} \times \frac{\text{1986 average PPI}}{\text{Current year's average PPI}} = \text{Adjusted annual operating revenues}$$

PART 1249—REPORTS ON MOTOR CARRIERS

1. In 49 CFR Part 1249, the authority citation for Part 1249 would continue to read as follows:

Authority: 49 U.S.C. 11142 and 11145; 5 U.S.C. 553.

2. Section 1249.3, Classification of Carriers—Motor Carriers of Passengers would be revised to read as follows:

§ 1249.3 Classification of carriers—motor carriers of passengers.

(a) Common and contract carriers of passengers subject to the Interstate Commerce Act are grouped into the following two classes:

Class I—Carriers having average annual gross transportation operating revenues (including interstate and intrastate) of $5 million or more from passenger motor carrier operations after applying the revenue deflator formula as shown in the Note.

Class II—Carriers having average annual gross transportation operating revenues (including interstate and intrastate) of less than $5 million from passenger motor carrier operations after applying the revenue deflator formula as shown in the Note.

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after

applying the revenue deflator formula as shown in the Note. Upward and downward reclassification will be effected as of January 1 of the year immediately following the third consecutive year of revenue qualification.

(2) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual carrier operating revenues after applying the revenue deflator formula shown in the Note.

(3) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective as of January 1 of the next calendar year on the basis of the combined revenues for the year when the combination occurred after applying the revenue deflator formula shown in the Note.

(4) Carriers shall notify the Commission of any change in classification or when their annual operating revenues exceed the Class I limit by writing to the Bureau of Accounts, Interstate Commerce Commission, Washington, DC 20423. In unusual circumstances where the classification regulations and reporting requirements will unduly burden the carrier, the carrier may request from the Commission a waiver from these regulations. This request shall be in writing specifying the conditions justifying the waiver. The Commission then shall notify carriers of any change in classification or reporting requirements.

(c) For classification purposes, the Commission shall publish in the **Federal Register** annually an index number which shall be used for adjusting gross annual operating revenues. The index number (deflator) is based on the Producer Price Index of Finished Goods and is used to eliminate the effects of inflation from the classification process.

Note: Each carrier's operating revenues will be deflated annually using the Producers Price Index (PPI) of Finished Goods before comparing them with the dollar revenue limits prescribed in paragraph (a). The PPI is published monthly by the Bureau of Labor Statistics. The formula to be applied is as follows:

$$\text{Current year's annual operating revenues} \times \frac{\text{1986 average PPI}}{\text{Current year's average PPI}} = \text{Adjusted annual operating revenues}$$

[FR Doc. 87-17641 Filed 8-3-87; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 52, No. 149
Tuesday, August 4, 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 COMMERCE

International Trade Administration

Initiation of National Security Investigation of Imports of Anti-Friction Bearings

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), and request for comments.

SUMMARY: This notice is to advise the public that an investigation is being conducted under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of anti-friction bearings. Interested parties are invited to submit written comments, opinions, data, information or advice relative to the investigation to the Strategic Analysis Division, Office of Industrial Resource Administration, U.S. Department of Commerce.

DATE: Comments must be received not later than October 5, 1987. Written comments should be addressed to: Steven C. Goldman, Director, Strategic Analysis Division, Office of Industrial Resource Administration, International Trade Administration, U.S. Department of Commerce, Room 3878, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Steven C. Goldman, Director, or Edward Levy, Section 232 Investigations Program Manager, Strategic Analysis Division, Office of Industrial Resource Administration, International Trade Administration, U.S. Department of Commerce, Room 3878, Washington, DC 20230, (202) 377-4060.

SUPPLEMENTARY INFORMATION: In an application submitted by the Anti-Friction Bearing Manufacturers Association on July 17, 1987, the Secretary of Commerce was requested to initiate an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effect on the national security of imports of anti-friction bearings. On July 28, 1987 the Department of Commerce confirmed receipt of and accepted the application requesting an investigation. The findings and recommendations of the investigation will be reported by the Secretary of Commerce to the President no later than July 17, 1988.

The articles to be investigated include all ball and roller bearings, including bearing parts and mounted bearings. These items are currently described by Standard Industrial Classification Code 3562, and are currently classifiable in the Tariff Schedules of the United States Annotated (1981) at items 680.3025 through 680.4170.

This investigation is being undertaken in accordance with Part 359 of Title 15 of the Code of Federal Regulations (15 CFR Part 359) ("the regulations"). Interested parties are invited to submit written comments, opinions, data, information or advice relevant to this investigation to the Office of Industrial Resource Administration, U.S. Department of Commerce, no later than (60 days from publication).

The Department is particularly interested in comments and information directed to the criteria listed in § 359.4 of the regulations (15 CFR 359.4) as they affect national security, including the following:

(a) Quantity of and circumstances related to the importation of the articles subject to the investigation;

(b) Domestic production and productive capacity needed for these articles to meet anticipated national security requirements;

(c) Existing and potential availability of skilled labor, raw materials, production equipment, and facilities to produce these items.

(d) Growth requirements of domestic industries to meet national security requirements and/or requirements to assure such growth;

(e) The impact of foreign competition on the economic welfare and on the capacity of the domestic industry to meet national security needs;

(f) The impact of imports on domestic competition, productivity, and the strength of the domestic industry to meet national security requirements.

All materials should be submitted with 10 copies. Public information will be made available at the Department of Commerce for public inspection and copying. Material that is national security classified information or business confidential information is subject to the provisions of § 359.6 of the regulations (15 CFR 359.6).

The public record concerning this investigation will be maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 1104, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Washington, DC 20230. The records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations.

Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, International Trade Administration's Freedom of Information Officer (202-377-3031).

If deemed appropriate by the Department, public hearings may be held to elicit further information as provided in § 359.8 (15 CFR 359.8) of the regulations. Notice will be published in the **Federal Register**, giving the time, place, and matters to be considered at such hearing(s) so that interested parties will have an opportunity to participate.

John A. Richards,
Director, Office of Industrial Resource Administration.
July 29, 1987.

[FR Doc. 87-17610 Filed 8-3-87; 8:45 am]
BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will convene a public meeting at the King's Grant Inn, Danvers, MA, to discuss reports of the lobster, groundfish, foreign fishing, sea scallop, Atlantic salmon, large pelagics, environmental affairs, surf clams/ocean quahogs and enforcement oversight

committees; discuss the status of bluefish, reports on habitat and the uniform standards; and to discuss Mid-Atlantic Committee policy, as well as other fishery management and administrative matters. The Council also may convene a closed session (not open to the public) to discuss personnel and/or national security matters. The public meeting will convene August 10, 1987, at approximately 10 a.m. and will adjourn on August 11 at approximately 4 p.m.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, (Route One), Saugus, MA 01906; telephone: (617) 231–0422.

Date: July 30, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87–17679 Filed 8–3–87; 8:45 am]

BILLING CODE 3510–22–M

Patent and Trademark Office

Public Advisory Committee for Trademark Affairs; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

The Public Advisory Committee for Trademark Affairs will meet from 10:00 a.m. until 5:00 p.m. on September 16, 1987, at the U.S. Patent and Trademark Office in Room 11C24 of Building 3, Crystal Plaza, located at 2021 Jefferson Davis Highway, Arlington, Virginia.

The agenda for the meeting is as follows:

(1) Automation Activities.

(2) Financial Reporting.

(3) Quality of the Registration Process.

(4) Intent to Use Legislation.

The meeting will be open to public observation; approximately twelve (12) seats will be available for the public on a first-come first-served basis.

If time permits, oral comments by the public of three (3) minutes on each topic within the above agenda will be allowed. Written comments and suggestions will be accepted before or after the meeting on any of the matters discussed.

Copies of the minutes will be available upon request.

FOR FURTHER INFORMATION CONTACT: Carlisle E. Walters, Office of the Assistant Commissioner for Trademarks, Room CP3–11C17, Patent and Trademark Office, Washington, DC 20231. Telephone: 703–557–7464.

Approved:

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

Date: July 27, 1987.

[FR Doc. 87–17652 Filed 8–3–87; 8:45 am]

BILLING CODE 3510–16–M

COMMISSION ON CIVIL RIGHTS

Kentucky Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kentucky Advisory Committee to the Commission will convene at 8:30 a.m. and adjourn at 4:00 p.m., on August 21, 1987, at the Seelbach Hotel, 500 Fourth Avenue, Louisville, Kentucky. The purpose of the meeting is to conduct a community forum on the status of civil rights in Louisville and to develop program ideas and activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Porter G. Peeples, Sr., or Melvin Jenkins, Director of the Central Regional Division (816) 374–5253, (TDD 816/374–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 27, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–17594 Filed 8–3–87; 8:45 am]

BILLING CODE 6335–01–M

Michigan Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m., on August 25, 1987, at the Days Inn, 500 South Capital, Lansing, Michigan. The purpose of the meeting is to conduct program planning and to hold a community forum on the status of civil rights in Michigan.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Charles Tobias, or Melvin Jenkins, Director of the Central Regional Division (816) 374–5253, (TDD 816/374–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 27, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–17595 Filed 8–3–87; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information:

(1) Type of submission;

(2) Title of Information Collection and applicable OMB Control Number and Form Number;

(3) Abstract statement of the need for and the uses to be made of the information collected;

(4) Type of Respondent;

(5) An estimate of the number of responses;

(6) An estimate of the total number of hours needed to provide the information;

(7) To whom comments regarding the information collection are to be forwarded; and

(8) The point of contact from whom a copy of the proposed information collection may be obtained.

This information collection is as follows:

(1) New;

(2) "The Impact of AIDS on the U.S. Army: Interviews with Seropositive Applicants for Military Service," Survey Questionnaire;

(3) A modified Centers for Disease Control, no known risk, form will be used by trained personnel to interview military recruit applicants. The applicants have been identified as positive for human immunodeficiency virus (HIV). Information gained will be uniquely important for designing intervention programs, for targeting high risk groups, for screening and health

education, and for assessing the efficacy of prevention efforts. Data currently available may not reflect the current state of the epidemic. This research effort will provide as broad-based, national surveillance system for determining the geographical spread of the epidemic and the risk factors most associated with its spread;

(4) Individuals or Households;

(5) Current responses of 1200;

(6) Current burden hours of 2,400;

ADDRESSES: (7) Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone 202/746–0933.

FOR FURTHER INFORMATION CONTACT: (8) A copy of the information collection proposal may be obtained from Mr. Vitiello, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone 202/746–0933.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 29, 1987.

[FR Doc. 87–17613 Filed 8–3–87; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection system concerning Quality Assurance Requirements.

ADDRESS: Send comments to Mr. Ed Springer, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition and Regulatory Policy (202) 523–3775.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* Supplies and services acquired under Government contracts must conform to the contracts' quality and quantity requirements. FAR Part 46 prescribes inspection, acceptance, warranty, and other measures associated with quality requirements. Standard clauses related to inspection (a) require the contractor to provide and maintain an inspection system that is acceptable to the Government, (b) give the Government the right to make inspections and test while work is in process; and (c) require the contractor to keep complete, and make available to the Government records of its inspection work.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, 950; responses per respondent, 1; total annual responses, 950; hours per response, .25; and total burden hours, 237.5; number or recordkeepers, 58,100; hours per recordkeeper per year, .75; total recordkeeping hours 43,575; and total burden hours (responses and recordkeeping hours/year), 43,812.5.

Obtaining Copies of Proposals: Requesters may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0077, Quality Assurance Requirements.

Dated: July 23, 1987.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 87–17625 Filed 8–3–87; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF DEFENSE

Environmental Impact Statement; Strategic Defense Initiative Technologies Transition

AGENCY: Strategic Defense Initiative Organization, DOD.

ACTION: Availability of findings of no significant impact.

SUMMARY: The Department of Defense has prepared findings of no significant impact on the basis of seven environmental assessments related to a decision to transition six Strategic Defense Initiative (SDI) technologies from the "Concept Exploration" phase to the "Demonstration/Validation" phase of the Department of Defense (DoD) major systems acquisition management process. The assessments indicate a potential impact at the U.S. Army Kwajelein Atoll (USAKA). The U.S. Army Strategic Defense Command will file a Notice of Intent to prepare an environmental impact statement for USAKA activities. Pursuant to regulations of the Council on Environmental Quality and DoD, a final determination on whether to prepare environmental impact statements for all other Demonstration/Validation activities will be made upon expiration of a 30 day period commencing August 4, 1987.

Background

The Department of Defense major system acquisition procedures, set forth in DoD Directive 5000.1, provide for milestone reviews of major programs by the Defense Acquisition Board (DAB) chaired by the Under Secretary of Defense, Acquisition. DAB recommendations are forwarded to the Secretary of Defense for final approval. Major milestones are Zero, "Concept Exploration"; One, "Demonstration/Validation" (Dem/Val); Two, "Full Scale Development" (FSD), and Three, "Production/Deployment."

DoD implements the National Environmental Policy Act (NEPA) of 1969, Pub. L. No. 91–90 (1970), 42 U.S.C. 4321, 4331–4335, 4341–4347 (1976) and NEPA Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR Parts 1500 through 1508, in DoD Directive 6050.1. With respect to acquisition of major weapons systems, actions that may have a significant impact on the environment do not normally occur before full scale development because the level of building and testing that occurs during concept exploration and demonstration/validation is well within the capabilities and routine activities of existing facilities and test ranges.

The SDI is a vigorous research program that will provide the basis for an informed decision regarding the feasibility of eliminating the threat posed by nuclear ballastic missiles of all ranges. It is organized around technologies which have, as objectives, the detection, tracking and destruction of nuclear missiles during each of their four successive stages of flight: boost, post-boost, mid course and reentry. The six technologies proposed for advancement to Dem/Val, and described briefly below, are for a space-based, boost phase sensor; a space-based, boost phase interceptor; two mid course sensors; and one ground-based, mid course interceptor. The sixth

technology is comprised of battle management or the command, control and communications that would coordinate the other elements in a defense against a ballistic missile attack. While Dem/Val activity for each individual technology is not likely to have a significant environmental impact, the Strategic Defense Initiative Organization recognizes that a decision to advance six technologies could have a potentially significant impact on the environment of the U.S. Army Kwajelein Atoll (USAKA) facilities in the Marshall Islands, to which NEPA is applicable pursuant to a Compact of Free Association between the U.S. Government and the Government of the Republic of the Marshall Islands (RMI), 48. U.S.C. 1681.

SDIO has completed six assessments analyzing the environmental impacts of transitioning six technologies to demonstration and validations. A seventh assessment addresses potential cumulative impacts at locations where demonstration and validation testing of more than one technology will be conducted. The environemntal assessments concluded that, with the exceptionof activities at USAKA in the Marshall Islands, there would be no significant impacts and, accordingly, Findings of No Significant Impact have been signed for each of the six technologies and the seventh summary assessment. With respect to USAKA, the assessment showed that planned SDI demonstration and validation testing considered along with other SDI and DoD activities planned at that location, could potentially have an impact. The Strategic Defense Command, U.S. Army, will prepare an Environmental Impact Statement (EIS) addressing the foreseeable construction and operations at USAKA. No SDI Flight testing associated with these 6 technologies will be conducted at USAKA before completion of that EIS.

The decision to approve transition of six technologies to demonstration and validation will be made in the context of approving the concept that deployment, if any, or a ballistic missile defense system would be made in phases, beginning with those technologies that have reached a stage of maturity sufficient to provide an effective response to known and reasonably foreseeable evolving threats. While an advance from concept exploration, the demonstration/validation phase occurs several years before decisions would be made on whether to advance to engineering development.

In the case of SDI, the six technology Dem/Val activities that will occur over the next several years will be constrained not only by technological objectives of the Dem/Val phase, but also by limitations of the 1972 Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile systems (ABM Treaty). Any decision to advance those six-technologies beyond Dem/Val (Milestone 1) to Full Scale Development (Milestone 2) will consider not only their technological maturity, but also the maturity of technologies currently planned for later phases (e.g., Ground or Space Based laser interceptors) and broad national security interests. Any such decision would also be based on appropriate environmental analysis.

Candidate Technologies

Assessments were prepared on six candidate technologies being considered by the Defense Acquisition Board for entry into the Demonstration and Validation phase of weapons system acquisition pursuant to DOD Directive 5000.1. Certain test and demonstration activities will result from the Defense Acquisition Board's decision. The six candidate technologies are briefly described below.

Ground-based Surveillance and Tracking System: This technology would provide the capability to search, acquire, track, discriminate and transfer sensor data concerning potentially hostile ballistic missile targets. Test and demonstration activities include data analysis, simulation, hardware assembly and flight testing at several government and contractor facilities.

Space-based Surveillance and Tracking System: This technology would provide ballistic missile surveillance and tracking capability, as well as timely attack warning and verification. Test and demonstration activities include data analysis, simulations, hardware assembly and flight testing at several government and contractor facilities.

Exoatmospheric Reentry Vehicle Interception System: This technology would provide the capability to intercept and destroy hostile intercontinental or submarine-launched ballistic missiles in the midcourse phase of their flight. Test and demonstration activities include data analysis, simulation hardware assembly and flight testing at several existing government and contractor facilities.

Space-Based Interception System: This technology would provide the capability to use kinetic energy as the mechanism for intercepting intercontinental and submarine-launched ballistic missiles in the powered and unpowered portions of their flight. Test and demonstration activities include data analysis, simulation, hardware assembly and flight testing at several government and contractor facilities.

Battle Management/Command and Control, and Communications: This technology would provide the capability to coordinate a multitiered defense against ballistic missile attacks. Test and demonstration activities include data analysis, simulations and hardware assembly at several government and contractor facilities.

Boost Surveillance and Tracking System: This technology would provide the capability to detect and track intercontinental and submarine-launched ballistic missiles during their boost phase. Test and evaluation activities include data analysis, simulations, hardware assembly and flight testing at several government and contractor facilities.

Environmental Consequences

The staff of the Department of Defense, Strategic Defense Initiative Organization, has evaluated the environmental impacts of the proposed action to move to Demonstration and Validation of the six candidate technologies and has found that there are no significant impacts on the quality of the human environment except those potential impacts associated with flights test activities at USAKA. A brief summary of the conclusions reached for each of the six technologies is provided below.

Ground-based Surveillance and Tracking System: No potentially significant impacts are identified for any of the test activities at the Nevada Test Site, The National Test Facility, Vandenberg AFB or the Western Test Range. Potential impacts could occur at USAKA. These potential impacts include the possible degradation of water quality around the islands, the possible degradation of the marine habitat of two species and possible socioeconomic impacts as a result of population increases. An EIS for the entire range of operations at this facility, to include those associated with SDI Dem/Val activities, will be prepared and necessary mitigations identified. No SDS Dem/Val testing activities at USAKA will begin until that document is completed.

Space-based Surveillance and Tracking System: No potentially significant impacts are identified for any of the test activities to be conducted at the Nevada Test Site, The Western Test Range, Vandenberg AFB, Cape

Canaveral AFS, the Kennedy Space Center, or The Eastern Test Range. Planned activities for those locations are within the capacity of ongoing programs and will require no significant facility construction. Analysis and simulation exercises will be conducted at the National Test Facility. A separate Environmental Assessment has addressed the effects of construction and operation of the National Test Facility. The assessment predicted only minor erosion impacts during construction and minor air quality, groundwater supply and vehicle traffic impacts during operations, due only to personnel volume. At Arnold Engineering Development Center a new space simulation chamber might be constructed. If it is, it will be completed with accepted practice to mitigate impacts and no significant impacts to the environment are identified.

Exoatmospheric Reentry Vehicle Interception System: No potentially significant impacts are identified from activities at Arnold Engineering Development Center, The Nevada Test Site, Harry Diamond Laboratories, Vandenberg AFB, The Western Test Range or the Pacific Missile Range. No significant impacts are expected at the National Test Facility as explained above. Potential impacts were identified at USAKA as explained above.

Battle Management/Command and Control, and Communications: No potentially significant impacts were identified for any of the test activities at Rome Air Development Center, The Electronic Systems Division at Hanscom AFB, the Nevada Test Site, Harry Diamond Laboratories, or the Army Advanced Research Center. In all cases the test activities are well within the existing capacity of the facility and no significant construction will occur. No significant impacts are expected at the National Test Facility as explained above.

Space-Based Interception System: SDIO staff identified no potentially significant impacts from any of the test activities at Eglin AFB or Edwards AFB. These activities are well within the existing capacity of the facilities and no facility construction will occur. Engineers will conduct analysis and simulations at the National Test Facility where minor impacts have been predicted as explained above. No significant impacts are expected at the National Test Facility as explained above. Potential impacts were identified at USAKA as explained above.

Boost Surveillance and Tracking System: No potentially significant impacts were identified for any of the test activities at any location except Cape Canaveral AFS. Launches of the Titan IV could cause impacts from rocket motor burnoff and noise. A separate assessment for the development of the Titan IV launch facility assessed these impacts and found that, with proper mitigation, they were insignificant.

Findings of No Significant Impact

Based upon the foregoing, the DoD has concluded that the proposed action will not significantly impact the quality of the human environment with possible exception of flight test activities at USAKA. An Environmental Impact Statement for the entire range of operations at USAKA will be prepared, and no SDI Dem/Val test activities will be conducted at that facility until it is complete.

Copies may be obtained from: SDIO/EA, P.O. Box 3509, Reston, VA 22090-1509, (202) 693-1081.

Linda M. Lawson,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

July 31, 1987.

[FR Doc. 87-17763 Filed 8-3-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER87-507-000 et al.]

Electric Rate and Corporate Regulation Filings; Florida Power & Light Co. et al.

July 29, 1987.

Take notice that the following filings have been made with the Commission:

1. Florida Power & Light Company

[Docket No. ER87-507-000]

Take notice that Florida Power & Light Company (FPL) on July 20, 1987, tendered for filing a letter which amends FPL's filing submitted to the Commission on June 22, 1987, in this docket.

FPL states in the letter that an amended page 1 of 4 of two revised Exhibits A provides for revised Contract Demands for the City of Jacksonville Beach and the City of Green Cove Springs respectively, under Rate Schedule PR-3 of FPL's FERC Electric Tariff Second Revised Volume No. 1. The proposed effective date for the contract demands is as originally requested, June 1, 1987.

Comment date: August 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Montana Power Company

[Docket No. ER87-538-000]

Take notice that on July 17, 1987, the Montana Power Company tendered for filing pursuant to section 205 of the Federal Power Act an agreement dated May 6, 1987 for the sale of firm energy to the Sierra Pacific Power Company during the period from June 15, 1987 through November 30, 1987.

MPC has requested waiver of the notice provisions of Section 35.3 of the Commission's regulations in order to permit the agreement to become effective as of June 15, 1987 in accordance with its terms.

Comment date: August 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power & Light Company

[Docket No. ER87-539-000]

Take notice that on July 20, 1987, Florida Power & Light Company (FPL) tendered for filing a document entitled Amendment Number Thirteen to Revised Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Tampa Electric Company (Rate Schedule FERC No. 57).

FPL states that under Amendment Number Thirteen, FPL will transmit power and energy for Tampa Electric Company as is required in the implementation of its interchange agreement with the Utility Board of the City of Key West, Florida.

FPL requests that waiver of § 35.3 of the Commission's regulations be granted and that the proposed Amendment be made effective immediately. FPL states that copies of the filing were served on Tampa Electric Company.

Comment date: August 13, 1987, in accordance with Standard Paragraph E at the end of this document.

4. Portland General Electric Company

[Docket No. ER87-543-000]

Take notice that Portland General Electric Company (PGE) on July 23, 1987 tendered for filing (i) a Sale and Exchange Agreement with Southern California Edison Company for the sale during a 25-year period beginning on January 1, 1986 of firm energy and capacity and economy energy and during a 20-year period beginning on November 1, 1990 for the seasonal exchange of capacity and associated energy, (ii) the Certificate of Concurrence for Southern California Edison Company.

The Sales Agreement provides for the payment of an annual fee and for the energy to be sold based upon PGE's

incremental cost of production plus an additional amount for fixed charges plus the costs of transmission.

PGE states that the reason for the proposed Sales Agreement, which is the result of a mutually beneficial negotiation, is to allow it to recover a portion of its fixed charges applicable to certain of its thermal generating resources when they are not being utilized to serve its system loads. These thermal resources may be displaced, depending upon prevailing water conditions by PGE's hydroelectric or other resources.

PGE requests an effective date of January 1, 1986 and therefore requests a waiver of the Commission's notice requirements.

Comment date: August 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Portland General Electric Company

[Docket No. ER87-545-000]

Take notice that on July 24, 1987, Portland General Electric Company (PGE) tendered for filing a Sales Agreement with the Sacramento Municipal Utility District, which provides for sale from January 21, 1987 through March 15, 1987 of 64,800 MWh of firm energy deliverable at rates not in excess of 50 MW per hour, and a Notice of Cancellation of the Sales Agreement. PGE states that this Sales Agreement has expired by its own terms.

The contract rate, 17 mills/kWh, is based upon its incremental cost of production plus an additional amount for fixed charges (not exceeding fully distributed fixed charges) plus the cost of transmission.

PGE states that the reason for the proposed Sales Agreement is to allow it to recover a portion of its fixed charges applicable to certain of its thermal generating resources during a short period of time when they are not required for its system loads.

PGE requests an effective date of January 21, 1987 and, therefore, requests a waiver of the Commission's notice requirements.

Copies of the filing have been served upon the Sacramento Municipal Utility District and the Oregon Public Utility Commissioner.

Comment date: August 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Company

[Docket No. ER87-546-000]

Take notice that on July 24, 1987, Portland General Electric Company (PGE) tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 53. PGE states that this rate schedule has expired by its own terms.

PGE requests an effective date of February 28, 1987, and therefore requests a waiver of the Commission's notice requirements.

Notice of the proposed cancellation has been served upon the following parties: State of California Department of Water Resources, Oregon Public Utility Commissioner.

Comment date: August 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER87-540-000]

Take notice that on July 21, 1987, Southern California Edison Company (SCE) tendered for filing proposed cancellation of Rate Schedule FERC No. 175, Edison-Burbank Firm Transmission Service Agreement between SCE and the City of Burbank; FERC No. 176, Edison-Glendale Firm Transmission Service Agreement between SCE and City of Glendale; and FERC No. 177, Edison-Pasadena Firm Transmission Service Agreement between SCE and City of Pasadena.

SCE states that the service under each of these Agreements expired under its own terms and SCE terminated the Agreements on June 8, 1987. SCE respectfully requests waiver of prior notice requirements and request an effective date of May 1, 1986, to the cancellation of Rate Schedule FERC Nos. 176 and 177 and June 1, 1986 for Rate Schedule FERC No. 175.

Comment date: August 13, 1987, in accordance with Standard Paragraph E at the end of this document.

8. South Carolina Electric & Gas Company

[Docket No. ER87-541-000]

Take notice that South Carolina Electric & Gas Company on July 22, 1987, tendered for filing proposed cancellation of Rate Schedule 34 (FERC) between Savannah Electric and Power Company and South Carolina Electric & Gas Company.

Under the proposed Rate Schedule 34 (FERC) Limited Term Contract for the purchase of 20 megawatts of capacity and associated energy by Savannah Electric and Power Company from South Carolina Electric & Gas Company dated April 26, 1983, is to be cancelled and replaced with the Interconnection Agreement between South Carolina Electric & Gas Company and Savannah Electric and Power Company which, includes Emergency Assistance, Limited Term Power, Short Term Power and Economy Interchange Service Schedules dated April 14, 1987.

Copies of this filing were served upon Savannah Electric and Power Company.

Comment date: August 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Southeastern Power Administration

[Docket No. EF87-3031-000]

Take notice that on July 23, 1987, the Under Secretary of the Department of Energy confirmed and approved, on an interim basis effective midnight August 20, 1987, Rate Schedule JW-1-B and JW-2-B for power from Southeastern Power Administration's (SEPA) Jim Woodruff Project. The approval extends through August 19, 1992. The Under Secretary states that the Commission, by Order issued January 10, 1983, in Docket No. EF82-3031, confirmed and approved Rate Schedules JW-1-A and JW-2-B through August 19, 1987.

SEPA proposes in the instant filing to extend Rate Schedule JW-2-B, and to replace JW-1-A with JW-1-B. The rate adjustment will increase rates by 34 percent to the preference customers. The Rate Schedule applicable to Florida Power Corporation contains an automatic escalation factor based on the Company's cost of fuel. This escalation factor has raised the effective rate paid by Florida Power Corporation, over the long-term, in excess of the 34 percent rate increase to the preference customers. Therefore, the Florida Power Corporation rate has been extended. The Rate Schedules are submitted for confirmation and approval on a final basis pursuant to authority vested in the Commission by Delegation Order No. 0204-108. Approval is requested for a period ending August 19, 1992.

Comment date: August 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Southwestern Electric Power Company

[Docket No. ER87-542-000]

Take notice that on July 22, 1987, Southwestern Electric Power Company (SWEPCO) tendered for filing proposed tariff changes in its Rate Schedule FERC No. 72, applicable to transmission service rendered to Arkansas Electric Cooperative Corporation (AECC) under the Flint Creek Power Plant Coordination, Interchange and Transmission Service Agreement. SWEPCO has proposed rates which would decrease transmission revenues from AECC by $22,500 for the twelve months ending June 30, 1988. SWEPCO has calculated the proposed rates in

accordance with the formula contained in the Flint Creek Agreement.

SWEPCO requests an effective date of July 1, 1987, and therefore requests waiver of the Commission's notice requirements. Copies of the filing have been served on AECC and the Arkansas Public Service Commission.

Comment date: August 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Public Service Corporation

[Docket No. ER87-544-000]

Take notice that on July 24, 1987, Wisconsin Public Service Corporation (the Company) tendered for filing a new service agreement for partial requirements service to the City of Marshfield, and its Marshfield Electric and Water Department, Wood County, Wisconsin (the City). The new agreement revises the initial term of service, and provides for a change from a single 115 Kv delivery point to two 115 Kv delivery points. The delivery point change results from the company's leasing certain electric facilities from the city under a lease agreement included with the filing. The Company, with the support of the City, has requested an effective date of July 1, 1987, for the new service agreement.

The Company states that copies of the executed service agreement were sent to the City, the two other purchasers of service under the same tariff as the City and to the Public Service Commission of Wisconsin.

Comment date: August 13, 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. 87-17649 Filed 8-3-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-451-000 *]

Notice Inviting Applications To Provide New Gas Service to the Northeast U.S.; Northeast U.S. Pipeline Projects

July 24, 1987.

During the past five years, the Commission has received over 100 applications to provide new gas service to the Northeast United States. Many of these filings were in the nature of amendments to applications, or new applications that superseded previously filed ones. A number of these applications proposed construction and operation of major new pipeline facilities and the transportation or sale for resale of large quantities of natural gas. In many instances, applicants or interveners alleged that two or more of these proposals were mutually exclusive, and were therefore entitled to consideration in a comparative evidentiary hearing, pursuant to the decision in *Ashbacker Radio Corporation* v. *F.C.C.*, 326 U.S. 327 (1945).

The *Ashbacker* decision arose in a proceeding under the Communications Act of 1934 and involved mutually exclusive applications to provide broadcast services on the same radio frequency. One applicant received approval and the remaining applicant found its proposal set for an evidentiary hearing. On appeal, the court held that when mutually exclusive *bona fide* license applications were filed at the F.C.C., the grant of one without a hearing to both deprives the loser of the opportunity for a hearing that Congress chose to grant under section 309 of the Communications Act (*Ashbacker* at 333). It is clear, however, that *Ashbacker* did not create a right to a comparative hearing in those instances where no statutory hearing right was conferred; it merely requires an administrative agency to use the same set of procedures to process the applications of all similarly situated persons who come before it seeking the same license. *Multi-State Communications, Inc.* v. *F.C.C.* 728 F2d 1519, 1525-1526 (D.C. Cir. 1984).

A number of the Northeast U.S. applications were consolidated for comparative hearing in *Boundary Gas, Inc.*, et al., Docket No. CP81-107-000, et al. Extensive superseding filings in that proceeding eventually rendered it an unwieldly vehicle for further consideration of currnt and future proposals involving the Northeast U.S. In two companion orders issued today, we have decided all of the applications that are currently ripe for decision in that proceeding, have dismissed those that are unripe or have been suspended, and have dismissed another application (Canadian Gateway Pipeline System, Docket No. CP86-513-000) for failure to satisfy the standards of our Regulations.

The history of these filings, as well as the applications filed by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. in Docket Nos. CP87-131-000 and CP87-358-000 suggests that there may exist in the Northeast U.S. a need for new service, including construction of significant new gas pipeline facilities; that proposals to provide such new service and to construct such new facilities may be competitive or mutually exclusive; and that such proposals may require an evidentiary hearing. The Commission stands ready and willing to establish a comparative evidentiary hiring in the event that it has before it at one time two or more mutually exclusive applications in which issues of material fact are in dispute.

The Commission intends to act efficiently and expeditiously in deciding whether the need for new gas services and facilities in the Northeast U.S. exists and, if so, what new services and/or facilities ought to be certificated to meet such needs. Our experience in Boundary, however, was that over a protracted period of time many competing applications and amendments to applications were filed for consideration on a comparative basis. Consequently, the decisional process was considerably delayed. We would like to avoid similar delays when considering future proposals to provide new gas service to the Northeast U.S.

The courts have observed that there must be some time when an administrative agency can close the door to new parties to an *"Ashbacker"* comparative hearing or, at least hypothetically, no license could ever be granted. *Radio Athens, Inc.* v. *F.C.C.*, 401 F2d 398, 400-401 (D.C. Cir. 1968). The

* This docket number designation is applicable to this notice and any requests for rehearing of this notice. Applications for authority to provide new gas service to the Northeast U.S. filed in response to this notice will be identified by future docket numbers assigned at the time of filing.

Federal Communications Commission has elected to respond to the comparative hearing requirement by promulgating a series of rules that, essentially, provide for public notice of license applications and the establishment, in these notices, of a date certain, beyond which no mutually exclusive applications would be accepted for filing. (*See, e.g.*, 47 CFR 22.31 and 73.3516(e); *see also Maxcell Telecom Plus, Inc.* v *F.C.C.*, Nos. 85–1322, et al. slip op. (D.C. Cir. April 7, 1987) affirming (F.C.C. action designating 30 market areas for cellular phone operations and fixing cut-off dates in each market area for the filing of mutually exclusive license applications).) We believe that a similar procedure may be appropriate in this instance.

Accordingly, we announce today an open season for filing new applications to provide natural gas service to the Northeast U.S.[1] All applications presently on file will be considered, as well as all new applications and amendments thereto filed between now and December 1, 1987. All applications and amendments thereto on file at the Commission as of that date, which are complete and in compliance with the Commission's Regulations, which are ripe for decision, and which seek to provide new gas service to the Northeast U.S., will be reviewed at that time to determine what procedures are appropriate for their resolution.

By this Notice, potential applicants are advised that applications for such service that are filed, substantially amended, or (if incomplete when filed) completed after December 1, 1987 will not be deemed to be competitive or mutually exclusive with such applications that are on file and complete as of the that date.[2] Potential applicants are further advised that applications filed, substantially amended, or (if incomplete when filed) completed after December 1, 1987 may be subject to competing claims as between such applications.

Applications filed, completed or amended subsequent to December 1, 1987 will, of course, be processed as appropriate, on their own merits, but can not claim a right to competitive status with applications that are completed and ripe for decision (without subsequent amendment) as of December 1, 1987. Also, nothing in this Notice commits the Commission to consolidate any applications, or to set any applications for hearing. Less time consuming procedures may be used if legally permissible and otherwise appropriate. The purposes of this Notice is to give the Commission the ability, if it so chooses, to use December 1, 1987 as a cut-off date, so that subsequent applicants cannot delay whatever proceeding may have been established (if any) to process mutually exclusive applications that were on file, complete, and ripe for action as of December 1, 1987.

Discussion

This notice is spawned, in a large part, from the *Boundary* proceeding and the comments, interventions and protests filed by a number of parties in *Boundary* and in other pending northeastern-area pipeline projects. Under the rubric of *Ashbacker*, many participants at the Commission exercised their administrative prerogatives in a manner which turned the *Boundary* proceeding into an administrative procedural moving target, constantly evoking further applications, amendments to applications, counterproposals, and proposals to counter the counterproposals, to the point that scarcely any matter became ripe for adjudication for an extended period of time.

This notice would allow the Commission subsequently to refuse requests to consolidate northeastern-area pipeline projects filed after December 1, 1987, with other northeastern-area projects filed before that date. The Commission would then be confronted with a closed class of projects and could decide, based on the targeted markets and any allegations of contested issues of material fact, whether any of the timely applications are mutually exclusive or otherwise require conduct of an evidentiary hearing.

If an application filed after the cut-off date proposes to serve a market that would be fully satisfied by a timely-filed application, and the Commission chooses to approve the timely-filed application, it could do so without violation of the *Ashbacker* comparative hearing equipment. In such case, the untimely application, if a traditional section 7(c) application, could be denied on the merits as failing to show a market for its proposed service. Consequently, the Commission is convinced that the procedures outlined in this notice will provide a more expeditious, efficient, rational and fully legal procedure to ensure that any needed additional supply for the northeastern United States can be considered in a timely way.

Administrative Procedures

Pursuant to Rule 713(a)(2)(v) of our Rules of Practice and Procedure (18 CFR 385.713(a)(2)(v)), this notice is designated as a final decision of the Commission for the purpose of receiving requests for rehearing filed pursuant to section 19(a) of the Natural Gas Act.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–17648 Filed 8–3–87; 8:45 am]

BILLING CODE 6717-01-M

[1] For purposes of this Notice, the Northeast U.S. is defined as including the states of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania. Proposals to provide new gas service to this area could, of course, include proposals to construct and operate pipeline facilities outside of this area for the purpose of transporting gas to the Northeast.

[2] Applications filed under our optional certificate procedures (Subpart E of Part 157 of our Regulations) are deemed not to be mutually exclusive for the purpose of establishing a comparative evidentiary hearing, no matter whether filed before or after the December 1, 1987 cut-off date.

Western Area Power Administration

Central Valley Project—Proposed Power and Transmission Rates Adjustments

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Notice of proposed power and transmission rates adjustments—Central Valley Project.

SUMMARY: The Western Area Power Administration (Western) is proposing a power rate decrease and a transmission rate increase for the Central Valley Project (CVP), a multipurpose Federal water project located in northern California. In addition, Western is proposing that certain third party transmission expenses be directly passed through to the CVP customers and not included as part of the CVP power rates. Power rates are set as low as possible consistent with sound business principles and must, by law, also be sufficient to recover the annual power expenses plus repay the power and certain nonpower investments of the CVP within prescribed time periods. For the period of May 1983 through May 1988, the CVP power rates produced a level of revenues significantly above the CVP annual expenses and repaid the $234 million deficit previously incurred in the operation of the CVP. Repayment of this deficit is on target for FY 1988, and the continuation of the current CVP

rate would provide more than the required revenue to pay the annual CVP power expenses and required investment costs within the prescribed periods. The CVP transmission rates are being modified to reflect updated transmission system investment costs, and operation, maintenance, and replacement expenses.

The power rates presently in effect, designated CV–F5 (Schedule of Rates for Wholesale Firm Power Service), provide a composite rate of approximately 39.50 mills/kWh by applying an assumed system average load factor of 64 percent to the current $3.75/kW-month capacity charge and the energy charge of 31.44 mills/kWh. The transmission rates currently in effect, designated CV–T1 and CV–T2 (respectively, the Schedules for Firm and Nonfirm Transmission Service) are $0.35/kW-month for firm transmission service and 1.00 mill/kWh for nonfirm service.

In addition to the CVP transmission rates, Western currently has a rate schedule for third party transmission (designated CV–TPT1). This schedule is for CVP customers that require transmission of their CVP power allocation over the transmission system of a third party. Under the current CV–TPT1 schedule, such customers must pay for the portion of third party transmission services, including losses, that are in excess of the at-or-above 44-kV transmission charges and losses specified by Western's Integration Agreement (Western Contract No. 14–D6–200–2948A) with the Pacific Gas and Electric Company (PGandE).

The current CVP rates (other than CV–TPTI) were placed into effect on an interim basis by the Assistant Secretary of the Department of Energy (DOE) on May 25, 1983, and were confirmed and approved on a final basis for a 5-year period from May 25, 1983, through May 24, 1988, by the Federal Energy Regulatory Commission (FERC) order issued November 30, 1983.

Proposed Rates

Two CVP power rate design options are proposed for consideration, as well as rates for the transmission of non-CVP power over the CVP transmission system. Although two power rate designs are outlined in this proposal, it is Western's intent to adopt only one design for final implementation. A determination on the final design will be made substantially on the basis of customer comments. The proposed rates offered by Western for consideration are:

OPTION A.— CVP POWER RATES BASED ON A 50-PERCENT REVENUE RECOVERY BY THE CAPACITY RATE AND 50-PERCENT REVENUE RECOVERY BY THE ENERGY RATE

	($/kW-month)
Capacity charge:	
06/01/88 to 09/30/89	6.80
10/01/89 to 09/30/91	7.42
10/01/91 to 05/31/93	7.67
	(mills/kWh)
Energy charge:	
06/01/88 to 09/30/89	14.43
10/01/89 to 09/30/91	15.75
10/01/91 to 05/31/93	16.29
Composite rate:	
06/01/88 to 09/30/89	28.85
10/01/89 to 09/30/91	31.50
10/01/91 to 05/31/93	32.58

OPTION B.— CVP POWER RATES BASED ON "FIXED" COSTS BEING RECOVERED BY THE CAPACITY RATE AND "VARIABLE" COSTS BEING RECOVERED BY THE ENERGY RATE

	($/kW-month)
Capacity Charge:	
06/01/88 to 09/30/89	5.33
10/01/89 to 09/30/91	5.82
10/01/91 to 05/31/93	6.02
	(mills/kWh)
Energy Charge:	
06/01/88 to 09/30/89	17.54
10/01/89 to 09/30/91	19.15
10/01/91 to 05/31/93	19.80
Composite Rate:	
06/01/88 to 09/30/89	28.85
10/01/89 to 09/30/91	31.50
10/01/91 to 05/31/93	32.58

Special Adjustment Clauses Associated with the Proposed CVP Power Rates

Power factor adjustment clause: Western's Integration Agreement with PGandE requires Western's customers to maintain a 95 percent power factor at their points-of-delivery. Western's present power rate schedule (CV–F5) states that all CVP customers should normally meet this requirement. Western proposes to implement a surcharge for noncompliance with this power factor requirement. The surcharge is proposed to be 0.25 percent of the customer's unadjusted capacity and energy bill for each 1 percent deviation of such customer's monthly power factor from the 95 percent requirement.

Revenue adjustment clause: Unlike other Western projects, the CVP power marketing program is significantly supported by power purchases made from the Pacific Northwest and PGandE. Due to the dynamic nature of these purchased power expenses, Western is proposing a Revenue Adjustment Clause (RAC). The proposed RAC design would periodically adjust certain major estimated purchased power expenses to actual, and at the same time, adjust estimated revenue from capacity and energy sales to actual. The net result of these adjustments would be surcharged or credited to the CVP customers' subsequent bills. Adjustments would occur on a 6-month cycle. The limit to any 6-month adjustment would be $15 million overall.

Low voltage loss adjustment: The billed amounts for low voltage customers (below 44 kV) on the PGandE system will be the metered amounts of energy and capacity at the point-of-delivery, multiplied by a loss adjustment factor of 1.035. This is identical practice to that presently required by CVP Rate Schedule CV–TPTI, and is designed to account for the fact that low voltage customers incur 8 percent losses in delivery of power, while high voltage customers incur 4.5 percent losses.

CVP Transmission Rate for Firm Transmission Service

Capacity Charge: $0.597/kW-month per kilowatt contracted for or received (whichever is greater) into the CVP transmission system
Energy Charge: None
Losses: As determined by contract

CVP Transmission Rate for NonFirm Transmission Service

Capacity Charge: None
Energy Charge: 1.27 mills/kWh for each kilowatthour delivered from the CVP transmission system
Losses: As determined by contract

Rate Schedule for Third Party Transmission

Transmission service charges incurred by Western in the delivery of CVP power over a third party's transmission system to a CVP customer will be directly passed through to that customer. Rates urder this schedule are proposed to be automatically adjusted as third party transmission charges are adjusted.

General Information

The proposed new CVP power and transmission rate schedules will become effective on or before May 25, 1988. Implementation of the new CVP rates on an interim basis is planned as soon as is reasonable after the conclusion of the formal public consultation and comment period, and approval on an interim basis by the Under Secretary of DOE.

A brochure explaining the proposed capacity, energy, and transmission charges, and outlining the methods used in developing the proposed rates, will be distributed to the CVP customers and other interested parties. Since the proposed rates constitute a major rate

adjustment as defined by the current procedures for public participation in general rate adjustments, a public information forum and a public comment forum will be held. After public discussions and review of public comments, Western will decide on the proposed rates, which it believes should be implemented, and will make its recommendation to the Under Secretary of DOE.

DATES: The consultation and comment period will begin with the publication of this notice in the **Federal Register** and will end November 2, 1987. Formal public information and comment forums, as well as any other mandatory hearings or meetings, will be held and documented during this consultation and comment period.

A public information forum, at which Western's staff will review the need for the proposed rate adjustments, review alternatives, and answer questions, will be held on August 25, 1987, at the Sacramento Hilton Inn, 2200 Harvard, Sacramento, California, beginning at 10 a.m. The public comment forum, at which interested parties may comment on the proposed rate adjustments, will be held on September 22, 1987, at the Holiday Inn Holidome, 5321 Date Avenue, Sacramento, California, beginning at 10 a.m. Persons planning to speak at the September 22, 1987, comment forum should send their name and affiliation to the address noted below by September 18, 1987, so that a speaker list may be developed. Time permitting, other persons will be allowed to comment at the forum. Transcripts will be made of both the information and comment forums.

Written comments may be submitted at the comment forum or may be submitted to the address below throughout the consultation and comment period, but should be received at that address on or before November 2, 1987.

In addition to the public information and comment forums, Western is scheduling an evidentiary hearing regarding the merits of the proposed RAC for October 7, 1987. This hearing is required by the Public Utility Regulatory Policies Act. Further information as to the time, location, and procedure for participation in this hearing will be published in the **Federal Register** and will be distributed to all CVP customers and interested parties.

ADDRESS: For further information contact: Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, 1825 Bell Street, Suite 105, Sacramento, CA 95825, (916) 978–4418.

SUPPLEMENTARY INFORMATION: Power rates for the CVP are established pursuant to the DOE Organization Act of August 4, 1977 (42 U.S.C. 7101, *et seq.*); the Reclamation Act of 1902 (43 U.S.C. 372, *et seq.*) as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and the acts specifically applicable to the project and divisions thereof.

The Secretary of the DOE, by Delegation Order No. 0204–108 (48 FR 55664, December 14, 1983), as amended at 51 FR 19744 on May 30, 1986, delegated to the Administrator of Western the authority to develop power and transmission rates; to the Under Secretary of the DOE the authority to confirm, approve, and place such rates in effect on an interim basis; and to the FERC the authority to either confirm and approve and place in effect on a final basis, to remand, or to disapprove such rates.

The procedures for public participation in rate adjustments for power marketed by Western are formally cited as "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions" (10 CFR Part 903) published in the **Federal Register** at 50 FR 37837 on September 18, 1985.

Availability of Information

All brochures, studies, written comments, letters, memorandums, and other documents made or received by Western for the purpose of developing the proposed rate are and will be available for inspection and copying at the Sacramento Area Office, located at the address noted above.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, can be required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the initiation of the CVP rate is related to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rules of particular applicability relating to rates of services are not considered rules subject to the act. Since the CVP rates are of particular applicability relating to rates and services, no flexibility analysis is required.

Determination Under Executive Order 12291

The DOE has determined that this is not a major rule subject to Executive Order 12291 (46 FR 13193, February 9, 1981) because is does not meet the criteria of section 1(b) of that order. In addition, Western has an exemption from sections 3, 4, and 7 of Executive Order 12291, and therefore, will not prepare a regulatory impact statement.

Paperwork Reduction Act of 1980

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that certain information collection requirements be approved by the Office of Management and Budget (OMB) before information is demanded of the public. OMB has issued a final rule on the Paperwork Burdens on the Public (48 FR 13666) dated March 21, 1983. There is no requirement that members of the public participating in the development of the CVP rates supply information about themselves to the Government. It follows that the CVP rates are exempt from the Paperwork Reduction Act.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 and DOE regulations published in the **Federal Register** on March 28, 1980 (45 FR 20694–20701), Western is conducting an environmental evaluation of the proposed rate adjustments. CVP customers and interested parties will be notified of the results of the environmental evaluation.

Issued at Golden, Colorado, July 28, 1987.

William H. Clagett,

Administrator.

[FR Doc. 87–17685 Filed 8–3–87; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3241–5]

Superfund Program; Nonbinding Preliminary Allocations of Responsibility (NBARs)

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: The Agency is today extending the deadline for public comment on its Interim Guidelines for Preparing Nonbinding Preliminary Allocations of Responsibility for an additional 30 days. The guidelines were published on May 28, 1987 at (52 FR 19919). The guidelines describe how

EPA may prepare an allocation among potentially responsible parties of percentages of total response costs at a facility. The comment period is being extended by 30 days to allow additional time for public comment on the policy.

DATE: Comments must be provided on or before September 3, 1987.

ADDRESS: Comments may be submitted to Debbie Wood, U.S. Environmental Protection Agency, Office of Waste Programs Enforcement, WH-527, 401 M. St., SW., Washington, DC 20460.

Dated: July 28, 1987.

Gene A. Lucero,

Director, Office of Waste Programs Enforcement.

[FR Doc. 87-17632 Filed 8-3-87; 8:45 am]

BILLING CODE 6560-01-M

[FRL-3241-6]

Science Advisory Board, Hazard Ranking System Review Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that the Large Volume Waste Work Group of the Science Advisory Board's Hazard Ranking System Review Subcommittee will hold a two-day meeting on August 20-21, 1987 at the U.S. Environmental Protection Agency's Region 8 Headquarters in Denver, Colorado. The meeting, which will be held in the Rocky Mountain Room, South Tower, 5th Floor, 999 18th Street, Denver, CO, will begin at 8:30 a.m. on Thursday and adjourn no later than 4:00 p.m. on Friday.

The purpose of this meeting is to continue deliberations on the large volume waste issues that have been presented to the Science Advisory Board as part of the review of the Hazard Ranking System. The issues were introduced at the July 16-17, 1987 Subcommittee meeting. They are described in *Superfund Hazard Ranking System (HRS): Selected Issues Related to Mining Waste Sites.* Copies of this and other documents provided to the Subcommittee are available in the Superfund Docket. The Superfund Docket is located at EPA Headquarters, Waterside Mall Sub-basement, 401 M Street, SW., Washington, DC 20460. The Docket is open by appointment only from 9:00 a.m. to 4:00 p.m. Monday through Friday excluding holidays. To obtain copies of the document or to make an appointment, contact Tina Maragousis at 202/382-3046. Further technical information on the large volume waste issues is available from Ms. Agnes Ortiz, Office of Emergency and Remedial Response (WH-548E), U.S. EPA, 401 M Street, SW., Washington, DC 20460 (202/382-4777).

The meeting is open to the public. Any member of the public wishing to attend, make brief oral comments, or submit written comments to the Large Volume Waste Work Group should notify Mrs. Kathleen Conway, Executive Secretary, or Mrs. Dorothy Clark, Staff Secretary, of the Science Advisory Board at 202/382-2552 by August 17, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

Date: July 23, 1987.

[FR Doc. 87-17633 Filed 8-3-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Solicitation of Comments on Western Union's Petition for Partial Reconsideration or Clarification of Order Completing Commission's Investigation of Interstate Access Tariff Non-Recurring Charges

July 24, 1987.

Pleading Cycle Established

On July 13, 1987, the Western Union Telegraph Company (Western Union) filed a petition for reconsideration of a Memorandum Opinion and Order, 2 FCC Rcd 3498 (1987), in which the Commission completed its investigation of non-recurring charges (NRCs) for both switched and special access services. The Commission concluded that the NRC rates set for investigation were not unreasonably high and that no further investigation was required. It also concluded that NRCs should recover the full costs of the associated non-recurring activities.

Western Union seeks reconsideration insofar as the Commission decided not to require local exchange carriers (LECs) to disaggregate their rate structures to reflect the cost characteristics of different types of special access installations. The Commission indicated that LECs should file rates which reflect legitimate cost savings resulting from certain types of installations. Western Union argues in favor of an alternative set of rate structure requirements and also asserts that some LECs' NRCs do not reflect the different installation costs for different special access services, *i.e.*, metallic facilities as opposed to voice grade circuits.

Western Union further argues that the Commission's proposal in CC Docket No. 87-113, 2 FCC Rcd 2673 (1987), to preclude rate structure changes in annual access filings, is inconsistent with its directive that future NRCs reflect cost savings associated with particular installations. It asks the Commission not to restrict the LECs from restructuring their NRCs to account for these cost differences in conjunction with rate changes in their annual access tariff filings.

Parties wishing to comment on Western Union's petition must do so not later than August 24, 1987. Replies are due not later than September 8, 1987. An original and seven copies of all submissions must be field with the Secretary of Commission. In addition, one copy must be delivered directly to the Commission's commercial copy firm, International Transcription Service, Inc. (ITS), in Room 246, 1919 M Street, NW., Washington, DC. Copies of documents filed by parties in this matter may be obtained from ITS. Copies are also available for public inspection from the Tariff Division, Common Carrier Bureau, Room 518, 1919 M Street, NW., Washington, DC.

For further information, contact Lawrence Krevor, Tariff Division, at (202) 632-6917.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-17549 Filed 8-3-87 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; St. Croix Wireless Co. 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. St. Croix Wireless Co., A Limited Partnership	Christiansted, VI	BPH-850711QD	87-269
B. Sugarbird Communications	....do	BPH-850712DD	
C. Sunshine-Eagle Broadcasting Co	....do	BPH-85080712W4	
D. Kareem Abdulghani	....do	BPH-850712W6	

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	C
2. Comparative	A,B,C,D
3. Ultimate	A,B,C,D

3. 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. 87–17639 Filed 8–3–87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Charles J. Saltzman 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. Charles J. Saltzman	Bloomfield, IN	BPH–851122MD	87–271
B. Melissa Miles	Bloomfield, IN	BPH–851211MD	
C. Wm. Gerald Willis and Catherine H. Willis d/b/a Willtronics Broadcasting Company.	Bloomfield, IN	BPH–851216MQ	

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
1. Comparative	A,B,C
2. Ultimate	A,B,C

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).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau

[FR Doc. 87–17640 Filed 8–3–87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 203–011137]

Erratum; Pacific Coast/Australia-New Zealand Discussion Agreement

The **Federal Register** Notice of July 17, 1987 (Vol. 52, No. 137, page 27055) incorrectly identified the Pacific Coast/Australia-New Zealand Discussion Agreement as Agreement No. 206–011137, whereas, it should have read Agreement No. 203–011137.

By Order of the Federal Maritime Commission

Joseph C. Polking,

Secretary.

Dated: July 30, 1987.

[FR Doc. 87–17636 Filed 8–3–87; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BERC–454–N]

Medicare Program; Hospice Cap

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces an updated payment cap for hospice care under the Medicare program. The revised cap amount applies to payments made to a hospice during the period November 1, 1986 through October 31, 1987.

EFFECTIVE DATE: The payment cap is effective for the period November 1, 1986 through October 31, 1987.

FOR FURTHER INFORMATION CONTACT: Randal Ricktor, (301) 597–1806.

SUPPLEMENTARY INFORMATION: Section 122 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), which was enacted on September 3, 1982, expanded the scope of Medicare benefits by authorizing coverage for hospice care for terminally ill beneficiaries. The principal changes made by section 122 are contained in sections 1812 (a)(4) and (d), 1813(a)(4), 1814 (a)(7) and (i), 1816(e)(5) and 1861(dd) of the Social Security Act (the Act). Section 1814(i) of the Act was further amended on August 29, 1983 by section 1 of Pub. L. 98–90 and on November 8, 1984 by section 1(a) of Pub. L. 98–617. Our regulations implementing the hospice program under Medicare were published in the **Federal Register** on December 16, 1983 (48 FR 56008) and are set forth at 42 CFR Part 418.

Under the authority of section 1814(i) of the Act, hospices are paid on the basis of one of four prospectively determined rates for each day in which a qualified Medicare beneficiary is under the care of the hospice. The four categories of payment rates are routine home care, continuous home care, inpatient respite care, and general inpatient care, as described in § 418.302.

Section 1814(i)(2) of the Act specifies that Medicare payment to a hospice for care furnished over the period of a year is limited by a payment cap. The payment cap is described in regulations at § 418.309. Section 1812(i)(2)(B) of the Act and § 418.309 of the regulations set the initial hospice cap amount for the period November 1, 1983 to October 31, 1984 at $6,500. Subsequent hospice caps were $6,884 for hospice care furnished from November 1, 1984 through October 31, 1985 and $7,391 for hospice care furnished from November 1, 1985 through October 31, 1986. Each hospice's cap amount is calculated by multiplying the yearly cap by the number of Medicare beneficiaries who elected to receive and did receive hospice care from the hospice during the cap period (November 1 through October 31).

Section 1814(i)(2)(B) of the Act and § 418.309(a) specify the manner in which the cap amount is adjusted for accounting years that end after October 1, 1984. The initial cap amount of $6,500 is adjusted for inflation or deflation for cap years that end after October 1, 1984 by using the percentage change in the

medical care expenditure category of the Consumer Price Index (CPI) for urban consumers, which is published by the Bureau of Labor Statistics (BLS). This adjustment is made using the change in the CPI from March 1984 to the fifth month of the cap year. For purposes of the cap year that runs from November 1, 1986 through October 31, 1987, an index is needed to measure inflation (or deflation) from March 1984 to March 1987 (the fifth month of the accounting year). Since this calculation is not made until after the month of March in each cap year, we cannot, as a practical matter, publish the hospice cap amount before the beginning of the period to which the cap applies.

BLS has recently released figures that indicate a March 1987 price level in the medical care expenditure category of the CPI of 455.0 (1967 = 100.0). This figure is divided by the March 1984 price level of 374.5 to yield an index of 1.2150 (rounded). Therefore, the new hospice cap is the product of $6,500 and 1.2150; that is, $7,898. This cap applies to hospices for care furnished from November 1, 1986 to October 31, 1987.

This notice merely announces amounts required by legislation and by § 418.309. It is not a proposed rule or a final rule issued after a proposal, and does not alter any regulation or policy. Therefore, no analyses are required under Executive Order 12291 or the Regulatory Flexibility Act (5 U.S.C. 601 through 612).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

(Section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i)) and 42 CFR 418.309)

Dated: July 10, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 87-17682 Filed 8-3-87; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

Meeting of the President's Cancer Panel

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, October 23, 1987, at the University of Pittsburgh, School of Medicine-Scaife Hall, Lecture Room 6, 3550 Terrace Street, Pittsburgh, PA 15261.

This meeting will be open to the public on October 23 from 8:30 a.m. to adjournment. Agenda items include reports by the Chairman, President's Cancer Panel and the Director, National Cancer Institute; and reports and discussions from experts to obtain information regarding research programs supported by the National Cancer Institute. Attendance by the public will be limited to space available. Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A23, National Institutes of Health, Bethesda, Maryland 20892 (301/496-1148) will provide an agenda for the meeting, a roster of the Panel members, and substantive program information upon request.

Dated: July 29, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-17671 Filed 8-3-87; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-87-1717]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission; (8) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Proposal: Contractor's Requisition Project Mortgages.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: HUD Field Office Managers need data each month on projects that HUD has approved for the insurance of advances of mortgage proceeds. Applicable certificates must be signed by the General Contractor, Project Architect, and the HUD Inspector, then reviewed and approved by the Field Office prior to insurance of the advances.

Form Number: HUD-92448.

Respondents: Businesses or Other For-Profit and Non-Profit Institutions.

Frequency of Response: Monthly.

Estimated Burden Hours: 60,000.

Status: Extension.

Contact:

Felix Coward, HUD, (202) 755-5743

John F. Morrall, OMB, (202) 395-6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Proposal: Operating Budget and Supporting Schedules.

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: Section 6(c)(4) of the U.S. Housing Act of 1937 requires this information so that HUD can ensure the public housing agencies are using sound management practices in project operations. The information is needed to determine if Federal funds are being used for eligible expenditures.

Form Number: HUD–52564, 52566, 52567, 52571, and 52573.
Respondents: State or Local Governments and Non-Profit Institutions.
Frequency of Response: Annually.
Estimated Burden Hours: 441,600.
Status: Reinstatement.
Contact:
John T. Comerford, HUD, (202) 426–1872
John Allison, OMB (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Schedule of Land Development Lots—Title X.
Office: Housing.
Description of the Need for the Information and Its Proposed Use: This program provides for the mortgage insurance of large land developments, with subsequent resale by the insured of developed lots and/or parcels to other developers and to the public. Form HUD–93554 is used by HUD to calculate the amount of funds required to release a lot/parcel from the insured mortgage, and to record the date of release.
Form Number: HUD–93554 and 93554–A.
Respondents: Individuals or Households and Businesses or Other For-Profit.
Frequency of Response: On Occasion.
Estimated Burden Hours: 100.
Status: Reinstatement.
Contact:
Edwin W. Baker, HUD, (202) 755–6720
John Allison, OMB (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: State and Local Government Information.
Office: Fair Housing and Equal Opportunity.
Description of the Need for the Information and Its Proposed Use: This form is needed by the Office of Fair Housing and Equal Opportunity to collect employment data by department or agency for Community Development Block Grant (CDBG) monitoring. The affected public are those participants in the CDBG program who are required to maintain data which demonstrates their affirmative action in equal opportunity employment.
Form Number: HUD/EEO–4.
Respondents: State or Local Governments and Federal Agencies or Employees.
Frequency of Response: Annually.
Estimated Burden Hours: 1,165.
Status: Extension.
Contact:
Joan W. Brackett, HUD, (202) 755–6540
John Allison, OMB (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 22, 1987.
John T. Murphy,
Director, Information Policy and Management Division.
[FR Doc. 87–17681 Filed 8–3–87; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–940–87–4121–11; C–45378]

Invitation for Coal Exploration License Application; Twentymile Coal Co., Colorado

Pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and to Title 43, Code of Federal Regulations, Subpart 3410, members of the public are hereby invited to participate with Twentymile Coal Company in a program for the exploration of unleased coal deposits owned by the United States of America in the following described lands located in Routt County, Colorado:

Township 5 North, Range 86 West, 6th P.M.
Sec. 19, SW¼NW¼SE¼.
The area described contains approximately 10.00 acres, more or less.

The application for coal exploration license is available for public inspection during normal business hours under serial number C–45378 at the BLM Colorado State Office, Public Room, 2850 Youngfield Street, Lakewood, Colorado and at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado.

Any party electing to participate in this program must share all costs on a pro rata basis with the applicant and with any other party or parties who elect to participate. Written Notice of Intent to Participate should be addressed to the following and shall be made within 30 days after the publication of this Notice of Invitation in the Federal Register:

Chief, Mineral Leasing Section,
Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215, and
Richard Mills, Yampa Valley Coal Corporation, 29588 Routt County Road No. 27, Oak Creek, Colorado 80467.

Evelyn W. Axelson,
Chief, Mineral Leasing Section.
[FR Doc. 87–17626 Filed 8–3–87; 8:45 am]
BILLING CODE 4310–JB–M

[MT–020–07–4333–02]

Montana Off-Road Vehicle Designation

AGENCY: Interior, Bureau of Land Management, Miles City District.

ACTION: Notice of designations for off-road vehicle use on public land.

SUMMARY: Notice is hereby given relating to the use of off-road vehicles (ORV) on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The lands described below are under the administration of the Bureau of Land Management and are designated as open, limited, or closed to off-road motorized vehicle use.

EFFECTIVE DATE: September 1, 1987.

SUPPLEMENTARY INFORMATION: The approximately 3,369,498-acre area affected by the designation is part of the Miles City District and includes public lands in all of South Dakota and the following counties in Montana: Carbon, Big Horn, Golden Valley, Musselshell, Stillwater, Sweet Grass, Wheatland, Yellowstone, Treasure, Powder River, Rosebud, Carter, Custer, Daniels, Sheridan, Prairie, Roosevelt, Garfield, McCone, Richland, Dawson, Wibaux, and Fallon.

The designations are a result of resource management decisions made in the following Resource Management Plans (RMP) and Management Framework Plans (MFP): South Dakota RMP (1985); Billings RMP (1984); Powder River RMP (1984); Haxby MFP (1977); McCone MFP (1977); Musselshell MFP (1977); Redwater MFP (1979); New Prairie MFP (1982); and Jordan-North Rosebud MFP (1982). Comments received from the public during these planning efforts were considered in the designation decision. These designations are published as final today. Under 43 CFR 4.21 an appeal may be filed within 30 days with the Interior Board of Land Appeals by anyone who believes he/she is adversely affected by the designation.

A. Open Designation

Areas which are designated as open total approximately 3,266,151 acres. Open designation is determined to be

appropriate for these public lands since off-road vehicle use is an important recreational activity and no resource or user conflicts have been identified.

B. Limited Designation

1. Use is limited to existing roads and trails for the following areas, which total approximately 95,846 acres: Zook Creek Wilderness Study Area (WSA), 26 miles southwest of Ashland; Buffalo Creek WSA, 35 miles southwest of Broadus; Tusler, 6 miles northeast of Miles City; Billy Creek WSA, 30 miles northwest of Jordan; Seven Blackfoot WSA, 35 miles northwest of Jordan; Musselshell Breaks WSA, 6 miles north of Mosby; Bridge Coulee WSA, 15 miles north of Mosby; Terry Badlands WSA, 10 miles west of Terry; and all public lands in T. 10 S., R. 27 E., M.P.M., including a portion of the Pryor Mountain WSA. Maps are available at the Miles City District Office and appropriate Resource Area offices.

2. Howrey Island is a 631 acre area 5 miles west of Hysham. The limited designation described below is to prevent soil and vegetative damage and to protect bird nesting and other wildlife habitat in the spring. Furthermore, it is a safety measure to keep motorized vehicles off ice jams and out of river channels during the spring rise of the Yellowstone River. No vehicle use will be allowed from February 15 through June 1 each year. For the remainder of the year, use will be limited to existing roads and trails. Maps are available at the power River Resource Area office in Miles City.

C. Closed Designation

The Twin Coulee WSA of approximately 6,870 acres is designated as closed. This designation will reduce erosion and protect vegetative and natural values. The existing vehicle way in the W/2W/2 of Section 10, T. 11 N., R. 20 E., M.P.M., which traverses from the Red Hill Road to the Forest Service boundary, is open.

D. Changes in Previous Designations

The following are changes in designation for the Pryor Mountain area described in the **Federal Register** on October 4, 1979, [44 FR 57227].

(1) Turkey Flat Spur Road starting at T. 58 N., R. 95 W., Section 22 W., 6th P.M., meandering NW for approximately 1½ miles to T. 9 S., R. 28 E., Section 32 M.T.M., is designated closed.

(2) The Bear Springs, Timber Canyon, Water Canyon, and Inferno Canyon roads are designated open. These roads in T. 8 S., R. 25 E., are on the west side of Big Pryor Mountain and abut Custer National Forest roads on their east ends at the Forest boundary.

(3) The Demi John Flat road is designated as open. The road is east of Crooked Creek road and west of Crooked Creek. It is approximately 2 miles in length within Sections 3, 10, and 15 of T. 9 S., R. 27 E., M.P.M.

E. Previous Designations

Previous designations were published in the **Federal Register** for: the Pryor Mountain area (including approximately 6,340 acres in Wyoming) on October 4, 1979, [44 FR 57227]; the Acton area on March 21, 1986 [51 FR 9896]; the South Hills area on March 8, 1984 [49 FR 8685]; the Shepherd Ah-Nei area on June 21, 1985 [50 FR 25791]; and the Pole Creek/Gage Dome Special Management areas on August 7, 1986 [51 FR 28445] in the Billings Resource Area and Fort Meade on February 18, 1983 [48 FR 7321] in the South Dakota Resource Area. These designations total 125,346 acres and in combination with the designations in this notice cover the entire Miles City District.

F. Other Information

Expressly authorized vehicle use, emergency use by emergency vehicles, and official use for administrative purposes is allowed.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, BLM, P.O. Box 940, Miles City, Montana 59301, (406) 232-4331.

Mat Millenbach,

District Manager.

[FR Doc. 87-17628 Filed 8-3-87; 8:45 am]

BILLING CODE 4310-DN-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-49024 J has been received covering the following lands:

Fairbanks Meridian, Alaska

T. 19 S., R. 6 E.,
Sec. 16 SW¼NE¼
(40 acres).

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $10 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from March 1, 1987, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-49024-J as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective March 1, 1987, subject to the terms and conditions cited above.

Dated: July 24, 1987.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

[FR Doc. 87-17629 Filed 8-3-87; 8:45 am]

BILLING CODE 4310-JA-M

[ES-037523, Groupo 19; ES-940-07-4520-13]

Filing of Plats of Dependent Resurvey, Subdivisions of Sections and Survey of Rend Lake Acquisition Boundary; Illinois

July 23, 1987.

1. The plat, in eleven sheets, of the dependent resurvey of a portion of the south boundary and the east boundary, Township 4 South, Range 2 East, a portion of the east boundary, Township 4 South, Range 1 East, a portion of the subdivision lines, and the survey of the subdivision of sections 1, 4, 5, 8, 9, 10, 12, 14, 15, 16, 17, 18, 20, 22, 23, 26, 27, 29 and 32, and the Rend Lake Acquisition Boundary, Township 4 South, Range 2 East, Third Principal Meridian, Illinois, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on September 8, 1987.

2. The dependent resurvey and survey were made at the request of the Corps of Engineers.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey and survey must be sent to the Deputy State Director for Cadastral Survey and Support Services, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., September 8, 1987.

4. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral, Survey and Support Services.

[FR Doc. 87-17598 Filed 8-3-87; 8:45 am]

BILLING CODE 4310-QJ-M

Meeting of the Southern Alaska Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Southern Alaska Advisory Council will meet to advise Glennallen and Anchorage District managers on pending natural resource management issues.

DATE: The meeting is September 10, 1987.

ADDRESSES: The location of the meeting is the BLM Campbell Tract Facility, 6881 Abbot Loop Road, Anchorage, Alaska 99507. Individuals planning to make public testimony should contact the BLM State Office, Public Affairs, 701 C Street, Anchorage, Alaska 99513 prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Danielle Allen at (907) 271–5555.

SUPPLEMENTARY INFORMATION:

Agenda

Thursday, September 10, 1987

8:30 a.m. Introductory Remarks.
8:40 a.m. Administrative Requirements
8:45 a.m. BLM Alaska Reorganization Update
9:30 a.m. Resource Management Programs
Wildlife
Recreation
Trespass
10:30 a.m. RS 2477 Update
10:45 a.m. Arctic National Wildlife Refuge mineral assessment
11:30 a.m. Lunch
1:00 p.m. Public Testimony
2:00 p.m. Summary of Issues
2:15 p.m. Open Discussion and Resolutions
4:00 p.m. Summary and Adjournment

Gene R. Terland,

Glennallen District Manager.

[FR Doc. 87–17627 Filed 8–3–87; 8:45 am]

BILLING CODE 4310–JA–M

[NM 940–07–4520–12]

Filing of Plat of Survey; New Mexico

July 24, 1987.

The plats of surveys described below were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on July 24, 1987.

A survey representing the dependent resurvey of a portion of the south and west boundaries, a portion of the subdivisional lines, the subdivision of section 31, the metes and bounds survey of certain lot boundaries and the survey of the right-of-way of Interstate 10, through section 31, Township 23 South, Range 1 West, New Mexico Principal Meridian, New Mexico, Group 864.

A survey representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 14, Township 24 South, Range 5 West, New Mexico Principal Meridian, New Mexico, Group 834.

A survey representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines, Township 22 South, Range 1 East, New Mexico Principal Meridian, New Mexico, Group 855.

A survey representing the dependent resurvey of a portion of the south and west boundaries, a portion of the subdivisional lines, the subdivision of sections 31 and 33, and the survey of the right-of-way of U.S. Highway No. 60 through sections 31 and 33, Township 3 South, Range 1 West, New Mexico Principal Meridian, New Mexico, Group 845.

A supplemental plat of the NW quarters of sections 24 and 25, Township 2 South, Range 1 West, New Mexico Principal Meridian, New Mexico, Group 768.

These surveys were requested by the District Manager, Las Cruces District Office, New Mexico.

A survey representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, the subdivision of section 12, and the survey of a portion of the meanders of the San Juan River through section 12, Township 29 North, Range 14 West, New Mexico Principal Meridian, New Mexico, Group 831.

The survey was requested by the District Manager, Albuquerque District Office, New Mexico.

The plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plats may be obtained from that office upon payment of $2.50 per sheet.

Kelley R. Williamson, Jr.,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 87–17604 Filed 8–3–87 8:45 am]

BILLING CODE 4310–FB–M

Bureau of Mines

Advisory Committee on Mining and Mineral Resources Research; Meeting

This notice is issued in accordance with provisions of the Federal Advisory Committee Act.

The Advisory Committee on Mining and Mineral Resources Research will meet from 8 a.m. to 5 p.m. (or completion of business) on Wednesday, September 30, 1987, in Gallery A, Holiday Inn Airport, 1406 Beers School Road, Coraopolis, Pennsylvania 15108. Committee members and MMRRI personnel may participate in an optional escorted tour of the Bureau of Mines Pittsburgh Research Center on Thursday morning, October 1.

The proposed agenda is:

1. Swearing in of new Committee members.
2. Charge to the Committee by co-chairman Ziglar.
3. Approval of the minutes of the meeting of October 15, 1986.
4. Approval of the 1987 grant awards program.
5. Status of congressional action on Mineral Institutes 1988 budget.
6. Review of the research program of the Respirable Dust Generic Mineral Technology Center (GMTC).
   a. Brief overview of the respirable dust problem.
   b. Medical projects at Hershey, Pennsylvania, and Morgantown, West Virginia.
   c. Engineering projects at Pennsylvania State University, West Virginia University, and affiliated institutions.
   d. Related applied engineering research at the Bureau of Mines.
7. Review of draft second annual update of National Plan for research in mining and mineral resources.
8. Review of eligibility of the 32 presently designated Mineral Institutes.
9. Other business.

This meeting is open to the public. Approximately 30 visitors can be accommodated on a first-come, first-served basis. Written statements concerning the subjects are welcome. Visitors who expect to attend should inform Dr. Ronald A. Munson, Chief, Office of Mineral Institutes, Bureau of Mines, Mail Stop 1020, 2401 NW., Washington, DC 20241, telephone (202) 634–1328, no later than noon, Tuesday, September 29.

Dated: July 30, 1987.

John D. Morgan,

Acting Director.

[FR Doc. 87–17643 Filed 8–3–87; 8:45 am]

BILLING CODE 4310–53–M

Fish and Wildlife Service

Receipt of Application for Permits; Dallas Zoo and Steven Marcus

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-719822

Applicant: Dallas Zoo, Dallas, TX.

The applicant requested a permit to import one pair of sexually mature tuataras (*Sphenodon punctatus*) from the New Zealand government for the purpose of captive propagation. The tuataras will be removed from the wild in New Zealand by the government for export to the zoo.

PRT-720006

Applicant: Steven Marcus, Smithtown, NY.

The applicant requests a permit to purchase in interstate commerce from Dr. William Zovickian of Connecticut, one pair of radiated tortoises (*Geochelone* (=*Testudo*) *radiata*) for the purpose of captive propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in Room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 1000 N. Glebe Rd., Rm. 611, Arlington, VA 22201.

Interested persons may comment on either of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT No. when submitting comments.

Dated: July 30, 1987.

Larry LaRochelle,

Acting Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 87-17680 Filed 8-3-87; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document; Amoco Production Company

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 5504 and 8693, Blocks 224 and 225, respectively, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Fourchon, Louisiana.

DATE: The subject DOCD was deemed submitted on July 24, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approvel of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 27, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-17601 Filed 8-3-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Amoco Production Company

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is here by given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 5625 and 5626, Blocks 245 and 246, respectively South Timbalier Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Fourchon, Louisiana.

DATE: The subject DOCD was deemed submitted on July 23, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office, located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management

Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: July 27, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-17602 Filed 8-3-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc., Unit Operator of the South Timbalier Block 135 Federal Unit Agreement No. 14-08-001-6669, has submitted a DOCD describing the activities it proposes to conduct on the South Timbalier Block 135 Federal unit. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Leeville, Louisiana.

DATE: The subject DOCD was deemed submitted on July 21, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8: a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Al Durr; Minerals Management Service; Gulf of Mexico OCS Region; Production and Development; Development Unitization Section; Unitization Unit; Telephone (504) 736-2659.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 205.34 of Title 30 of the CFR.

Dated: July 27, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-17603 Filed 8-3-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 25, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by August 19, 1987.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Hot Spring County

Jones Mill Site (3HS28)

CONNECTICUT

Fairfield County

Bridgeport *Bridgeport Downtown North Historic District (Downtown Bridgeport MRA)*, Roughly bounded by Congress, Water, Fairfield Ave., Elm, Golden Hill, & Chapel Sts.

Bridgeport *Bridgeport Downtown South Historic District (Downtown Bridgeport MRA)*, Roughly bounded by Elm, Cannon, Main, Gilbert, & Broad Sts.

Bridgeport *Connecticut Railway and Lighting Company Car Barn (Downtown Bridgeport MRA)*, 55 Congress St.

Bridgeport *Golden Hill Historic District (Downtown Bridgeport MRA)*, Roughly bounded by Congress St., Lyon Terr., Elm, & Harrison Sts.

Danbury, *Tarrywile*, Southern Blvd. & Mountain Rd.

Darien, *Meadowlands*, 274 Middlesex Rd.

Trumbull, *Nichols Farms Historic District*, Center Rd., 1681—1944 Huntington Turnpike, 5—34 Priscilla Pl., & 30—172 Shelton Rd.

New Haven County

Meridan, *Colony Street—West Main Street Historic District*, 1-62 Colony, 55 Grove, 1—119 & 82—110 W. Main Sts.

Waterbury, *Hillside Historic District*, Roughly bounded by Woodlawn Terr., W. Main, & Willow

GEORGIA

Clarke County

Athens, *Woodlawn Historic District*, Woodlawn Ave.

KANSAS

Saline County

Salina, *Flanders—Lee House and Carriage House*, 200 S. Seventh St.

MARYLAND

Carroll County

New Windsor vicinity, *Avalon*, MD 31

Cecil County

Rising Sun vicinity, *Brown, Jeremiah, House and Mill Site*, 1416 Telegraph Rd.

Harford County

Jerusalem, *Jerusalem Mill Village*, Jerusalem and Jericho Rds.

MASSACHUSETTS

Middlesex County

Concord, *Shaw, Thomas Mott, Estate*, 317 Garfield Rd.

Waltham, *Lawrence, Phineas, House*, 257 Trapelo Rd.

Norfolk County

Needham, *Grover, Emery, Building*, 1330 Highland Ave.

Suffolk County

Boston, *Congress Street Fire Station*, 344 Congress St.

Boston, *House at 17 Cranston Street*, 17 Cranston St.

Boston, *Hoxie, Timothy, House*, 135 Hillside St.

Boston, *New Riding Club*, 52 Hemenway St.

West Roxbury, *Westerly Burial Ground*, Centre St.

Worcester County

Southbridge, *Southbridge Town Hall*, 41 Elm St.

MICHIGAN

Eaton County

Grand Ledge, *Grand Ledge Chair Company Plant*, 101 Perry St.

OHIO

Carroll County

Carrollton, *Van Horn Building*, Public Sq., jct. of W. Main & N. Lisbon Sts.

Lorain County

Elyria, *Washington Avenue Historic District*, Roughly Ohio, Columbus, Harrison, & St. Clair Sts. between Washington Ave. & Glenwood St.

Lorain, *Lorain Fire Station No. 1*, 605 W. Fourth St.

[FR Doc. 87-17618 Filed 8-3-87; 8:45 am]
BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-19,421]

Dismissal of Application for Reconsideration; Bay Shipbuilding Corp., Sturgeon Bay, WI

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Bay Shipbuilding Corporation, Sturgeon Bay, Wisconsin. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-19,421; Bay Shipbuilding Corporation, Sturgeon Bay, Wisconsin (July 24, 1987).

Signed at Washington, DC, this 27th day of July 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-17672 Filed 8-3-87; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-19,432]

Dismissal of Application for Reconsideration; Esso Exploration, Inc., Houston, TX

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Esso Exploration, Incorporated, Houston, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TW-W-19,432; Esso Exploration, Incorporated, Houston, Texas (July 24, 1987).

Signed at Washington, DC, this 27th day of July 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-17673 Filed 8-3-87; 8:45 am]
BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; General Motors 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 August 14, 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 August 14, 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 July 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
Gen. Motors Co., BOC Buick (U.A.W.)	Flint, MI	7/27/87	7/16/87	19,922	Engines Assembly.
Gen. Motors Co., BOC Detroit (U.A.W.)	Detroit MI	7/27/87	7/16/87	19,923	Vehicles Assembly.
Gen. Motors Co., BOC Lansing (U.A.W.)	Lansing, MI	7/27/87	7/16/87	19,924	Engines Assembly.
Gen. Motors Co., BOC Orion (U.A.W.)	Lake Orion, MI	7/27/87	7/16/87	19,925	Auto Assembly.
Gen. Motors Co., BOC Wentzville (U.A.W.)	Wentzville, MO	7/27/87	7/16/87	19,926	Auto Assembly.
Gen. Motors Co., CPC Bowling Green (U.A.W.)	Bowling Green KY	7/27/87	7/16/87	19,927	Engines, Assembly.
Gen. Motors Co., CPC Pontiac Fiero (U.A.W.)	Pontiac, MI	7/27/87	7/16/87	19,928	Fieros Assembly.
Gen. Motors Co., CPC Pontiac (U.A.W.)	Pontiac, MI	7/27/87	7/16/87	19,929	Engines, Assembly.
Gen. Motors Co., Truck & Bus—Pontiac (U.A.W.)	Pontiac, MI	7/27/87	7/16/87	19,930	Truck & Bus Assembly.
Gen. Motors Co., Central Foundry Defiance (U.A.W.)	Defiance, OH	7/27/87	7/16/87	19,931	Engine Castings.
Gen. Motors Co., Central Foundry (U.A.W.)	Saginaw, MI	7/27/87	7/16/87	19,932	Engine Castings.
Gen. Motors Co., Central Foundry Pontiac (U.A.W.)	Pontiac, MI	7/27/87	7/16/87	19,933	Engine Castings.
Gen. Motors Co., CPC Flint Engine (U.A.W.)	Flint, MI	7/27/87	7/16/87	19,934	V-8 & T-4 Engines.
Gen. Motors Co., CPC Grand Rapids (U.A.W.)	Grand Rapids, MI	7/27/87	7/16/87	19,935	Auto Stampings
Gen. Motors Co., CPC Marion (U.A.W.)	Marion, IN	7/27/87	7/16/87	19,936	Auto Stampings.
Gen. Motors Co., Detroit Diesel, Allison Div. (U.A.W.)	Indianapolis, IN	7/27/87	7/16/87	19,937	Engine Parts.
Gen. Motors Co., Electro Motive Div. (U.A.W.)	La Grange, IL	7/27/87	7/16/87	19,938	Locomotives Parts.
Gen. Motors Co., Fisher Guide Div. (U.A.W.)	Anderson, IN	7/27/87	7/16/87	19,939	Lighting Products.
Gen. Motors Co., Fisher Guide Div. (U.A.W.)	Flint, MI	7/27/87	7/16/87	19,940	Auto Parts.
Gen. Motors Co., Hydramatic Div. (U.A.W.)	Muncie, IN	7/27/87	7/16/87	19,941	Transmissions.
Gen. Motors Co., Inland Div. Euclid (U.A.W.)	Euclid, OH	7/27/87	7/16/87	19,942	Auto Seat Cushions
Gen. Motors Co., Inland Div. Livonia (U.A.W.)	Livonia, MI	7/27/87	7/16/87	19,943	Auto Seat Cushions.
Gen. Motors Co., Rochester Products (U.A.W.)	Grand Rapids MI	7/27/87	7/16/87	19,944	Diesel Injectors.
Gen. Motors Co., Saginaw Div. (U.A.W.)	Athens, AL	7/27/87	7/16/87	19,945	Steering Gears.
Gen. Motors Co., Saginaw Div. (U.A.W.)	Buffalo, NY	7/27/87	7/16/87	19,946	Auto Axles.
Gen. Motors Co., Saginaw Div. (U.A.W.)	Detroit, MI	7/27/87	7/16/87	19,947	Axles, Brakes etc.
Gen. Motors Co., Saginaw Div. (U.A.W.)	Saginaw, MI	7/27/87	7/16/87	19,948	Steering Columns, Shafts Etc.
Ajax Frocks, Inc. (Workers)	New York, NY	7/27/87	7/16/87	19,949	Dresses.
Aurora Industries (Workers)	Culver, MN	7/27/87	7/17/87	19,950	Bentonite.
Berkron Mfg. Co., Inc. (Workers)	Bethlehem, PA	7/27/87	7/10/87	19,951	Brassiers.
Diamont Boart (Workers)	Conroe, TX	7/27/87	7/10/87	19,952	Drill Bits.
Everything is Jake, Inc., (Workers)	Allentown, NJ	7/27/87	7/13/87	19,953	Slacks, Tops & Skirts.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
FL Phillips Drill (Workers)	Milwaukie, OR	7/27/87	7/14/87	19,954	Tools
Finkel Outdoor Prod. (UTWA)	Garfield, NJ	7/27/87	7/17/87	19,955	Furniture.
General Electric Co. (IUE)	Austintown, OH	7/27/87	6/29/87	19,956	Lamps.
General Motors (U.A.W.)	Kansas City, MO	7/27/87	7/10/87	19,957	Passenger Automobiles.
Kimberly Clark Corp. (Paper Workers)	Spotswood, NJ	7/27/87	7/17/87	19,958	Cigarette Papers.
Motion Control Indus. (IUE)	Ridgway, PA	7/27/87	7/20/87	19,959	Brake Linings.
Mobil Exploration & Producing (Workers)	Denver, CO	7/27/87	7/15/87	19,960	Oil & Gas.
Omnisport, Inc. (ACTWU)	Woonsocket, RI	7/27/87	7/17/87	19,961	Jackets.
Port Clyde Foods (Workers)	Rockland, ME	7/27/87	7/15/87	19,962	Seafood.
Rohm and HAAS (Workers)	Redwood City, CA	7/27/87	7/8/87	19,963	Ion Exchange Resins.
Safeway 453 (Workers)	Synder, TX	7/6/87	7/6/87	19,964	Food Outlet.
TEMEX (Formerly Amerey, Inc.) (Workers)	Oklahoma City, OK	7/27/87	7/7/87	19,965	Oil & Gas.
Toritto Sportswear (ILGWU)	West New York, NJ	7/27/87	7/15/87	19,966	Sportswear.
Western Atlas (Workers)	Pearland, TX	7/27/87	7/7/87	19,967	Wireline Services.

[FR Doc. 87-17686 Filed 8-3-87; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-19,777]

Termination of Investigation; Itmann Coal Co., Itmann, WV

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a worker petition received on June 8, 1987 which was filed on behalf of workers at Itmann Coal Company, Itmann, West Virginia.

A negative determination applicable to the petitioning group of workers was issued on February 27, 1987 (TA-W-18,891). Production at Itmann was discontinued in December 1986. No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 24th of July 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-17674 Filed 8-3-87; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-19,631]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Mackintosh-Hemphill International, Inc., Pittsburgh, PA

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 22, 1987 applicable to all workers of Mackintosh-Hemphill International, Incorporated, Pittsburgh, Pennsylvania.

Based on information availble to the Department, the Certification Notice is amended to properly reflect the correct impact date as January 29, 1986, one year prior to the date the original petition was signed.

Accordingly, the Department is amending the subject Certification by issuing a new impact date of January 29, 1986.

The Amended Certification for TA-W-19,631 is hereby issued as follows:

All workers of Mackintosh-Hemphill International, Incorporated, Pittsburgh, Pennsylvania who became totally or partially separated from employment on or after January 29, 1986 are eligible to apply for adjustment assistance.

Signed at Washington, DC, this 24th day of July 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87-17675 Filed 8-3-87; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-19,559]

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance; Sante Fe Minerals, Inc.

In the matter of Santa Fe Minerals, Inc., Southwest Exploration District; Midland, TX and all other locations of the Southwest Exploration District in the following states, Texas TA-W-19,559A, Louisiana TA-W-19,559B, Oklahoma TA-W-19,559C.

In accordance with section 223 of the Trade Act of 1974, the Department of labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 20, 1987 applicable to all workers of the Midland, Texas facility of Santa Fe Minerals, Inc. The Certification was published in the **Federal Register** on July 9, 1987 (52 FR 25930).

The certification notice is amended to identify the states in which the Southwest Exploration District maintains operations. The District has oil fields in Louisiana, Oklahoma and Texas as well as offices which support crude oil production. Worker separations and production declines occurred throughout the District in 1986 compared to 1985.

The intent of the certification is to cover all workers of the Southwest Exploration District in all locations. The amended notice applicable to TA-W-19,559 is hereby issued as follows:

All workers of Santa Fe Minerals, Incorporated, Southwest Exploration District, Midland, Texas and all other workers of the Southwest Exploration District operating in the states of Texas, Louisiana and Oklahoma who became totally or partially separated from employment on or after April 13, 1986 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 27th day of July 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-17676 Filed 8-3-87; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Toyad Corp. et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period July 20, 1987–July 24, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivsion have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-19,746; Toyad Corporation, Latrobe, PA

TA-W-19,742; Stainless Ice-Tainer Co. (SITCO), San Antonio, TX

TA-W-19,753; Earmark, Inc., Hamden, CT

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-19,852; H.O. Mohr & Associates, Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,761; Leaseway of Detroit, Westland, MI

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,774; BJ Titan Service Co., San Angelo, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,792; RCA Business System, Cherry Hill, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,847; Delmed, Inc., Freehold, NJ

Increased imports did not contribute importantly to workers' separations at the firm.

TA-W-19,809; ITT Snyder, New Orleans, LA

Increased imports did not contribute importantly to workers' separations at the firm.

TA-W-19,763; HNG Oil Co., Midlnad, TX

Increased imports did not contribute importantly to workers' separations at the firm.

TA-W-19,828; Hay Brothers, Inc., Lake Charles, LA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-19,727; GTE Government Systems Corp., Tempe, AZ

Increased imports did not contribute importantly to workers' separations at the firm.

TA-W-19,728; GTE Laboratories, Inc., Waltham, MA

Increased imports did not contribute importantly to workers' separations at the firm.

Affirmative Determinations

TA-W-19,731; Major Watch Case Co., Brooklyn, NY

A certification was issued covering all workers of the firm separated on or after April 28, 1986.

TA-W-19,731A; Bellacose, Inc., Brooklyn, NY

A certification was issued covering all workers of the firm separated on or after April 28, 1986.

TA-W-19,795; Terry Corp., Niantic, CT

A certification was issued covering all workers of the firm separated on or after May 26, 1986.

TA-W-19,740; Racine Steel Castings, Racine, WI

A certification was issued covering all workers of the firm separated on or after May 15, 1986.

TA-W-19,749; Westinghouse Electric Corp., East Pittsburgh, PA

A certification was issued covering all workers of the firm separated on or after May 12, 1986.

TA-W-19,736; Momentum Technologies, Inc., Herkimer, NY

A certification was issued covering all workers of the firm separated on or after May 18, 1986.

TA-W-19,739; Polymer Corp., Reading, PA

A certification was issued covering all workers of the firm separated on or after May 5, 1986.

TA-W-19,758; BHP Petroleum (Americas), Inc., Headquarters Staff, Houston, TX

A certification was issued covering all workers of the firm separated on or after May 10, 1986.

TA-W-19,751; Clark Brothers Colt Co., Milldale, CT

A certification was issued covering all workers of the firm separated on or after May 14, 1986.

TA-W-19,797; Unit Drop Forge Co., Inc., West Allis, WI

A certification was issued covering all workers of the firm separated on or after May 26, 1986.

TA-W-19,745; Sprague Electric Co., Wichita Falls, TX

A certification was issued covering all workers of the firm separated on or after April 13, 1986.

TA-W-19,729; GTE Microcircuits, Tempe, AZ

A certification was issued covering all workers of the firm separated on or after April 29, 1986.

I hereby certify that the aforementioned determinations were issued during the period July 20, 1987–July 24, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213 during normal

business hours or will be mailed to persons who write to the above address.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: July 28, 1987.

[FR Doc 87-17677 Filed 8-3-87; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Supplement to Wyoming State Plan; Request for Public Comment

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

ACTION: Request for Comment: Wyoming State Standards Supplements.

SUMMARY: This notice invites comment on Wyoming's Standards for Oil and Gas Well Drilling, Oil and Gas Well Servicing, and Oil and Gas Well Special Services. These Wyoming Standards are independent State standards for which there are no Federal OSHA equivalents. Where a State standard adopted pursuant to an OSHA-approved State plan differs significantly from a comparable Federal standard or is a State-initiated standard, the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) requires that the State standard must be "at least as effective" in providing safe and healthful employment and places of employment. In addition, if the standard is applicable to a product distributed or used in interstate commerce, it must be required by compelling local conditions and not pose any undue burden on interstate commerce. OSHA, therefore, seeks public comment as to whether the Wyoming standards meet the above requirements.

DATES: Written comments should be submitted by September 3, 1987.

ADDRESSES: Written comments should be submitted in quadruplicate to the Director, Federal-State Operations, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3700, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION

A. Background

The requirements for adoption and enforcement of safety and health standards by a State with a State plan approved under section 18(b) of the Act are set forth in section 18(c)(2) of the Act and in 29 CFR Part 1902, 29 CFR 1952.7, and 29 CFR 1953.21, 1953.22, and 1953.23. OSHA regulations require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register** (29 CFR 1953.23(a)); a 30-day response time is required for State adoption of a standard comparable to a Federal emergency temporary standard (29 CFR 1953.22(a)(1)). Independent State standards must be submitted for OSHA's review and approval. Newly adopted State standards or revisions to standards must be submitted for OSHA review and approval under procedures set forth in 29 CFR Part 1953, but are enforceable by the State prior to Federal review and approval. Section 18(c)(2) of the Act provides that if State standards which are not identical to Federal standards are applicable to products which are distributed or used in interstate commerce, such standards must be required by compelling local conditions and must not unduly burden interstate commerce. (This latter requirement is commonly referred to as the "product clause.")

On May 3, 1974, notice was published in the **Federal Register** (39 FR 15394) of the approval of the Wyoming State plan and the adoption of Subpart BB to Part 1952 containing the decision. The Wyoming State plan provides for the adoption of State standards in the following manner.

The Wyoming Division of Occupational Safety and Health either proposes to adopt Federal standards or drafts such standards as it considers necessary after agency review and research and consultation with other persons knowledgeable in the specific field for which the standards are being formulated. The standards are submitted to the Wyoming Occupational Safety and Health Commission for its approval. The Wyoming plan provides for adoption of a standard as a State standard after public notice and hearing are published in accord with the Wyoming Administrative Procedure Act, and the Secretary's rules on rule-making.

Wyoming submitted State-initiated plan changes by letters, with attachments, which incorporated these standards as part of its occupational health and safety plan. By letter of October 27, 1981, the standard for Oil and Gas Well Servicing was submitted by Donald D. Owsley, Administrator, to Curtis A. Foster, former Regional Administrator. By letter of December 17, 1981, the standard for Oil and Gas Well Drilling was submitted by Donald D. Owsley, Administrator, to Curtis A. Foster, former Regional Administrator. By letter of November 16, 1984, the standard for Oil and Gas Well Special Services was submitted by Donald D. Owsley, Administrator, to Byron R. Chadwick, Regional Administrator. The subject standards establish rules and regulations applicable to the Oil and Gas Well Drilling, Servicing, and Special Services industries in the State of Wyoming. After the normal open period for public review and comments, the Commission adopted these standards and they became effective on dates as follows: the Oil and Gas Well Drilling standard was adopted finally on July 24, 1981, and became effective on November 2, 1981; the Oil and Gas Well Servicing standard was adopted on July 23, 1981, and became effective October 5, 1981; and, the Oil and Gas Well Special Services standard was adopted on August 3, 1984, and became effective on September 6, 1984.

OSHA does not have specific standards for oil and gas well drilling. It currently uses 29 CFR Part 1910 General Industry Standards and Instruction STD 1-12-28. Wyoming standards were compared to OSHA's general standards requirements and enforcement policy set out in OSHA Instruction STD 1-12-28, which prescribes alternative abatement methods.

B. Issues for Determination

The Wyoming standards in question are now under review by the Assistant Secretary to determine whether they meet the requirements of section 18(c)(2) of the Act and 29 CFR 1902 and 1953. Public comment is being sought by OSHA on the following issues.

1. "At least as effective" requirement. There are no equivalent Federal standards applicable to the oil and gas well industries. Therefore, OSHA has evaluated the State's requirements in comparison to OSHA's general standards requirements and to enforcement policy and has preliminarily determined that the State standards in question meet the "at least as effective" criterion on section 18(c)(2) of the Occupational Safety and Health Act. However, public comment on this issue is solicited for OSHA's

consideration in its final decision on whether or not to approve the State's standard.

2. Product clause requirement. OSHA is also seeking through this notice public comment as to whether the Wyoming Standards:

(a) Are applicable to products which are distributed or used in interstate commence;

(b) If so, whether they are required by compelling local conditions; and

(c) Unduly burden interstate commerce.

C. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to the issues described above. These comments must be postmarked on or before September 3, 1987 and submitted in quadruplicate to the Director, Federal-State Operations, Room N-3700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Written submissions must clearly identify the issues which are addressed and the position taken with respect to each issue. The Occupational Safety and Health Administration will consider all relevant comments, arguments and requests submitted concerning these standards and will thereafter publish notice of the decision approving or disapproving them.

D. Location of Supplement for Inspection and Copying

A copy of Wyoming standards applicable to the Oil and Gas Well industries, along with approved State provisions for adoption of standards, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor, Federal Office Building, Room 1576, 1961 Stout Street, Denver, Colorado 80294; Occupational Health and Safety Department, 604 East 25th Street, Cheyenne, Wyoming 82002; Office of the Director, Federal-State Operations, U.S. Department of Labor, Room N-3700, 200 Constitution Avenue, NW., Washington, DC 20210.

Authority: Secs. 18, 84 Stat. 1608 [29 U.S.C. 667]; 29 CFR Part 1902, Secretary of Labor's Order No. 9-83 [43 FR 35736].

Signed the 30th day of July, 1987, in Washington, DC.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 87-17622 Filed 8-3-87; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Humanities

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities NFAH.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisons of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before September 3, 1987.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202-786-0233) and Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202) 786-0233 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filed out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revision

Title: Centers for Advanced Study
Category: Application Instructions, interim reports, and annual performance reports for centers; fellows' final reports; guidelines for site visitors
Form Number: Not applicable
Frequency of Collection: Annual
Respondents: Independent centers for advanced study, American research centers overseas, independent research libraries, research museums, and humanities scholars
Use: Application for funding, program evaluation, and compliance
Estimated Number of Respondents: 88
Estimated Hours for Respondents to Provide Information: 29 per respondent

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 87-17611 Filed 8-3-87; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Tennessee Valley Authority Revised Corporate Nuclear Performance Plan; Availability of Volume 1 of Safety Evaluation Report

The U.S. Nuclear Regulatory Commission (NRC) announces the publication of NUREG-1232, Volume 1, Safety Evaluation Report (SER) on the Tennessee Valley Authority Corporate Nuclear Performance Plan—Revised.

On September 17, 1985, NRC issued a letter to the Tennessee Valley Authority (TVA), pursuant to 10 CFR 50.54(f), requesting TVA to submit information on its plans for correcting problems in the overall management of its nuclear program as well as plant-specific problems. In response to this letter, TVA prepared a plan that identifies and proposes corrections to problems with TVA's management of its nuclear program. For corporate management, the plan is documented in revisions of the TVA Corporate Nuclear Performance Plan (CNPP) dated November 1, 1985; March 10, and December 4, 1986; and March 26, 1987 and in its letter dated May 27, 1987.

The TVA Board of Directors' response to the 10 CFR 50.54(f) letter was to hire the current Manager of the Office of Nuclear Power and provide him with the resources, authority and responsibility for the total management, control and supervision of the TVA nuclear power program. The Office of Nuclear Power generated the CNPP representing an overall plan to re-establish effective TVA management of its nuclear power program.

NUREG-1232, Volume 1, presents the NRC staff evaluation of the information submitted in the revised TVA CNPP through Revision 4 and in TVA's letter dated May 27, 1987. In this report the staff concludes (1) that TVA has acceptably addressed the corporate-level concerns raised by NRC in its 10 CFR 50.54(f) letter dated September 17,

1985; (2) that because many of the corrective actions that TVA has taken or is taking to strengthen its nuclear program are programmatic, the effectiveness of these actions depends on their implementation, and NRC plans to closely monitor this implementation effort; and (3) that, at this time, the organization and staffing as presented in the CNPP, coupled with the programmatic improvements in place or underway, are sufficient to resolve the problems at the corporate level that led to issuance of the 10 CFR 50.54(f) letter in September 1985, and to support continuing TVA nuclear activities, including plan operations.

The NRC staff's acceptance of the CNPP is based on the information TVA provided about the new organization and the current senior managers. TVA was requested to notify the NRC at least 30 days prior to any permanent change in this organization, or permanent replacement of senior managers, including the Site Directors.

The NRC will address site-specific concerns in subsequent SERs on each plant-specific volume of the Nuclear Performance Plan.

Copies of NUREG–1232, Volume 1, may be purchased by calling (202) 275–2060 or (202) 275–2171 or by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington DC 20013–7082. Copies may also be purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

A copy of NUREG–1232, Volume 1, is also available for inspection and/or copying for a fee in the NRC Public Document Room 1717 H Street, NW, Washington, DC 20555.

Dated at Bethesda, Maryland, this 28th day of July 1987.

For The Nuclear Regulatory Commission.

John A. Zwolinski,

Assistant Director for Projects, TVA Projects Division, Office of Special Projects.

[FR Doc. 87–17656 Filed 8–3–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–334]

Exemption; Duquesne Light Co. et al.; Beaver Valley Power Station, Unit No. 1

I.

Duquesne Light Company, et al. are the holders of Facility Operating License No. DPR–66 which authorizes operation of the Beaver Valley Power Station, Unit No. 1. The license provides, among other things, that Beaver Valley Power Station, Unit No. 1 be subject to all rules, regulations, and Orders of the Commission now or hereafter in effect. Duquesne Light Company (the licensee) is the authorized operator of the facility.

The station is a pressurized water reactor at the licensee's site located in Shippingport, Pennsylvania.

II.

On November 19, 1980, the Commission published a revised § 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these subsections, III.J, is the subject of the licensee's exemption request.

Subsection III.J of Appendix R requires that emergencylighting units with at least 8-hour battery power be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto.

III.

The NRC has previously granted several fire-protection exemptions to the licensee. These are dated March 14, 1983, August 30, 1984 and December 4, 1986.

By letters dated January 21, 1986 and October 21, 1986, the licensee requested an exemption from the technical requirements of section III.J of Appendix R to 10 CFR Part 50, concerning the need for 8-hour battery-powered lighting units in areas having safe shutdown equipment and along access/egress routes. The reason for requiring 8-hour battery powered emergency lighting is to ensure that at least minimum lighting is available for the performance of manual actions necessary for safe shutdown after a fire. The licensee requested the exemption to allow the use of:

1. Security perimeter lighting for outside yard area access/egress routes.

For a control room area fire, the operators are required to follow outdoor pathways to achieve and maintain safe shutdown from outside the control room. To provide lighting, the licensee proposed to use security perimeter lighting instead of the required 8-hour battery-powered lighting for the following access/egress routes—control room to emergency diesel generator building via the east yard area, control room to the intake structure via the north yard area and the roof-top area between the safeguard building stairway and service building (feedwater regulating valve room).

The security perimeter lighting is powered from motor control center MCC–137 (located in the security guard house), which on loss of offsite power, would be supplied from the security diesel generator. This emergency diesel generator has a fuel supply for at least 24 hours. The security perimeter lighting circuits are not routed through fire areas where safe shutdown equipment or cables are located. The transfer circuits that switch power between the normal source and the security diesel generator are routed through the fire areas TB–1 (turbine building) and NS–1 (normal switchgear). However, for fire in these two areas, a control room evacuation would not be required. The security diesel generator and transfer circuitry are independent for all other fire areas of Appendix R concern. The staff concludes that the security perimeter lighting system, including its emergency power supply, are independent of fire areas where control room evacuation may be required, and provides lighting capability equivalent to the technical requirements of section III.J.

2. Portable, hand-held lighting units for specific plant-areas. .

The licensee has requested approval of the use of portable lights to enhance the permanently installed 8-hour emergency lighting for alternate shutdown, in specified areas, based on field walkdown: intake structure, turbine deck, primary auxiliary building, service building roof top to feedwater regulation valve room, normal 4-kv switchgear room, AE and DF emergency switchgear rooms and process rack room .

The Illuminating Engineering Society (IES) Handbook (referenced in Generic Letter 85–01) for industry standard lighting guidance accepts the use of portable lighting to supplement fixed d-c units. The staff concludes that the use of portable hand-held lights to supplement the permanently installed 8-hour battery-powered units is acceptable..

The operator actions are hands-free activities (access/egress, observe a gauge, etc.), or require on hand (operate switch, etc.), which would facilitate the use of flash lights.

3. Two-hour battery-powered emergency lighting in the fire brigade room.

The licensee requested approval of the use of 2-hour battery-powered lighting units in the fire brigade room, which were installed instead of 8-hour

battery-powered lighting. The brigade room is located on the turbine deck adjacent to the control room main entrance/exist area. It is used as a staging area for alternate shutdown procedures. In this room the operators are briefed on job assignments, and provided key rings, procedure packets and extra flash lights. The expected time duration at this staging area would be less than 30 minutes. The turbine deck has 8-hour battery-powered lighting units installed for access/egress around the brigade room.

IV.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a), the exemption as described in section III is authorized by law and will not present an undue risk to the public health and safety and are consistent with common defense and security, and special circumstances are present for the exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50. Therefore, the Commission hereby grants the following exemption for the items mentioned in section III above from the requirements of section III.J of Appendix R to 10 CFR Part 50 concerning the need for 8-hour battery-powered lighting units in areas having safe shutdown equipment and along access/egress routes as follows:

1. Security perimeter lighting for outside yard area access/egress routes may be used, .

2. Portable, hand-held lighting units may be used for plant areas as specified in the licensee's submittal provided the licensee provide the hand-held lights as part of the dedicated supplies required for alternate safe shutdown, and .

3. Two-hour battery-powered emergency lighting in the fire brigade room may be used.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of the exemption will have no significant impact on the environment (52 Fr 27892).

This Exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director Division of Reactor Project I/II, Office of Nuclear Reactor Regulations.

Dated at Bethesda, Maryland, this 27th day of July 1987.

[FR Doc. 87-17654 Filed 8-3-87; 9:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423]

Withdrawal of Application for Amendment to Facility Operating License; Northeast Nuclear Energy Company et al.

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Northeast Nuclear Energy Company (the licensee) to withdraw its August 26, 1986 application for proposed amendment to the Millstone Nuclear Power Station, Unit No. 3, located in New London County, Connecticut. The proposed amendment would have revised Technical Specification Section 6.5.3.2 to change the size of the quorum required to conduct a meeting of the Millstone Unit No. 3 Nuclear Review Board. The Commission issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on October 22, 1986 (51 FR 37518). By letter dated May 28, 1986, the licensee withdrew its application for the proposed amendment.

For further details with respect to this action, see the application for amendment dated August 28, 1986, and the licensee's letter dated May 28, 1987, withdrawing the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut.

Dated at Bethesda, Maryland, this 23rd day of June 1987.

Robert L. Ferguson,

Project Manager, Project Directorate I-4, Division of Reactor Projects I/II.

[FR. Doc. 87-17655 Filed 8-3-8:45 am]

BILLING CODE 1590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Request for Determination of Substantial Damage With Respect to Cessation of Contributions by Pioneer Paper Stock to Freight Drivers and Helpers Local 557 Pension Fund

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of no determination.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation ("PBGC") has declined to make a determination of substantial damage under section 4203(d)(4) of the Employee Retirement Income Security Act with respect to the cessation of contributions under the Freight Drivers and Helpers Local 557 Pension Fund by Pioneer Paper Stock. Section 4203(d) provides a special withdrawal rule for the trucking industry, under which a trucking employer that ceases contributions to a plan is considered not to have withdrawn from the plan if certain conditions are met, including the furnishing of a bond or escrow. After the bond/escrow requirement has been satisfied, the PBGC may make a finding under section 4203(d)(4) that the cessation (considered together with other cessations) has substantially damaged the plan's contribution base. In this event the employer will be treated as having withdrawn from the plan and the bond or escrow will be paid to the plan. Alternatively, the PBGC may find under section 4203(d)(5) that no substantial damage has been caused, in which case the bond will be cancelled or the escrowed amount returned to the employer, and the employer will have no further liability under the plan. The effect of this notice is to advise interested persons that the PBGC has declined to find substantial damage in this case.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Manager, Regulations Division, Corporate Policy and Regulations Department (35400), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202-778-8850 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Section 4203(d) of the Employee Retirement Income Security Act, as amended ("ERISA"), provides a special withdrawal rule for the trucking industry. That industry, for purposes of this rule, is considered to include the long and short haul trucking industry, the household goods moving industry, and the public warehousing industry. The rule is limited to trucking plans, *i.e.*, plans under which substantially all of the contributions required are made by employers primarily engaged in the trucking industry. The rule is also limited to trucking employers, *i.e.*, those employers that have an obligation to contribute under a trucking plan primarily for work in the trucking industry.

Under section 4203(d), a trucking employer will not be considered to have withdrawn from a trucking plan merely because the employer permanently ceases to have an obligation to

contribute under the plan or permanently ceases all covered operations under the plan, if certain conditions are met. One condition is that the employer must not continue to perform work within the jurisdiction of the plan. Another condition is that the employer must furnish a bond or establish an escrow account in an amount equal to 50 percent of its withdrawal liability.

After the bond is posted or the escrow established, the Pension Benefit Guaranty Corporation ("PBGC") may, within 60 months after the cessation of the employer's covered operations or obligation to contribute, make a determination about the effect of the cessation (considered together with any cessation by other employers) on the plan's contribution base. If the PBGC makes a finding under section 4203(d)(4) that the contribution base has suffered substantial damage, the employer will be treated as having withdrawn from the plan on the date when the obligation to contribute or covered operations ceased. In that event, the bond or escrow will be paid to the plan, and the employer will be liable for the remainder of the withdrawal liability. If the PBGC makes a finding under section 4203(d)(5) that no substantial damage has occurred, or if it does not make a finding of substantial damage under section 4203(d)(4) within the 60-month period referred to above, then the bond will be cancelled or the escrow refunded and the employer will have no further liability under the plan.

The Request

The Freight Drivers and Helpers Local 557 Pension Fund (the "Plan") has requested that the PBGC find that the cessation of contributions under the Plan by Pioneer Paper Stock has substantially damaged the Plan's contribution base. The Plan represents that 96% of the employers that contribute to the Pension Plan are trucking employers. It also asserts that Pioneer is a trucking employer and ceased all covered operations under the Plan in May 1984.

On February 5, 1987, the PBGC published (at 52 FR 3723) a notice of the pendency of the Plan's request. The notice solicited comments by interested persons; Pioneer submitted the only comment received by the PBGC. The PBGC also corresponded with the Plan to obtain information about the cessation of contributions by Pioneer and other employers and the effect of those cessations on the Plan. The factual data in this notice are derived from information submitted by the parties.

Decision

As noted above, each cessation must be considered within the context of other cessations under the same plan in determining its effect on the plan's contribution base. The statute does not limit this context to any specified time period, although, as a practical matter, the 60-month limitation on PBGC determinations restricts the context to five years after a cessation occurs. In this case, the PBGC has reviewed data from the period beginning five years before Pioneer's cessation and ending in 1984. However, because the issue in this determination is the impact of the section 4203(c) trucking rule on the Plan, the PBGC has concentrated particularly on the period beginning on September 26, 1980, the effective date of MPPAA. (In other cases, the PBGC may find that other time periods are appropriate.)

For the plan year ended December 31, 1980 ("PY 1980"), the plan year ending closest to September 26, 1980, the Plan's contribution base was 5,541,200 base units. The contribution base declined to 4,086,900 in PY 1982, rebounded slightly in PY 1983 and fell to 4,081,500 in PY 1984. Thus, during the five-year period beginning with PY 1980 (when section 4203 became applicable) and ending with PY 1984, the Plan experienced a decline of about 26.3% in its contribution base.

During the same five-year period, 32 employers completely ceased contributions to the Plan. All of the employers that completely ceased contributing to the Plan between September 26, 1980 and the end of PY 1984 are characterized by the Plan as trucking employers. The aggregate contribution base units for these employers in their last year of participation was 1.1 million, or about 20 percent of the Plan's PY 1980 contribution base units. Only one of these employers paid withdrawal liability; the Plan states that the remaining employers' withdrawal liability is uncollectible.

As the Plan's contribution base declined during the period, its average contribution rate increased 53.7%. Total contributions to the Plan dropped from $6,195,800 in PY 1980 to $5,502,200 in PY 1982 and rebounded to $7,087,900 in PY 1984. The Plan states that it had to borrow against the next year's contributions in plan years 1980 through 1984 in order to meet the previous year's minimum funding requirement. The Plan's actuarial valuation as of January 1, 1985 notes that there was a significant drop in the contributions borrowed from 1985 to meet the 1984 minimum funding requirements. It projects that the borrowing of contributions should be unnecessary as of the end of 1985.

The January 1, 1985 valuation also states that the Plan's scheduled costs ($6,556,300) compare favorably with expected employer contributions ($7,406,300). It notes that there would be an excess of contributions over costs even if the number of active employers decreased by 10% and the contribution rate remained the same.

Pioneer has filed a response urging the PBGC to reject the Plan's request. Pioneer argues that the decline in contribution base units suffered by the Plan is only half that which led the PBGC to conclude that the Trucking Employees of North Jersey Welfare Fund, Local 641 ("Local 641") had suffered substantial damage to its contribution base, 50 FR 36171 (September 5, 1985). Pioneer also observes that the Plan's total contributions actually increased during the period that it was losing contribution base units, further distinguishing it from Local 641. Finally, Pionner argues that while the Plan had to borrow against the next year's contributions in previous years, the amount of money borrowed has been declining and the Fund expected such borrowing to become unnecessary by the end of PY 1985.

After reviewing the information submitted by the Plan and by Pioneer, the PBGC concludes that it is unable to find that the Plan suffered substantial damage to its contribution base as a result of Pioneer's cessation considered together with other cessations. This does not, however, constitute a finding of no substantial damage pursuant to section 4203(d)(5).

The PBGC disagrees with Pioneer's assertion that the decline in contribution base units suffered by the Plan is only half that which led the PBGC to make a finding of substantial damage in the Local 641 matter. The Local 641 plan had experienced an approximately 20 percent decline in contribution base units as a result of employer cessations during the pertinent period; its overall decline during that period was about 46 percent. However, neither of these figures alone was the basis for the PBGC's determination.

In the instant case, the Plan has experienced a 26.3 percent decline in contribution base units from PY 1980 through PY 1984, including a 20 percent decline attributable to trucking employer cessations after September 26, 1980 (a figure virtually identical to the comparable figure for the Local 641 plan). While this degree of decline is significant, it must be considered in the context of the Plan's overall total

increase in contributions during that same period. In that context, it is difficult to conclude that the Plan's contribution base was substantially damaged.

In addition, unlike the experience of Local 641, the loss of contribution base units did not come at a time when the Plan's general financial condition was deteriorating. The Plan's unfunded vested benefits declined by 35% during this period, with vested benefits approximately 52 percent funded as of the end of PY 1984. Further, the Plan projects that it will no longer be necessary to borrow from the next year's contributions in order to meet the minimum funding standards. These indications of an improving financial condition also militate against a finding that the Plan's contribution base was substantially damaged.

Nevertheless, while the PBGC is unable to find substantial damage on the basis of these facts, they do not clearly demonstrate that the Plan has suffered no substantial damage to its contribution base as a result of employer cessations. Accordingly, the PBGC declines to find either substantial damage or no substantial damage, pursuant to ERISA sections 4203 (d)(4) or (d)(5), respectively. The effect of this decision is that the bond or escrow furnished by Pioneer shall remain in place until the expiration of the 60-month period described in section 4203(d)(4), unless and until the PBGC should hereafter be requested to and make a finding of either substantial damage or no substantial damage as a result of Pioneer's cessation considered together with other employer cessations.

Issued at Washington, DC, this 28th day of July 1987.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87-17687 Filed 8-3-87; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24752; File No. SR-AMEX-87-21]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice is hereby given that on July 16, 1987, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex is proposing that its AUTO-EX System be expanded to increase the size of eligible market and marketable limit orders from 10 to 20 contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Recently, the Exchange received approval, in part, to expand its Amex Options Switching (AMOS) System, including its AUTO AMOS sub-system, to increase the size of eligible market and marketable limit orders from 10 to 20 contracts. *See* Securities Exchange Act Release No. 24668, 52 FR 25677 (July 8, 1987). The Exchange herein proposes to similarly increase the size of eligible orders in its AUTO-EX System from 10 to 20 contracts.

AUTO-EX is the Exchange's automatic execution system that results in both instantaneous executions of selected active series against the current quote and reports such executions back to the entering firm as well as to the last sale tape. AUTO-EX is presently used in selected series of Major Market Index options (SR-AMEX-85-29), in "breakout" situations for stock options (SR-AMEX-87-4) and will soon be used for certain orders in competitively traded options (SR-AMEX-87-19).

Overall, the AUTO-EX System has received the strong support of Exchange member firms. The system results in "locked in" trades (since the Exchange submits both sides to comparison) thereby eliminating operational burdens for users.

AUTO-EX is a system that interlocks with the AMOS system. In order for these interlocking systems to operate efficiently, the Exchange must have the authority to set the same limits for both systems.

The proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objective of section 6(b)(5), in particular, in that it will foster cooperation and coordination with persons engaged in facilitating transactions in securities, and will also result in more efficient and effective market operations, consistent with section 11A(a)(1)(B).

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Options Committee, a committee of the AMEX Board of Governors comprised of members and representatives of member firms, has endorsed the proposed rule change.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchagne Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed

with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 25, 1987.

Dated: July 28, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-17658 Filed 8-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24751; File No. SR-CBOE-87-33]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Exchange Act"), notice is hereby given that on July 14, 1987, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The Exchange intends to implement its authority in the Retail Automatic Execution System ("RAES") for options on the Standard and Poor's 100 Index ("OEX"), as described in SR-CBOE-85-32, to set the size of eligible orders up to 20 contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

RAES in OEX, described in SR-CBOE-85-32, was approved by the Commission as a permanent program in Exchange Act Release No. 23490 (August 1, 1986), 51 FR 28788. The Commission found that the rule was consistent with the Exchange Act and the rules and regulations thereunder, and in particular, the requirements of Sections 6 and 11A. The approved rules allow the Exchange to increase or decrease the size of eligible RAES orders:

> Eligible orders must be no greater than the number of contracts allowed by the Exchange. The current contract limit is 10 contracts. The Exchange may increase or decrease the contract limit. . . .
>
> (SR-CBOE-85-32, at p. 3)

Since permanent approval, RAES in OEX has continued to function well, allowing customers to enjoy firm quotes to 10 contracts in eligible series; increasing the efficiencies of order entry and handling, trade matching and reporting; enhancing the Exchange's audit trail; and adding to the confidence of public customers. *See* 51 FR at 28791 n.25. As an illustration of RAES' effectiveness, in June 1987, on an average day, RAES in OEX handled 3,067 orders amounting to an average of 17,233 contracts. This was 26.1 percent of OEX customer orders routed over the Order Routing System ("OR") and 8.2 percent of OEX ORS customer contracts. On a peak day in June 1987, RAES handled 6,431 orders amounting to 38,377 contracts (30.8 percent of ORS customer contracts).

The Exchange believes that it is appropriate to increase the size of eligible orders in designated series. Assuming that the size of RAES customer orders remains relatively constant,[1] increasing the size of RAES orders to 20 contracts would increase the average percentage of OEX customer orders on RAES to by approximately 2.5 percent, while increasing the average percentage of OEX customer contracts on RAES by approximately 2.4 percent.[2]

The Exchange believes that expanding the contract limit for RAES up to 20 contracts will provide the benefits of more timely and cost-effective executions of customer option orders to a greater number of OEX orders; enhanced audit trail; enhanced fill reporting and price reporting; enhanced trade match; increased customer confidence; and reduction of transactions that have to be executed manually on the trading floor, thereby increasing the efficiency in the handling of non-RAES orders. *See* 50 FR at 19833-34.

The Exchange, of course, reserves the right to increase the contract limit as it deems appropriate.[3]

The proposed rule change is consistent with the provisions of the Exchange Act and, in particular, section 6(b)(5) thereof, in that the proposed rule change will improve the quality and efficiency of the market in OEX options, the clearance and settlement of transactions, and Exchange rule compliance.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and

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[1] The Exchange believes that the assumption underlying this projection is valid because the experience with RAES to date has been that the average size of customer orders has not been affected by the size of RAES eligible orders. In connection with the expansion of eligible order size in RAES in OEX from 5 contracts to 10 contracts, the Exchange projected that as many as 30 percent of OEX customer orders would go through RAES. *See* letter to Richard G. Ketchum, Director, Division of Market Regulation, SEC, from Charles J. Henry, President and Chief Operating Officer, CBOE, dated April 9, 1985, at 2. *See also* Exchange Act Release No. 22015 (May 6, 1985), 50 FR 19832 n.12 and accompanying text. In June 1987, 26.1 percent of OEX ORS customer orders on an average day were handled by RAES.

[2] This projection is based on the further assumption that the eligible size order would be increased to 20 contracts in all RAES series. The Exchange may elect to increase the eligible size order to less than 20 contracts or limit the series subject to increased size. Such modifications would, of course, affect the projections. The bulk of the projected increase would be expected to occur in option series with market prices of less than $5.00.

[3] Commission approval would, of course, be required for any further contract limit expansion.

publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making writing submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 25, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 28, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-17659 Filed 8-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24755; File No. SR-CBOE 87-19]

Self-Regulatory Organizations; Order Granting Partial Approval to Proposed Rule Change; Chicago Board Options Exchange, Inc.

On May 7, 1987, the Chicago Board Options Exchange, Inc. ("CBOE"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 10b-4 thereunder,[2] a proposed rule change to make permanent the Exchange's new Standard & Poor's 500 stock index option contract ("NSX"), the exercise settlement value of which is based on an index value derived from opening, rather than closing prices on the last business day prior to its expiration.

The proposed rule change was noticed in Securities Exchange Act Release No. 24571 (June 10, 1987). No comments were received on the proposed rule change.

The Exchange seeks permanent approval of the new NSX option contract, which is the same as the current Standard and Poor's 500 option contract ("SPX") except that NSX's exercise settlement value will be based on opening prices of each stock comprising the index on the last business day prior to expiration Saturday. This value will be different than the current index value at any point in time, since the opening prices of the constituent stocks will be established at different times. NSX has expiration months of March, June, September and December, the same expiration months as the Standard and Poor's 500 futures contract.

The Exchange takes this action because the Chicago Mercantile Exchange ("CME") has moved the Standard and Poor's future contract's settlement value to opening prices on the delivery date. CBOE continues to believe that heightened volatility at expiration of index options and futures can better be addressed by improving procedures for information dissemination at the close of trading than by changing the terms of contracts to provide for exercise settlement based on opening prices. However, in light of the action of the CME, CBOE believes it should promptly provide investors in SPX an alternative contract valued on the same basis as the Standard and Poor's 500 future. Introduction of NSX will provide investors with offsetting Standard and Poor's 500 futures and SPX positions with a means of alleviating risk resulting from disparate valuation methods.

While a change to outstanding contracts would appear more straightforward than introduction of new contracts with changed terms, that alternative is not available. The Options Clearing Corporation ("OCC"), out of justifiable concern for potential liability, had declined to alter the terms of outstanding contracts.[3]

CBOE recognizes that the existence of two Standard and Poor's 500 option contracts in the same expiration month with different methods of valuation may give rise to confusion. However, CBOE believes that the potential for confusion should not be an obstacle to introduction of NSX. SPX is used primarily by institutional investors, who have indicated a need to have the option settle as the future does.

The Commission has determined to grant partial approval to the proposed rule change and approve the NSX contract through the September 18, 1987, expiration. Commission is currently evaluating the results of the disparate expiration that occurred on June 19, 1987, and has determined to complete its review of the June settlement before approving the CBOE proposal on a permanent basis. Based on the results of that review, the Commission will examine whether to continue disparate expiration settlements, or whether index settlement based on opening prices may be appropriate for all options products.

Accordingly, the Commission believes it is appropriate to approve the CBOE proposals on a temporary basis through the September expiration.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

Dated: July 28, 1987.

[FR Doc. 87-17660 Filed 8-3-87; 8:45 am]

BILLING CODE 8010-01-M

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[1] U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] The Commission notes that the OCC recently amended its disclosure document to disclose that the settlement of index option contracts may be altered, and also adopted a By-law amendment that will permit options exchanges' to provide by rule that the settlement value of any index on which options are traded on a particular exchange will be determined by reference to the prices of the constituent stocks at times other than the close of trading. *See*, Securities Exchange Act Release Nos. 24259 (March 25, 1987, and 24277 (March 27, 1987).

[4] 15 U.S.C. 78s(b)(2) (1982).

[5] 17 CFR 200.30-3(a)(12) (1985).

[Release No. 34-24748; File No. Sr-DTC-87-11]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by The Depository Trust Co.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 13, 1987 The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change being filed by DTC consists of the Participant Operating Procedures relating to DTC's proposed Tax Exempt Dividend Service ("TEDS"). DTC plans to initiate TEDS on a pilot basis to benefit certain classes of U.S. investors who are exempt from Canadian withholding tax on dividends and other distributions attributable to Canadian securities. Before now, Canadian law has required Canadian paying agents to withhold tax when they pay DTC's nominee Cede & Co. dividends and other distributions attributable to Canadian securities. Beneficial owners of securities on deposit at DTC which are exempt from the Canadian withholding tax nevertheless receive only the decreased amount through DTC and must claim on the Canadian government for refund. The time period between withholding and eventual refund can be substantial. This delay between withholding and refund and the inconvenience and expense of the refund claim procedure have prompted some DTC Participants to consider withdrawing Canadian securities from DTC for re-registration in physical certificate from in their own or special nominee names approved by Revenue Canada. TEDS will enable DTC Participants to receive, on behalf of certain tax-exempt beneficial owners whose securities are held at DTC, 100% of their Canadian dividend and similar payments on payable date through DTC's dividends payment system (subject to foreign exchange conversion rate limitations). Revenue Canada has authorized the TEDS pilot program.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The main purpose of TEDS is to eliminate a disincentive to the immobilization of Canadian securities at DTC. The statutory bases for encouraging immobilization are section 17A(e) of the Securities Exchange Act of 1934, as amended, and Article XXI of the Canada-United States of America Income Tax Convention (1980).

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

TEDS has been developed in response to requests by DTC Partoicipants. Written comments from DTC Participants or others have not been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to the file number SR-DTC-87-11 and should be submitted by August 25, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: July 27, 1987.

[FR Doc. 87-17661 Filed 8-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24741; File No. PSE-87-09]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 1, 1987, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This filing will amend Article V, section 3 of the PSE Constitution which defines a member of the PSE, to incorporate an individual who has purchased a membership and leased it to another. This individual will be referred to as an "inactive member."

The filing also proposes an additional amendment to Article VII of the PSE Constitution which allows a member or proposed inactive member to leave the membership to a designated heir, as long as the designated heir is a natural person or Broker Dealer. This change will be added to the provisions of the Exchange Constitution relating to Treasury Memberships. The change will limit the application of Treasury Memberships upon the death of a member or proposed inactive member who has designed the appropriate heir.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to amend those provisions of the PSE Constitution that relate to the definition of a "Member," and those provisions that define an "eligible transferee" in the context of the creation of Treasury Memberships.

Inactive Member

Currently, Article V of the Exchange Constitution defines "Member" as an individual in whose name the Exchange membership is held and who is in good standing. This definition includes those individuals who own their own Exchange membership as well as those individuals who lease their memberships from others. However, the definition does not include individuals who own memberships and are leasing them to others. In that case, an individual who owns and leases out a membership has no membership rights as defined in the PSE Constitution.

The first part of this Constitution change will amend the Constitution by adding language to define an "inactive member" as an individual natural person who has purchased a membership on the Exchange and who has leased the membership to another. This addition is necessary to include the inactive member in the provisions of Article VII, sections 8(c) and 9, which will allow the transfer of a membership, when necessary, to an individual heir, or will become a treasury membership where no eligible transferee exists. (These provisions are further defined below.)

In the case where a natural person owns the membership and leases it to another, the lessee is then considered the member pursuant to section 3(a)(3) of the Securities Exchange Act of 1934.

In connection with the addition of the "inactive member" status, the Exchange will utilize a new form for membership application. This form will be used by those individuals who intend to enter a bid for the purchase of a PSE membership and, if successful, intend to become a lessor pursuant to an authorized PSE lease agreement.

Eligible Transfer/Treasury Membership

Sections 8(c) and 9 of Article VII of the PSE Constitution define the creation and consequences of a Treasury Membership upon the death of a member leaving no eligible transferee. The definition of eligible transferee is set forth in Article VII, sections 8(a) (a member firm that provided the funds for the purchase of the membership) and section 8(b) (the membership was purchased otherwise than by funds advanced by the member firm but leaving an agreement for transfer back to the firm). However, no provision of the Constitution allows for the passing of a membership into a deceased member's estate. Therefore, if a deceased member has no eligible transferee under Article VII of the Constitution, the membership becomes a Treasury Membership, even if the member had provided for the transfer of membership in his estate.

Accordingly, the Exchange membership has voted to amend those provisions of the Constitution to allow the transfer of a membership to a natural person or Broker Dealer in the estate of a deceased member. This would also apply to the inactive member as defined above.

The basis for the proposed Contitutional change is found in section 6(b)(5) of the Act which provides, in pertinent part, that the rules of the Exchange remove impediments to and perfect the mechanism of a free and open market by allowing the members more alternatives in how they will structure their membership affiliations.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed rule change was sent to each member and approved by over a ⅔ majority vote of the general membership at the annual meeting on January 22, 1987.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-87-9 and should be submitted by August 25, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: July 27, 1987.

[FR Doc. 87-17662 Filed 8-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24754; File No. SR-Phlx-87-18]

Self-Regulatory Organizations; Order Approving Proposed Rule Change; Philadelphia Stock Exchange, Inc.

On April 23, 1987, the Philadelphia Stock Exchange, Inc. ("Phlx"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to put its members and the public on notice that it may in the future alter the time at which the prices of constituent stocks will be reviewed for the purpose of calculating the final index settlement value for expiring index options.

The proposed rule change was noticed in Securities Exchange Act Release No. 24582 (June 12, 1987). No comments were received on the proposed rule change.

This rule change is designed to coincide with an Options Clearing Corporation ("OCC") rule change and Options Disclosure Document revision that accommodate morning settlement of options on indexes for those securities exchanges that have determined to alter the time at which the final index settlement value is calculated for expiring options.[3]

The rule change gives the Exchange the flexibility to move the calculation of the final index value for any series of options opened after March 30, 1987 from the close on the last trading day before expiration to the opening on such day. The Exchange understands that the OCC is concerned about the potential liability exposure of changing the terms of outstanding index options contracts, and the Phlx has therefore determined that it will only allow index options series not yet issued to provide for a morning rather than a closing settlement valuation time. However, the OCC rule is not automatic, and it would only be effective for index options contracts for which the relevant exchange has changed the settlement valuation time.

In this context, the Exchange seeks the option of moving its settlement valuation time from the close to the opening on the pertinent expiration day for any index option series first opened after March 30, 1987. This rule change does would not require the Exchange to change the index option settlement terms for any index options contract at this time, but permits the Exchange to observe overall industry developments in this area and make a change to a morning settlement at some point in the future if the Exchange chooses to do so. In filing SR-Phlx 87-13, which the Commission approved on April 7, 1987, the Exchange received approval on an accelerated basis of a filing identical to the instant filing covering the first two options series added after March 30, 1987. In the instant filing, the Exchange asks approval for subsequent series.

In approving SR-Phlx 87-13, the Commission noted, and here reiterates, that the Options Clearing Corporation already had amended their rules to provide for the possibility of such changed contract terms, and modified the options disclosure document that broker-dealers provide to their customers to explain that options exchanges could make changes in the settlement times of index options, even to outstanding contracts. Accordingly, the Commission continues to believe that options markets are not required to make such conforming rule changes such as the current Phlx proposal, apart from those rule changes necessary to amend the settlement times specified for options traded on their markets.[4]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6,[5] and the rules and regulations thereunder. By permitting the Exchange to continue to study the potential benefits of altering the time for calculating the final index settlement value of expiring options, while nevertheless providing the Exchange with what it believes to be the necessary authority to make such a change on short notice, the proposed rule change should promote fair and orderly markets and otherwise foster the protection of investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change is approved.

Dated: July 28, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 87-17663 Filed 8-3-87; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] *See* Securities Exchange Act Release Nos. 24259 (March 25, 1987) and 24277 (March 27, 1987).

[4] *See* Securities Exchange Act, Release No. 23470 (April 17, 1987).

[5] 15 U.S.C. 78f (1982).

[6] 15 U.S.C. 78s(b)(2) (1982).

[7] 17 CFR 200.30-3(a)(12) (1985).

[File No. 500-1]

Order of Trading Suspension; Broker's Choice Capital, Inc.

July 27, 1987.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information relating to the securities of Broker's Choice Capital, Inc. ("Broker's Choice") and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things: the management of Broker's Choice; control of Broker's Choice; the beneficial ownership of its securities; its business plans; and other matters. The Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Broker's Choice.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that over-the-counter trading in the securities of Broker's Choice is suspended for the period commencing at 9:30 a.m. (EST) on July 27, 1987, and terminating at 9:30 a.m. (EST) on August 6, 1987.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-17664 Filed 8-3-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500-1]

Order of Trading Suspension; Chatsworth Enterprises, Inc.

July 27, 1987.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information relating to the securities of Chatsworth Enterprises, Inc. ("Chatsworth") and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things: the management of Chatsworth; control of Chatsworth; the beneficial ownership of its securities; its business plans; and other matters. The Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Chatsworth.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that over-the-counter trading in the securities of Chatsworth is suspended for the period commencing at 9:30 a.m. (EST) on July 27, 1987, and

terminating at 9:30 a.m. (EST) on August 6, 1987.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–17665 Filed 8–3–87; 8:45 am]

BILLING CODE 8010–01–M

[File No. 500–1]

Order of Trading Suspension; Pilgrim Venture Corp.

July 10, 1987.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information relating to the securities of Pilgrim Venture Corporation ("Pilgrim Venture") and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things: the management of Pilgrim Venture; control of Pilgrim Venture; the beneficial ownership of its securities; its financial condition; its assets; and, other matters. The Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Pilgrim Venture.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that over-the-counter trading in the securities of Pilgrim Venture is suspended, for the period commencing at 1:00 p.m. (EST) on July 10, 1987, and terminating at 1:00 p.m. (EST) on July 20, 1987.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–17666 Filed 8–3–87; 8:45 am]

BILLING CODE 8010–01–M

[File No. 500–1]

Order of Trading Suspension; Sheppard Resources, Inc.

July 10, 1987.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information relating to the securities of Sheppard Resources, Inc. ("Sheppard Resources") and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things: the management of Sheppard Resources; control of Sheppard Resources; the beneficial ownership of its securities; its financial condition; its assets; and, other matters. The Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Sheppard Resources.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that over-the-counter trading in the securities of Sheppard Resources is suspended, for the period commencing at 1:00 p.m. (EST) on July 10, 1987, and terminating at 1:00 p.m. (EST) on July 20, 1987.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–17667 Filed 8–3–87; 8:45 am]

BILLING CODE 8010–01–M

Order of Trading Suspension; Vanguard Financial, Inc.

July 27, 1987.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information relating to the securities of Vanguard Financial, Inc. ("Vanguard") and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things: The management of Vanguard; control of Vanguard; the beneficial ownership of its securities; its business plans; and, other matters. The Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Vanguard.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that over-the-counter trading in the securities of Vanguard is suspended, for the period commencing at 9:30 a.m. (EST) on July 27, 1987, and terminating at 9:30 a.m. (EST) on August 6, 1987.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–17668 Filed 8–3–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC—15898; 812–6740]

Baron Asset Fund and Baron Capital Inc.; Notice of Application

July 28, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Baron Asset Fund (the "Fund") and Baron Capital, Inc. ("BARON") on behalf of all existing and subsequently created series of the Fund and any other future investment company or series which will be distributed by BARON on substantially the same basis as the Fund's shares ("Other BARON Funds").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and Rule 22c–1 thereunder.

Summary of Application: Applicants seek an order to permit the Fund and Other BARON Funds to assess a contingent deferred sales charge (the "Charge") on certain redemptions of their shares.

Filing Date: The application was filed on May 29, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on August 21, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 450 Park Avenue, New York, New York 10022, Attention: Linda S. Martinson, Esq.

FOR FURTHER INFORMATION CONTACT: Sherry A. Hutchins, Staff Attorney (202) 272–2799, or Brion R. Thompson, Special Counsel (202) 272–3016, Office of Investment Management, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. The Fund was organized as a Massachusetts business trust and is registered as an open-end, diversified, management investment company. On February 19, 1987, the Fund file l a registration statement for the registration of its shares under the Securities Act of 1933 and proposes to

commence a public offering of those shares upon the effectiveness of such registration statement.

2. The Fund's principal underwriter and distributor is BARON, a broker-dealer registered under the Securities Exchange Act of 1934. BAMCO, Inc. (the "Adviser") is the Fund's investment adviser. Both BARON and the Adviser are wholly-owned subsidiaries of Baron Capital Group, Inc.

3. Applicants propose to offer the shares of the Fund without an initial sales charge. However, a contingent deferred sales charge (the "Charge") will be deducted from the proceeds of certain redemptions and repurchases of the shares of the Fund if the shares have been held for less than three years. The length of time a shareholder will be deemed to have owned his shares for the purpose of determining the applicability of the Charge will be calculated from the date of the earliest purchase of the shares of the Fund, which have not already been redeemed.

4. The Charge will be imposed at the time a redemption occurs in an amount of 2% of the net asset value at the time of the redemption or repurchase. No Charge will be imposed when a shareholder redeems amounts derived from (1) shares acquired through reinvestment of dividends and distributions, or (2) shares which have been held for more than three years. The proceeds of the Charge will be paid to BARON.

5. The Fund proposes to finance its distribution expenses under a distribution plan adopted under Rule 12b–1 under the 1940 Act (the "Plan"). Under the Plan, the Fund will pay a distribution fee to BARON in connection with its activities or expenses primarily intended to result in the sale of the Fund's shares. The Fund will pay BARON such distribution fee monthly at the annual rate of 0.5% of its average daily net assets, reduced by the amount, if any, BARON receives as a Charge. In their review of the Plan pursuant to Rule 12b–1 under the 1940 Act, the Board of Trustees of the Fund will consider the use by BARON of revenues raised by the Charge and the continuing appropriateness of the reduction of the fee paid by the Fund pursuant to the Plan by the amount of the Charge.

Applicants' Legal Conclusion

1. The exemptions requested are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act because the Charge will enable the shareholders of the Fund and Other BARON Funds to have the advantages of greater investment dollars working for them from the time of their purchase than is a sales charge was imposed at the time of purchase. Moreover, the Charge does not apply to amounts representing reinvestment of dividends and distributions.

2. Furthermore, the imposition of the Charge is appropriate in light of the relationship between the Charge and the Plan adopted under Rule 12b–1 under the 1940 Act. It is fair to impose on withdrawing shareholders who purchased their shares less than three years ago, and on whose assets the distribution fee was based and who will no longer contribute to the distribution fee, a lump sum payment reflecting expenses that have not been recovered through payments by the Fund under the Plan. The amount, computation and timing of the Charge are designed to promote fair treatment of all shareholders, while permitting the Fund and Other BARON Funds to offer investors the advantage of having purchase payments fully invested on their behalf immediately.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following condition:

1. Appliants will comply with the provisions of Rule 12b–1 under the 1940 Act in its present form and as it may be revised in the future.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–17608 Filed 8–3–87; 8:45 am]

BILLING CODE 8010–01–M

[File No. 81–750]

Application and Opportunity for Hearing; Liberty Petroleum Corp.

July 28, 1987.

Notice is hereby given that Liberty Petroleum Corporation ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the registration requirements of section 12(g) of that Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person not later than August 22, 1987, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–17609 Filed 8–3–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–15903; 812–6807]

College and University Facility Loan Trust; Application

July 31, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: The First National Bank of Boston, not in its individual capacity, but solely as trustee (the "Applicant" or "Owner Trustee"), on behalf of the College and University Facility Loan Trust (the "Trust"), to be formed.

Relevant Sections of the 1940 Act: Exemption requested under section 6(c) from the provisions of sections 10(h), 14(a), 16(a), 17(a), 18(a), (c) and (i) and 32(a) of the 1940 Act.

Summary of the Application: The Applicant which will serve as the Owner Trustee, on behalf of the Trust (to be formed), seeks an order to permit the issuance and sale by the Trust of debt securities and senior and junior certificates of beneficial interest in the Trust, collateralized by certain loans originated by the United States Department of Education ("ED"), in connection with the Federal government's pilot loan asset sale program.

Filing Date: The Application was filed on July 29, 1987 and amended on July 31, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 P.M. on August 17, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC: 450 5th Street, Washington, DC 20549. Applicant: c/o Christopher J. Kell, Esq., Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, New York 10022 .

FOR FURTHER INFORMATION CONTACT: Karen L. Skidmore, Special Counsel (202) 272–3023 or Fran Pollack, Staff Attorney (202) 272–3024 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Statements and Representations

1. The Trust will be organized as a Massachusetts business trust pursuant to a Declaration of Trust (the "Declaration of Trust") to be filed by The First National Bank of Boston with the Commonwealth of Massachusetts and will register with the Commission as a closed-end, management investment company. The Trust will be organized for the purpose of acquiring certain loans (the "Loans") from ED, pursuant to a loan sale agreement, in exchange for equity interests and proceeds of debt securities to be issued by the Trust. The Loans were made by ED, under the College Housing Loan Program ("CHLP") and the Academic Facilities Loan Program ("AFLP") (or made, and assigned to ED, by the United States Department of Housing and Urban Development, by the former United States Department of Health, Education and Welfare under AFLP or by the former United States Housing and Home Finance Agency under CHLP) to public and private universities and colleges throughout the United States.

2. The Loans will be sold by ED pursuant to congressional directives found in section 7005 of the Omnibus Budget Reconciliation Act of 1986 (the "Budget Act"), Pub. L. No. 99–509, § 7005, 100 Stat. 1874, 1949 (1986), and section 783 of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (the "Education Act"), 20 U.S.C. 1132i–2 (1987), and in accordance with the Guidelines for Loan Asset Sales, dated July 8, 1986, prepared by the Federal Credit Policy Working Group and issued by the United States Office of Management and Budget (the "Guidelines"). The Budget Act and the Education Act require ED to net approximately $579 million from certain dispositions of its loan assets during fiscal year 1987.

3. The proposed transaction has been designed to implement the objectives of the Budget Act and the Guidelines by (i) providing for the sale of Loans without recourse to the Federal government, (ii) providing for the transfer of servicing responsibilities for the Loans to a private sector loan servicer, and (iii) ensuring that interest on the securities issued to finance the acquisition of the Loans by the Trust (and thus, in effect, the future interest payments on the Loans themselves) will be subject to full Federal income tax.

4. The proposed transaction that is the subject of this application involves the issuance of securities by the Trust to finance the Trust's purchase of the Loans from ED. The Loans have been selected on a random selection basis from ED's portfolio of non-delinquent loans (the "Portfolio"). In order to be eligible for selection from ED's Portfolio, the Loans must not have been delinquent (*i.e.*, more the 30 days late in the payment of any installment of principal and interest) during the one year period preceding their purchase by the Trust. Pursuant to the Loan Sale Agreement between the Owner Trustee and ED, ED will sell the Loans to the Trust in exchange for: (i) The proceeds from the issuance of certain debt securities (the "Bonds"), and (ii) senior and junior certificates evidencing ownership of beneficial interests in the net assets of the Trust (the "Certificates").

5. Under the Loan Sale Agreement, ED may be required during a limited period of time following issuance of the Bonds ("Warranty Period"), to deliver to the Trust substitute Loans conforming to ED's warranties under the Loan Sale Agreement. Under the Loan Sale Agreement, the substitute Loans will be required to have equal or greater principal amounts and equal or greater cumulative payments of principal and interest as of any "Payment Date" (each date on which principal of and/or interest on the Bonds is due) as the Loans not meeting ED's warranties ("Non-Conforming Loans") that are being replaced. The obligation of ED to substitute Loans may be subject to the feasibility of ED's delivering from the Loans remaining in its Portfolio, Loans conforming to its warranties and having the required principal amounts and cash flow. Notice will be given by the Bond Trustee and the Owner Trustee to the Bondholders and the Certificate holders of such substitution within five days after such substitution as contemplated by section 26(a)(4)(B) of the 1940 Act. With the exception of such limited right of substitution, the Loans will be transferred to the Trust without recourse of any kind to ED.

The Trust will issue multiple series of Bonds in an aggregate principal amount presently estimated at $130,000,000. The Bonds will be secured by a first priority perfected security interest in the Loans pursuant to an indenture (the "Indenture") between the Owner Trustee and a corporate trustee acting as bond trustee (the "Bond Trustee"). The Bond Trustee and Owner Trustee and any successors thereto will be banks and will be required to have at all times an aggregate capital, surplus and undivided profits of not less than $50,000,000.

7. The Bonds will be registered under the Securities Act of 1933 (the "1933 Act") pursuant to a registration statement (the "Registration Statement") on Form N–2. The Indenture will be qualified under the Trust Indenture Act of 1939 ("1939 Act"). The Bonds will be rated in the highest rating category ("AAA" or "Aaa") by at least one nationally recognized statistical rating organization ("Rating Agency") not affiliated with the Trust. The Trust will offer the Bonds through the underwriters (the "Underwriters") named in the prospectus included in the Registration Statement (the "Prospectus").

8. The Bonds are expected to be issued as serial Bonds and/or term Bonds. Each series of serial Bonds will have a fixed interest rate and maturity date and will be non-amortizing prior to maturity. Each series of term Bonds will have a fixed interest rate and maturity date and will amortize through scheduled sinking fund redemptions. In addition, the Trust may issue a series of compound interest Bonds and/or a series of zero coupon Bonds, described more fully in the application. Interest on the Bonds will be payable (or in the case

of compound interest Bonds will compound) semi-annually. The mix of serial Bonds, term Bonds, compound interest Bonds and/or zero coupon Bonds, and the aggregate principal or face amounts, initial public offering prices, maturity dates, interest rates and sinking fund installments of each series will be determined in light of market conditions at the time of the pricing of the Bonds so as to achieve the highest return to ED both in terms of net proceeds of the Bonds and the value of the Certificates.

9. The Certificates will evidence ownership of beneficial interests in the net assets of the Trust and accordingly will entitle holders to shares of the cash flow of the Trust after the funding of certain funds and all principal and interest payments on the Bonds then due. Such distributions to the Certificateholders shall be made semi-annually on or immediately following each Payment Date in respect of the Bonds. It is expected that ED will retain the Certificates until a performance history for the Trust has been established.

10. For certain tax reasons, described in the application, the Certificates will be issued by the Owner Trustee in two classes with different rights as to distributions. On each date on which the Owner Trustee makes a distribution to the Certificateholders, one class of Certificateholders will receive a specified return on the Certificates' value assigned to that Class prior to distributions to the other Class. The certificates will be transferable, subject to the limitations described below and in the application. The Certificates will not be redeemable at the option of the holders. The holders of the Certificates will not be liable for payment of principal of, or interest on, the Bonds or for any other liabilities of the Trust.

11. The Owner Trustee will contract with General Electric Credit Corporation ("GECC" or "Servicer") as servicer of the Loans under a servicing agreement ("Servicing Agreement"). Under the Servicing Agreement, GECC will administer, service, collect and enforce the Loans on behalf of the Trust. The Servicing Agreement will not permit the Servicer to resign so long as any Loans are outstanding. The fees of GECC will be disclosed in the Prospectus. The Owner Trustee will assign the Loans and its rights under the Loan Sale Agreement and the Servicing Agreement to the Bond Trustee pursuant to the Indenture as security for the Bonds.

12. The Indenture will provide for the creation of a reserve fund ("Reserve Fund") to be held by the Bond Trustee under the Indenture to provide additional liquidity for the payment when due of the principal of and interest on the Bonds. The Reserve Fund will be funded on the date of issuance of the Bonds and, if this is not sufficient, thereafter from the revenues received from the Loans. The amount, if any, by which the Reserve Fund is funded at closing will be determined prior to the pricing and sale of the Bonds in connection with obtaining the required rating of the Bonds. Any amounts in the Reserve Fund in excess of the then required amount will be transferred to the revenue fund ("Revenue Fund").

13. The Revenue Fund will be credited with the scheduled payments of principal and interest on the Loans, recoveries on defaulted Loans, prepayment premiums and late payment penalties, if any, on Loans and reinvestment income. Amounts credited to the Revenue Fund will be applied on each Payment Date in the following order of priority:

(a) To pay principal and interest due on the Bonds (except to the extent Servicer's fees have been retained by the Servicer prior to deposits to the Revenue Fund);

(b) To make required deposits in the expense reserve fund in order to pay the administrative fees and expenses of the Bond Trustee which include fees and expenses of the Bond Trustee and the Trust's accountants, and expenses of GECC relating to defaulted Loans (except to the extent GECC's fees have been retained by GECC prior to deposits to the credit of the Revenue Fund);

(c) To make required deposits to the Reserve Fund;

(d) To pay fees and expenses of the Owner Trustee;

(e) To pay any indemnity obligations owed to GECC, the Bond Trustee, and the Owner Trustee except for indemnities against liability for a party's own willful misfeasance, bad faith, gross neglience or reckless disregard of duty; and

(f) To the Owner Trustee for distribution to the Certificateholders.

14. In addition to the funds listed above, the Indenture will provide for the creation of a Prepayment Fund, to which will be credited any prepayments of principal on the Loans. The Prepayment Fund will be held by the Bond Trustee under the Indenture as security for the Bonds.

15. In order to provide for earnings on the Funds referred to above together with the expense reserve fund referred to in condition 1(a) under "other Conditions" herein (the "Funds"), without creating investment discretion in the Bond Trustee, the Indenture will require the Bond Trustee, prior to the issuance of the Bonds, to enter into an investment agreement (the "Investment Agreement") with a financial institution. Such institution will be (i) a national bank, or a banking institution organized under the laws of any State or the District of Columbia the business of which is substantially confined to banking and is supervised by the State banking commission or similar official, or a foreign bank subject to substantially the same supervision under the International Banking Act of 1978, (ii) an insurance company, subject to the supervision of the insurance commissioner, bank commissioner or any agency or officer performing like functions, of any State or the District of Columbia or (iii) a United States government agency or government sponsored corporation, in each case, whose obligations are rated in, or eligible to be pledged as collateral for securities rated in, the highest rating category ("AAA" or "Aaa") by the same Rating Agency or Agencies which rate the Bonds. In order to assure that the Trust receives a fair return on the Investment Agreement, the Trust will ask qualified institutions to submit bids shortly before the Bonds are priced. The identity of the Investment Agreement provider ("Provider") selected will be disclosed in the Prospectus.

The Indenture will require the Bond Trustee to invest under the Investment Agreement all amounts held under the Indenture and credited from time to time to the Reserve Fund, the Revenue Fund and the Prepayment Fund. The Investment Agreement will bear a fixed interest rate or rates specified in the Investment Agreement and disclosed in the Prospectus. The Investment Agreement will not be terminable or assignable by the Provider, except that if the Provider is a bank which is a principal subsidiary of a bank holding company, the Provider may be permitted to assign its obligations under the Investment Agreement to its parent corporation if the long-term debt rating of the parent by each Rating Agency rating the Bonds is at least as high as that of the Bonds (i.e., AAA or Aaa, the same as the Original Provider). The Investment Agreement will terminate if the Bond Trustee or the Owner Trustee should inform the Provider that any Rating Agency rating the Bonds has indicated that such Rating Agency has determined that the continuation of the Investment Agreement with the Provider will adversely affect such Rating Agency's rating of the Bonds. In the event of such termination, the Bond Trustee will enter into a substitute investment agreement that would not

result in a reduction in the rating of the Bonds, if such an agreement can be procured. Any such substitute agreement would be permitted only with the financial institutions described above. If the Investment Agreement is with an entity other than a United States government agency or government sponsored corporation, in the highly unlikely event that in excess of twenty-five percent of the assets of the Trust are invested in the Investment Agreement, the Bond Trustee will be required, in order to maintain the Trust's status as a regulated investment company under the Internal Revenue Code, to invest any such excess amounts in an additional investment agreement meeting all of the requirements of a substitute agreement specified above or, if no such additional investment agreement can be procured, in the kinds of investments described below for instances when no substitute agreement can be procured.

16. If no such substitute investment agreement can be procured, amounts in the Funds will be invested by the Bond Trustee only in (i) obligations issued by the United States (and supported by its full faith and credit) or (ii) repurchase agreements with respect to such obligations and overcollateralized on a basis that will not result in a reduction in the ratings of the Bonds. All such investments must mature before the next scheduled distribution date. In addition, after final payment of the Bonds, any amounts paid over by the Bond Trustee to the Owner Trustee, for distribution to Certificateholders may be invested, pending distribution, in the same investments described above and any demand or time deposit or certificate of deposit which is fully insured by the Federal Deposit Insurance Corporation.

17. The Bonds will not be subject to redemption (other than scheduled sinking funds redemptions in the case of term Bonds and compound interest Bonds, if any) prior to maturity. The Bonds will not be redeemable at the option of the holders and, except in the event of a default on the Bonds followed by an acceleration, holders of the Bonds will not be entitled to compel the liquidation of the Loans in order to redeem the Bonds prior to maturity. In the event of a default and acceleration, there may be restrictions on the entities to whom tax-exempt Loans may be sold.

18. The scheduled payments on the Loans net of anticipated expenses of the Trust plus amounts initially deposited to the Reserve Fund and reinvestment income will exceed scheduled payments on the Bonds by an amount currently estimated at approximately 112 percent. This level of overcollateralization is required in order to obtain the highest investment grade rating on the Bonds.

19. Neither the holders of the Certificates, the Owner Trustee nor the Bond Trustee will be able to impair the security afforded by the Loans to the holders of the Bonds. Without the consent of each Bondholder to be affected, the Indenture may not be amended so as to: (1) Change the stated maturity of, or the date or amount of any scheduled sinking fund installment for, any Bond; (2) reduce the principal amount of or the rate of interest on any Bond; (3) change the priority of payment on any series of Bonds; (4) impair or adversely affect the Loans securing any series of Bonds; (5) permit the creation of a lien ranking prior to or on a parity with the lien of the Indenture with respect to the assets pledged under the Indenture; or (6) otherwise deprive the Bondholders of the security afforded by the lien of the Indenture. The sale of the Certificates by ED or any other holder will not alter the payment of cash flows under the Indenture, including the amounts to be deposited in any fund created pursuant to the Indenture to support payments of principal of and interest on the Bonds.

20. The interests of the Bondholders will not be compromised or impaired by the ability of the Trust to issue the Certificates, and there will not be a conflict of interest between the Bondholders and the holders of the Certificates in the Trust for several reasons, including the following:

(a) The Indenture will subject the Loans, the various Funds held under the Indenture, and the Investment Agreement to a first priority perfected security interest in favor of the Bond Trustee for the benefit of the Bondholders. The Indenture will further provide that no amounts may be released from the lien of the Indenture to be remitted to the Owner Trustee (or the holders of Certificates) on any Payment Date until: (i) The Bond Trustee has made the scheduled payment of principal of and interest on the Bonds on such Payment Date, (ii) all fees and expenses of the Bond Trustee, the Servicer or the Trust's accountants then due have been paid and (iii) any required deposit has been made to the Reserve Fund.

(b) The holders of the Certificates will be entitled to receive current distributions representing the residual payments on the Loans in accordance with the terms of the Indenture and the Declaration of Trust. Except for such rights to receive residual payments, the holders of the Certificates will have no rights in, or discretionary control over, the Trust while the Bonds are outstanding other than the right to replace the Owner Trustee for breach of fiduciary duty, willful misfeasance, bad faith, gross negligence or reckless disregard of its duties under the Declaration of Trust (which right may be limited in the case of ED's rights as a Certificateholder) and to replace the Trust's accountants with respect to the responsibilities of the accountants other than those arising under the Indenture. The holders of the Certificates will have the right to replace the Servicer for breach of the Servicing Agreement only after all Bonds have been paid.

(c) The Bonds will only be issued if they have been rated in the highest rating category by at least one Rating Agency not affiliated with the Trust.

21. The Trust expects to make certain payments to cover various costs to be paid or reimbursed at the closing of the sale of the Bonds and Certificates, as well as various ongoing costs and expenses, all such costs and expenses being fully described in the application and Prospectus. Should the Trust expect to make any other payments not described in the application, Applicant will submit an amendment to this application to the Commission requesting that those fees be exempted from the provisions of section 26(a)(2) of the 1940 Act.

22. Upon payment of the Bonds in full and the discharge of the Indenture, any remaining assets of the Trust held by the Bond Trustee will be transferred to the Owner Trustee. Any cash assets will then be distributed to the holders of the Certificates. Any remaining Loans will be retained by the Owner Trustee and cash flows from the Loans will be distributed by the Owner Trustee to the holders of the Certificates at least monthly on a pass-through basis after payment of the fees and expenses of the Owner Trustee, the Servicer and the Trust's accountants. Upon final payment of the Loans, any remaining assets of the Trust will be distibuted to the Certificateholders and the Trust will be terminated.

23. In order to allow the Trust to register with the Commission as a closed-end management investment company, exemptive relief is required from the provisions of the 1940 Act specified below.

Applicant's Legal Conclusions

1. *Section 10(h).* Section 10(h) of the 1940 Act applies certain of the restrictions of Sections 10(a), (b) and (c) of the Act to the board of directors of

the depositor of a registered management company which is an unincorporated company not itself having a board of directors, as will be the case with the Trust. ED, by conveying the Loans to the Trust, might be deemed to be the depositor of the Trust. However, ED, as a Federal department in the Executive Branch, has no board of directors nor can it elect or appoint a board of directors. Except for its limited rights as a Certificateholder, ED would not have any discretion over the administration of the Trust under the Declaration of Trust and the Indenture. Moreover, the Trust will operate as a passive entity without the traditional methods of management and investment.

2. *Section 14(a).* Section 14(a)(1) of the 1940 Act provides that no investment company shall make a public offering of securities of which such company is the issuer unless such company has a net worth of at least $100,000. On the date of issuance of the Bonds and the Certificates, the aggregate scheduled payments of principal of and interest on the Loans plus the amount on deposit in the Reserve Fund will exceed the aggregate scheduled payments of principal of and interest on the Bonds by substantially more than $100,000. Thus, the net worth of the Trust will exceed $100,000 on the date of issuance of the Bonds and the Certificates. Prior to the issuance and delivery of the Bonds to the Underwriters, the Underwriters will agree to purchase the Bonds subject to customary conditions of the closing. The Underwriters will not be entitled to purchase less than all of the Bonds. Accordingly, either the offering will not be completed at all or the Trust will have a net worth in excess of $100,000 on the date of issuance of the Bonds and the Certificates. Based on the determination of the independent evaluator, it is not anticipated that the net worth of the Trust will fall below that minimum level until the Bonds and the Certificates have been retired.

3. *Section 16(a).* Section 16(a) of the 1940 Act requires that no person shall serve as director of a registered investment company unless elected to that office by the holders of the outstanding voting securities of such company. The powers of the Bond Trustee and the Owner Trustees are so circumscribed that neither the Bond Trustee nor the Owner Trustee should be deemed a director within the meaning of section 2(a)(12) of the 1940 Act. Election or subsequent ratifications of the Owner Trustee or the Bond Trustee are not necessary in the public interest or to protect investors, and the additional expense for the Trust is not justified. The Trust will be a passive entity that will not require investment management. Similar to a unit investment trust, neither the Owner Trustee nor the Bond Trustee will be authorized to manage the Trust's portfolio of Loans. The activities of the Owner Trustee will be carefully limited to receipt of payments from the Bond Trustee while the Bonds are outstanding and of payments on the Loans thereafter and to making current distributions to Certificateholders of the amounts received. Moreover, the Trust has agreed to comply with section 26 of the 1940 Act as if it were a unit investment trust, including the requirements in that section regarding entities acting on behalf of the Trust and the limitations on expenses set forth therein. Finally, exemption from section 16(a) of the 1940 Act is necessary in light of the exemption requested from section 18(i) of the 1940 Act discussed below to permit the issuance of only non-voting securities.

4. *Section 17(a).* An exemption from section 17(a) of the 1940 Act is sought to permit the Trust to acquire Loans from ED in exchange for the Certificates and the proceeds of the Bonds issued by the Trust and to effect substitutions for Non-Conforming Loans thereafter. Section 17(a) of the 1940 Act prohibits specified transactions between certain persons related to a registered investment company and such investment company. ED would otherwise be prohibited from entering into the above transactions under section 17(a) of the 1940 Act because ED may either be considered an "affiliated person" under section 2(a)(3) of the 1940 Act or a "promoter" under section 2(a)(30) of the 1940 Act.

Section 17(a)(1) of the 1940 Act specifically excepts sales which involve securities deposited with the trustee of a unit investment trust. Although the Trust is not a unit investment trust, its structure is very similar to one in that both entities involve the deposit into a trust by a related person of a predetermined fixed portfolio of securities. Moreover, the transactions would meet the requirements of section 17(b) of the 1940 Act, the provision granting the Commission authority to exempt transactions under section 17(a) of the 1940 Act, in that the terms of the exchange will be reasonable and fair and do not involve overreaching on the part of any person concerned.

In order to establish the reasonableness and fairness of the price for the Loans received by ED, ED's financial advisory will advise ED that the proceeds of the Bonds, less transaction costs, plus the Certificates representing the residual interest in the Trust, represent a fair price for the Loans. In order to establish that the price paid by the Trust for the Loans is reasonable and fair to the Trust, the Trust will retain an independent, qualified evaluator (not including any Underwriter for the Bonds or the Certificates) which will determine that the consideration to be paid by the trust for the Loans is reasonable and fair.

5. *Section 18(a).* Section 18(a) of the 1940 Act prohibits a registered closed-end investment company from issuing any class of senior securities unless certain asset coverage requirements are met. The Trust will have an asset coverage ratio immediately after the sale of the Bonds and Certificates currently estimated at approximately 112 percent. The proposed transaction, in view of the overcollateralization of the Trust and the nature of the investors in the certificates, adequately protects against the dangers of excessive leveraging, the concern underlying section 18(a) of the 1940 Act. As a condition to the issuance of the Bonds, the Trust will obtain a determination from an independent, qualified evaluator that the aggregate scheduled payments on the Loans plus the initial deposit in the Reserve Fund and reinvestment earnings will exceed aggregate scheduled payments of principal and interest on the Bonds by an amount adequate to provide for payment of the Bonds in light of the payment terms and past experience on the Loans. Moreover, the certificates may only be sold to sophisticated institutional investors having sufficient expertise to evaluate the risks involved in acquiring either Class of Certificates.

6. *Section (18)(c).* The Applicant is seeking an exemption from section 18(c) of the 1940 Act to permit the Trust to issue the Bonds in multiple series. Section 18(c) of the Act makes it unlawful for any registered investment company to have more than one class of senior security of debt or equity. Here, each series of Bonds will be secured by collateral equally and ratably with every other series and all series will have the benefit of the same covenants and rights on default. Moreover, no action by the Owner Trustee or the Certificateholders can affect the timely payment of Bonds, and no action by the Bondholders of one series can affect the timely payments of Bonds of any other series. All of the assets of the Trust will be pledged to the Bond Trustee and the Owner Trustee will not be permitted to borrow against the assets of the Trust. Further, Loans will not be permitted to

be removed from the Trust or substituted for other assets, except under limited circumstances.

7. *Section (18)(i)* Under section 18(i) of the 1940 Act, a registered investment company may not issue stock which does not have equal voting rights with every other class of stock. The trust will operate essentially as a unit investment trust, to which section 18(i) of the 1940 Act does not apply. Given the lack of discretion vested in the Certificateholders and the Owner Trustee, voting rights would have very little actual effect on the operation of the Trust and would not enhance investor protection.

8. *Section 26.* Applicant has agreed that it will be subject to section 26 of the 1940 Act (with certain exceptions) as though it were a unit investment trust within the meaning of section 4(2) of the 1940 Act. With respect to sections 26(a)(2)(B) and (C) the Applicant has requested to be able to pay certain costs and expenses described in the application. The Applicant believes that the payment of those costs and expenses will be fair and reasonable in light of the requirements of the offering and sale of the Bonds and the ongoing servicing requirements for the Loans. The Applicant further believes that the granting of the Order sought by this application will satisfy the provisions of section 26(b) of the 1940 Act relating to substitution of collateral to the extent Loan substitution is made as described in the application.

9. *Section 32(a).* Sections 32(a)(1) and 32(a)(3) of the 1940 Act require the independent public accountant filing the investment company's financial statements to be selected annually by a vote of a majority of the board of directors and ratified annually by a majority of the voting securities of the investment company. The Trust, however, will not have voting securities. The initial accountants will be selected and disclosed in the Prospectus prior to the issuance of the Bonds and Certificates. Both the Bond Trustee and the Owner Trustee will have the right to remove the accountants for the trust. Moreover, the Trust will not engage in any investing or reinvesting of securities, except to a limited extent. As a result, the Trust's financial statements will be primarily records of receipts and distributions, and audits of the Trust's financial statements will be straightforward and will not involve complex auditing and accounting principles. Therefore, the additional expense of ratification of the accountants would not be justified given the nature of the Trust.

10. *Section 6(c).* For the reasons stated above, the requested exemptions are consistent with the section 6(c) standards. The relief requested is appropriate in the public interest, because: (1) The trust's activities will promote the public interest by permitting ED to sell its Loan assets pursuant to the directives under the Budget Act and the Education Act and will provide investors with a highly rated security; (2) the Trust may be unable to proceed fully and in a timely manner with its proposed Activities if the uncertainties concerning the applicablility of the above sections are not removed; and (3) the activities of the Trust are not the types of activities intended to be prevented by the 1940 Act.

Applicant's Conditions

Applicant agrees that if the requested order is granted it will be expressly conditioned on the following conditions:

A. Conditions Relating to the Bonds

(1) The Bonds will be registered under the 1933 Act. The Indenture will be qualified under the 1939 Act.

(2) The Loans, the Funds and the limited investments securing the Bonds ("Collateral") will be held by the Bond Trustee. The Bond Trustee may not be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Trust. The Bond Trustee will be provided with a first priority perfected security interest in the Collateral. The Servicer will not be affiliated with either the Bond Trustee or the Owner Trustee.

(3) The initial collateral for the Bonds will consist only for the Loans and any moneys initially deposited to the credit of the Funds which are invested in the Investment Agreement. No loans may be released from the lien of the Indenture prior to the payment of the Bonds (except upon the acceleration of defaulted Loans) or substituted except pursuant to the limited substitution obligations of ED under the warranties of ED contained in the Loan Sale Agreement described in the application. Any such substitute collateral may consist only of Loans and will: (i) Be of equal quality as the Non-Conforming Loans being replaced in that they will be covered by the warranties of ED contained in the Loan Sale Agreement (subject to the limitation on ED's obligation to replace Non-Conforming Loans during the Warranty Period) and will be selected from ED's Portfolio in a similar manner as the Non-Conforming Loans being replaced; (ii) have equal or greater principal amounts and cash flows as the Non-Conforming Loans being replaced; and (iii) meet the conditions set forth in paragraph (2) above. The replacement of such substitute Loans for any Non-Conforming Loans will not affect the level of collateralization on which the original rating or ratings of the Bonds were based or affect the rating or ratings on the Bonds.

(4) The Bonds will be rated in the highest bond rating category by at least one Rating Agency that is not affiliated with the Trust. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

(5) No less often than annually, an independent public accountant will audit the books and records of the Trust and, in addition, will report on whether the anticipated payments of principal of and interest on the Collateral continue to be adequate to pay the principal of and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Bond Trustee and the Owner Trustee and will be made available to the Bondholders and the Certificateholders.

(6) At the time of the deposit of the Collateral with the Trust, the scheduled payments to be received by the Bond Trustee on the Collateral will be more than sufficient to make all payments of principal of and interest on the Bonds. The Collateral will pay down as the Loans are repaid, but will not be released from the lien of the Indenture prior to the payment of the Bonds (except upon the acceleration of defaulted Loans).

Conditions Relating to the Certificates

1. The Certificates will be offered and sold to sophisticated institutional investors. Such institutional investors may include one or more banks, savings and loan associations, insurance companies, pension funds and other large institutional investors (*i.e.*, having assets of not less than $100,000,000), that have such knowledge and experience in financial and business matters so as to be capable of evaluating the risks of the purchase of the Certificates because of direct and significant experience in making investments in similar asset-backed securities ("Eligible Investors"). (Any Mutual Funds which may purchase Certificates will continue to be required to satisfy themselves that purchase of such Certificates complies with the provisions of section 12(d) (1) of the 1940 Act.)

2. The sale of the Certificates will occur pursuant to private placements exempt from the registration

requirements of the 1933 Act under section 4(2) thereof.

3. Sales of the Certificates will be to a limited number, not exceeding 100, of sophisticated institutional investors. Each purchaser of Certificates will be required to represent that it is acquiring its Certificates for investment for its own account and not as nominee for undisclosed investors and to agree that it will not resell its Certificates except to other Eligible Investors pursuant to private placements subject to the same representation and agreement and subject to the above limitation on the number of Certificateholders. (The Declaration of Trust will provide that the Owner Trustee may not register any transfer of Certificates if, following such transfer, the number of Certificateholders would exceed one hundred.)

4. Neither the Trust nor any Certificateholder will be affiliated with the Bond Trustee. No holder of a controlling interest in the Trust (as such term is defined in Rule 405 of the 1933 Act) nor the Trust, will be affiliated with either (a) any custodian which may hold the Collateral on behalf of the bond Trustee or (b) any statistical Rating Agency rating the Bonds.

5. The Certificates will not be redeemable at the option of the holders.

Other Conditions

1. All administrative fees and expenses in connection with the administration of the Trust will be paid or provided for in a manner satisfactory to each Rating Agency rating the Bonds. The Trust will provide for the payment of administrative fees and expenses incurred in connection with the issuance of the Bonds and the administration of the Trust by the following methods:

(a) An expense reserve funds will be established with the Bond Trustee under the Indenture to provide for the payment of such fees and expenses, which maximum fees will be projected, assuming current inflation factors required by the Rating Agency or Agencies rating the Bonds, at the time of the issuance of the Bonds and the establishing of such expense reserve fund. Thereafter, the Bond trustee will look solely to such reserve fund for the payment of certain fees and expenses. The procedure used to calculate the anticipated level of fees and expenses will provide for funds sufficient to pay such fees and expenses.

(b) The Bonds will be secured by Collateral, the value of which is in excess of the amount necessary to make payments of principal and interest on the Bonds, and such excess or a portion thereof will be applied to the payment of such fees and expenses, and may be used in combination with the other method described above. The anticipated level of fees and expenses will be more than adequately provided for by the above methods.

2. Applicant agrees that the Trust will comply with the provisions of section 26 of the 1940 Act as though it were a unit investment trust within the meaning of section 4(2) of the 1940 Act, provided that for purposes of section 26(a)(4) (A) and (B) of the 1940 Act, the Bond Trustee and the Owner Trustee shall preform the recordkeeping and notice responsibilities of the depositor or its agent as provided therein, and the requirements of sections 26(a)(2) (B) and (C) shall not prevent the Trust from paying certain expenses described in the application.

3. The Owner Trustee will be required under the Declaration of Trust, and, to the extent stated in the application, the Bond Trustee will be required under the Indenture to monitor compliance by the Trust with the requirements of the 1940 Act and to fulfill the Trust's ongoing obligations under the 1940 Act including without limitation the filing of periodic reports with the Commission as and when required by the 1940 Act.

4. To alleviate any potential conflict of interest between the Bondholders and the Certificateholders, the Applicant further agrees that the above representations regarding the Certificates may be made express conditions to the requested Order.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-17752 Filed 7-31-87; 2:27 pm]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATE: Comments should be submitted within 30 days of this publication in the Federal Register. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline. COPIES: Request for clearance (S.F. 83s), supporting statements, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340.

Title: Grants Management Reporting and Recordkeeping Requirements

Frequency: On occasion

Description of respondents: SBA requires the recepients of Federal dollars to report both programmatic and financial status for prudent monitoring by Federal officials.

Annual responses: 2,000

Annual burden hours: 10,600

Type of request: Reinstatement

Title: Secondary Participation Guaranty and Certification Agreement and Request for Certification of SBA Form 1084

Forms nos: SBA 1085, 1086

Frequency: On occasion

Description of respondents: Participating lenders used these forms to apply for initial issuance of an SBA Guarantee Interest Certification.

Annual responses: 6200

Annual burden hours: 23,250

Type of request: Extension.

William Cline,

Chief, Administrative Information Branch, Small Business Administration.

July 28, 1987.

[FR Doc. 87-17684 Filed 8-3-87; 8:45 am]

BILLING CODE 8025-01-M

Office of the United States Trade Representative

Generalized System of Preferences; Review of Petitions, Public Hearings, and List of Articles To Be Sent to the U.S. International Trade Commission (USITC) for Review

SUMMARY: The purpose of this notice on the Generalized System of Preferences (GSP) annual review is (1) to announce the acceptance for review of petitions to

modify the list of articles eligible to receive duty-free treatment under the GSP and requests to review country practices of beneficiary countries; (2) to announce the timetable for public hearings to consider petitions accepted for review; and (3) to announce that the list of articles herein to be sent by the United States Trade Representative to the United States International Trade Commission with respect to designating articles as eligible for GSP.

I. Acceptance of Petitions for Review

Notice is hereby given of acceptance for review of petitions requesting modification of the list of articles eligible to receive duty-free treatment under the GSP, as provided for in Title V of the Trade Act of 1974 (the Act) (19 U.S C. 2461–2465), and requests to review country practices of beneficiary countries. These petitions and requests were submitted, and will be reviewed, pursuant to regulations codified at 15 CFR Part 2007

1. Requests to Modify Product and Country Eligibility

Petitions have been submitted by interested parties or foreign governments (1) to designate additional articles as eligible for the GSP; or (2) to withdraw, suspend or limit GSP duty-free treatment accorded either to eligible articles under the GSP or to individual beneficiary developing countries with respect to specific GSP eligible articles; or (3) to otherwise modify GSP coverage. In addition, requests have been received requesting that the GSP status of certain beneficiary developing countries be reviewed with respect to the criteria listed in subsection 502(b) or 502(c) of the Act.

As in previous reviews, requests to add products to or remove them from the list of articles eligible for GSP duty-free treatment will be evaluated in accordance with the "graduation" policy. In considering GSP eligibility for products, limitations on GSP benefits will be considered for the more economically advanced beneficiary developing countries in specific products where it is determined that they have demonstrated sufficient competitiveness. Four criteria will be taken into account when any such graduation action is considered: The development level of individual beneficiary countries; their competitive position in the product concerned; the countries' practices relating to trade, investment and worker rights; and the overall economic interests of the United States. The GSP Subcommittee will review information for the relevant U.S. industry as enumerated in 15 CFR 2007.1 (5) when considering the removal of any beneficiary developing country from GSP eligibility.

Product designations announced at the conclusion of the review process, therefore, may be made on a differential basis. This means that certain beneficiary developing countries may not be designated for GSP benefits on certain products even though those countries are not excluded under the competitive need provisions set forth in section 504(C)(1) of the Trade Act of 1974, as amended. It also is possible to withdraw GSP treatment from certain beneficiary developing countries, or reduce the competitive need limit applicable to the countries and product in question, rather than remove the product entirely from GSP coverage.

2. Information Subject to Public Inspection

Information submitted in connection with the hearings will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 2006.10. Briefs or statements must be submitted in twenty copies in English. If the document contains business confidential information, twenty copies of a nonconfidential version of the submission along with twelve copies of the confidential version must be submitted. In addition, the document containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the document. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each and every page (either "public version" or "non confidential").

3. Communications

All communications with regard to these hearings should be addressed to: GSP Subcommittee, Office of the United States Trade Representative, 800 17th St., NW., Room 517, Washington, DC 20506. The telephone number of the Secretary of the GSP Subcommittee is (202) 395–6971. Questions may be directed to any member of the staff of the GSP Information Center.

Acceptance for review of the petitions listed herein does not indicate any opinion with respect to a disposition on the merits of the petitions. Acceptance indicates only that the listed petitions have been found to be eligible for review by the GSP Subcommittee and the TPSC, and that such review will take place.

II. Deadline for Receipt of Requests To Participate in the Public Hearings

The GSP Subcommittee of the Trade Policy Staff Committee invites submissions in support of or in opposition to any petition or request contained in this notice. All such submissions should conform to 15 CFR Part 2007, particularly §§ 2007.0, 2007.1(a)(1), 2007.1(a)(2), and 2007.1(a)(3). All product-related submissions should identify the product of interest in terms of both the current TSUS nomenclature and the proposed Harmonized System tariff nomenclature.

A hearing will be held on October 5–7 beginning at 10:00 a.m. in the GSA Auditorium, 18th and F St. NW., Washington, DC.

The hearing will be open to the public and the transcript will be made available for public inspection or purchase from the reporting company.

Requests to present oral testimony in connection with public hearings should be accompanied by twenty copies, in English, of all written briefs or statements and should be received by the Chairman of the GSP Subcommittee no later than the close of business Monday, September 14. Oral testimony before the GSP Subcommittee will be limited to five minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. Post-hearing briefs or statements will be accepted if submitted in twenty copies, in English, no later than close of business Monday, October 26. Rebuttal briefs should be submitted in twenty copies, in English, by close of business Monday, November 23.

Parties not wishing to appear may submit written briefs or statements in twenty copies, in English, in connection with articles or countries under consideration in the public hearings, provided that such submissions are filed by Wednesday, October 28 and conform with the regulations cited above.

During December 1987 and/or January 1988, an opportunity will be provided for the public to comment on nonconfidential USITC analysis. Notice of the availability of this analysis and the timetable for comment will be published in the **Federal Register** as soon as USITC analysis is available.

III. List of Articles Which May Be Considered for Designation as Eligible Articles for Purposes of the GSP or for Waiver of the Competitive Need Limit and On Which the United States International Trade Commission Will Be Asked to Provide Advice

1. In conformity with sections 502(a) and 131(a) of the Trade Act of 1974 as amended (19 U.S.C. 2463(A) and 2151(A)), notice is hereby given that the articles listed herein may be considered for designation as eligible articles for purposes of the GSP.

An article which is determined to be import sensitive in the context of the GSP cannot be designated as an eligible article. Recommendations with respect to the eligibility of any listed article will be made after public hearings have been held and advice has been received from the U.S. International Trade Commission on the probable effects of the requested modification in the GSP on industries producing like or directly competitive articles and on consumers.

2. As explained in 52 FR 10960, the Harmonized System tariff nomenclature is a new international product nomenclature developed under the auspices of the Customs Cooperation Council (CCC) for the purpose of classifying goods in international trade. The Harmonized System is expected to be implemented by the United States and internationally on January 1, 1988, and will replace the current Tariff System of the United States (TSUS) nomenclature. Product eligibility under the coverage of the GSP program is currently defined in terms of the five-digit TSUS classifications. However, upon implementation of the Harmonized System, the coverage of the GSP program will be defined in terms of the Harmonized System. Therefore, all product-related petitions identified the product(s) of interest in terms of both the current TSUS nomenclature and the proposed Harmonized System tariff nomenclature The lists that follow describe the articles that have been accepted for review in this year's review in terms of both the TSUS nomenclature and the Harmonized System tariff nomenclature. However, notwithstanding the latter listing, the TPSC reserves the right to convert its decisions on items identified in terms of the TSUS nomenclature to the Harmonized System nomenclature.

3. Advice of the United States International Trade Commission. On behalf of the President and in accordance with sections 503(A) and 131(A) of the Trade Act of 1974 as amended, the United States International Trade Commission is being furnished with a list of articles published herein for the purpose of securing from the Commission its advice on the probable economic effect on United States industries producing like or directly competitive articles, and on consumers, of the designation of such articles as eligible articles for purposes of the GSP. Also, on behalf of the President and in accordance with section 504(c)(3)(A)(i) of the Act, the USITC is being asked to furnish economic advice on the probable economic effect on United States industries producing like or directly competitive articles, and on consumers, of the granting of a waiver of competitive need limits for the products identified in section D of the lists which follow.

IV. Cases Accepted for Review Regarding Country Practices, Pursuant to 15 CFR 2007.0(b)

Pursuant to 15 CFR 2007.0(b), the TPSC has accepted for review 6 requests filed by various petitioners to review the status of Thailand, Indonesia, Turkey, Korea, Taiwan and the Central Africa Republic as GSP beneficiary countries in relation to their practices relating to worker rights. Further, in view of the fact that a review of Chile's GSP eligibility in relation to its practices with respect to worker rights is already in progress, and that Paraguay's GSP eligibility has been indefinitely suspended, comments on the worker rights practices of these two countries will be welcome during the public hearing and comment process described in Section II.

Pursuant to 15 CFR 2007.0(b), the TPSC has accepted for review requests filed by the International Intellectual Property Alliance and the Pharmaceutical Manufacturer's Association to review Thailand's status as a GSP beneficiary country in relation to its practice regarding the protection of intellectual property rights, with particular reference to copyright and patent protection.

David P. Shark,

Acting Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration.]	
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences.	
		Fish, prepared or preserved in any manner, not in oil, in airtight containers:	
		Anchovies:	
87-1	112.01	In containers weighing with their contents not over 15 pounds each	Government of Morocco
		Milled grain products:	
		Fit for human consumption:	
		Oats:	
87-2	131.27	Valued over $8 per 100 pounds	Government of Colombia
		Vegetables (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved (except vegetables in subpart B, part 8, schedule 1 of the Tariff Schedules of the United States):	
		Beans:	
		[Soybeans]	
		Other:	
87-3	141.15	Pickled	Government of Morocco
		[Articles provided for in items 141.25 thru 141.70]	
		Other:	
		[Packed in salt, in brine, or pickled]	
		Other:	
87-4	141.83	Corn in airtight containers	Government of Thailand
		Capers:	
		[In immediate containers holding more than 7.5 pounds]	
87-5	161.08	Other	Government of Morocco
		Rum (including cana paraguaya):	
87-6	169.13	In containers each holding not over 1 gallon	Government of the Philippines
		In containers each holding over 1 gallon:	
87-7	169.1415	Valued over $3.50 per gallon	do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences. (con.)		
		Wood blinds, shutters, screens, and shades, all the foregoing, with or without their hardware: [Consisting of wooden frames in the center of which are fixed louver boards or slats, with or without their hardware]	
87-8	206.67	Other	Eastman Bell, Costa Mesa, CA; Ohline Corporation, Gardenia, CA
		Strips (in continuous form), whether known as artificial straw, yarns, or by any other name: Not laminated:	
87-9	309.20	Valued not over $1 per pound	Government of Mexico; Cordelrias Filamentos y Costales, S.A. de C.V. (COFISCA), Mexico
87-10	309.21	Valued over $1 per pound	do.
		Other handkerchiefs, not ornamented: Of silk: Hemmed:	
87-11	370.8405	Containing 70 percent or more by weight of silk	Government of Thailand
		Not hemmed:	
87-12	370.8450	Containing 70 percent or more by weight of silk	do.
		Mufflers, scarves, shawls, and veils, all the foregoing of textile materials: [Lace or net articles, whether or not ornamented, and other articles, ornamented:]	
		Other articles, not ornamented: Of silk: Knit:	
87-13	372.5005	Containing 70 percent or more by weight of silk	do.
		Not knit: Weighing over 1 ounce per square yard and rectangular in shape: Valued not over $5 per dozen	
87-14	372.5505	Containing 70 percent or more by weight of silk	do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences. (con.)		
		Articles not specially provided for, of textile materials:	
		[Lace or net articles, whether or not ornamented, and other articles ornamented:]	
		Other articles, not ornamented:	
		Of man-made fibers:	
		Knit (except pile or tufted construction):	
87-15	389.40(pt.)	Plastic pot scourers used chiefly to clean pots and other household articles used in preparing, serving, and storing food	Government of Mexico; Filtros Y Mallas Industriales, S.A., Mexico
		Products suitable for medicinal use, and drugs: Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1, schedule 4, of the Tariff Schedules of the United States:	
		Drugs:	
		Imidazoline derivatives:	
		[Articles provided for in items 411.00 and 411.04]	
		Other:	
87-16	411.08(pt.)2/	Anthelmintic compound containing a thiazoline ring fused to a imidazoline ring	Cyanamid Latin American Group, Wayne, NJ
87-17	455.04	Pectin	Grinsted de Mexico, S.A., Mexico
		Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients:	
		Of chinaware or of subporcelain:	
		Household ware:	
		Of nonbone chinaware or of subporcelain:	
		Not available in specified sets:	
		[Articles provided for in items 533.72 thru 533.78]	
87-18	533.79	Other articles 3/	Corning Glassware, Corning, NY

1/ Tariff Schedules of the United States (19 U.S.C. 1202).
2/ Currently eligible for GSP under the TSUS; request is for GSP eligibility under the HS.
3/ 504(d) waiver also requested for TSUS item 533.79.

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences. (con.)		
		Smokers' articles, household articles, and art and ornamental objects such as, but not limited to, statues, figurines, flowers, vases, lamp bases, bric-a-brac, and wall plaques, all the foregoing not specially provided for, of ceramic ware: [Articles provided for in items 534.21 thru 534.94]	
87-19	534.97	Other 2/	Corning Glassware, Corning, NY
		Ferroalloys: Ferrochromium:	
87-20	606.22	Not containing over 3 percent by weight of carbon	Government of Zimbabwe
87-21	606.42	Ferrosilicon chromium	Government of Zimbabwe
		Dolls, and parts of dolls including doll clothing: [Doll clothing imported separately] Other: Dolls (with or without clothing): [Stuffed] Other	
87-22	737.2415	Over 13 inches in height	Playmates Toys, Inc., La Mirada, CA
87-23	755.15	Fireworks	Government of Colombia
		Fountain pens, including stylographic pens and ball-point pens and ball-point pencils, and combination pens and pencils:	
87-24	760.0520	Ball-point pens and ball-point pencils	Government of Thailand

1/ Tariff Schedules of the United States (19 U.S.C. 1202).
2/ Currently eligible for GSP under the TSUS; request is for GSP eligibility under the HS; 504(d) waiver also requested for TSUS 534.97.

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
B.	Petitions to remove products from the list of eligible articles for the Generalized System of Preferences.		
		Flavoring extracts, and fruit flavors, essences, esters, and oils, all the foregoing whether or not containing ethyl alcohol: Not containing alcohol: [In ampoules, capsules, tablets, or similar forms] Other: Spice oleoresins:	
87-25	450.2015	Black pepper	Kalsec, Inc., Kalamazoo, MI
		Metal-bearing ores and the dross or residuum from burnt pyrites:	
87-26	601.33	Molybdenum ore	Cyprus Minerals, Englewood, CO
		Other metal-bearing materials of a type commonly used for the extraction of metal or as a basis for the manufacture of chemical compounds: [Articles provided for in items 603.05 thru 603.30] Other:	
87-27	603.40	Materials in chief value of molybdenum	do.
		Pipe and tube fittings of iron or steel: Cast-iron fittings, malleable:	
87-28	610.74	Advanced in condition by operations or processes subsequent to the casting process	American Pipe Fittings Association, Washington, D.C.
		Jewelry and other objects of personal adornment not provided for in the foregoing provisions of part 6, schedule 7, of the Tariff Schedules of the United States (except articles excluded by headnote 3 of subpart A, part 6, schedule 7, of the Tariff Schedules of the United States), and parts thereof: Valued over 20 cents per dozen pieces or parts: [Articles provided for in items 740.34 thru 740.39]	
87-29	740.41	Other	Manufacturing Jewelers and Silversmiths of America, Inc., Providence, RI

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
	B.	Petitions to remove products from the list of eligible articles for the Generalized System of Preferences. (con.)	
		Religious articles of a purely devotional character designed to be worn on apparel or carried on or about or attached to the person:	
87-30	740.50	Rosaries and chaplets	Manufacturing Jewelers and Silversmiths of America, Inc., Providence, RI
		Crucifixes and medals:	
		[Of precious metals (including rolled precious metals)]	
87-31	740.60	Other	do.
		Rope, curb, cable, chain, and similar articles produced in continuous lengths, all the foregoing, whether or not cut to specific lengths and whether or not set with imitation pearls or imitation gemstones, of metal or of metal and such pearls or gemstones, suitable for use in the manufacture of articles provided for in subpart A, part 6, schedule 7, of the Tariff Schedules of the United States:	
		[Of precious metals (including rolled precious metals)]	
		Other:	
87-32	740.75	Valued not over 30c per yard	do.
87-33	740.80	Valued over 30c per yard	do.
		Clasps, handbag and similar frames incorporating clasps, and snap fasteners; all the foregoing and parts thereof:	
		Valued over 20 cents per dozen pieces or parts:	
		For jewelry and other objects of personal adornment:	
		[Of precious metal except silver (including rolled precious metal except silver)]	
		Other:	
		[Silver]	
87-34	745.6740	Other	do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences 2/	
		Products obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1, schedule 4 of the Tariff Schedules of the United States: Plastics materials: [Articles provided for in items 408.44 and 408.48]	
		Other:	
87-35	408.72 (Korea)	Thermoplastic resins: Acrylonitrile-butadiene-styrene (ABS) resins	Borg-Warner Chemicals, Inc., Parkersburg, WV; Dow Chemicals, USA, Midland, MI
		Other inorganic compounds: [Articles provided for in items 422.90 thru 422.94]	
		Other: [Rare-earth oxides except cerium oxide; hydrogen peroxide]	
87-36	423.0050 (Brazil)	Other oxides, hydroxides and peroxides	Teledyne Industries, Albany, OR
87-37	618.15 (Argentina, Brazil, Mexico, Taiwan, Venezuela, Yugoslavia)	Wrought rods of aluminum	Southwire Company, Carrollton, GA
		Aluminum wire:	
87-38	618.20 (Argentina, Brazil, Venezuela)	Not coated or plated with metal	do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
	C.	Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences.2/ (con.)	
		Strands, ropes, cables, and cordage, all the foregoing, of wire, whether or not cut to length, and whether or not fitted with hooks, swivels, clamps, clips, thimbles, sockets or other fittings or made up into slings, cargo nets, or similar articles:	
		Fitted with fittings, or made up into articles:	
87-39	642.2010 (Korea)	Ropes, cables or cordage fitted with fittings	Committee of Domestic Steel Wire Rope and Specialty Steel Mfgs., Washington, D.C.
87-40	652.80 (Korea, Mexico)	Expanded metal, of base metal	Expanded Metal Fair Trade Coalition, Washington, D.C.
		Generators, motors, motor-generators, converters (rotary or static), transformers, rectifiers and rectifying apparatus, and inductors; all the foregoing which are electrical goods, and parts thereof:	
		Motors:	
		Of 1 horsepower or more, but not over 20 horsepower:	
		AC:	
87-41	682.4130 (Korea, Taiwan)	Polyphase	National Electrical Manufacturers Association, Washington, D.C.
		Of 200 or more horsepower:	
		Of 200 horsepower:	
87-42	682.5010 (Korea, Taiwan)	AC	do.
		Of over 200 horsepower but not over 500 horsepower:	
87-43	682.5030 (Korea, Taiwan)	AC	do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences.2/ (con.)	
		Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and television cameras; record players, phonographs, tape recorders, dictation recording and transcribing machines, record changers, and tone arms; all the foregoing, and any combination thereof, whether or not incorporating clocks or other timing apparatus, and parts thereof:	
		Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and parts thereof:	
		[Articles provided for in 684.90 thru 685.08]	
		Other:	
		[Articles provided for in 685.10 thru 685.24]	
		Other transmission apparatus incorporating reception apparatus:	
87-44	685.28 (Hong Kong, Korea, Taiwan)	[Cordless handset telephones] Other	Motorola, Inc., Schaumburg, IL
		Uninsulated electrical conductors:	
87-45	688.20 (Brazil, Korea, Taiwan, Venezuela)	Comprised of aluminum wire or strand spirally wound or twisted around a steel or aluminum core	Southwire Company, Carrollton, GA

1/ Tariff Schedules of the United States (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
C.	Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences.2/ (con.)		
		Beach balls, play balls, toy balls, and other balls for games or sports not provided for in the foregoing provisions of subpart D, part 5, schedule 7, of the Tariff Schedules of the United States:	
87-46	735.09 (Korea, Taiwan)	Inflatable balls	Hedstrom Corporation, Ashland, OH
87-47	735.10 (Korea, Taiwan)	Noninflatable hollow balls not over 7.5 inches in diameter	do.
87-48	735.11 (Korea, Taiwan)	Sponge rubber balls	do.
87-49	735.12 (Korea, Taiwan)	Other	do.
		Buttons:	
87-50	745.32 (Taiwan)	Of acrylic resin, of polyester resin, or of both such resins	Cresthill Industries Inc., New York, NY
		Articles chiefly used for preparing, serving or storing food or beverages, or food or beverage ingredients; and household articles not specially provided for; all the foregoing of rubber or plastics:	
87-51	772.06 (Hong Kong, Korea, Mexico)	Plates, cups, saucers, soup bowls, cereal bowls, sugar bowls, creamers, gravy boats, serving dishes, and platters	Ullman Co., Hauppauge, NY
87-52	772.09 (Hong Kong, Korea, Mexico)	Trays	do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
	D.	Petitions for waiver of competitive-need limit for a product on the list of eligible products	
		Glass envelopes (including bulbs and tubes), without fittings, designed for electric lamps, vacuum tubes or other electrical devices: [Bulbs for incandescent lamps] Other	
87-53	547.3720 (Taiwan)	Glass envelopes for cathode-ray tubes	Clinton Electronics Corporation, Rockford, IL
		Articles of aluminum, not coated or plated with precious metal:	
87-54	657.40(pt.) (Taiwan)	Luggage frames	Skyway Luggage Co., Seattle, WA
		Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and television cameras; record players, phonographs, tape recorders, dictation recording and transcribing machines, record changers, and tone arms; all the foregoing, and any combination thereof, whether or not incorporating clocks or other timing apparatus, and parts thereof: Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and parts thereof: [Television apparatus, and parts thereof] Other: [Articles provided for in 685.10 thru 685.24] Other transmission apparatus incorporating reception apparatus:	
87-55	685.25 (Korea)	Cordless handset telephones	Maxon Electronics, Inc., Kansas City, MO

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
D.	Petitions for waiver of competitive-need limit for a product on the list of eligible products (con.)		
		Chassis, bodies (including cabs), and parts of the foregoing motor vehicles: [Bodies (including cabs) and chassis:] Other: [Articles provided for in item 692.24] Other: [Articles provided for in items 692.29 and 692.31] Other: Brakes and parts thereof:	
87-56	692.3262 (Mexico)	Brake drums and rotors (discs)	Cifunsa, S.A., Mexico
87-57	692.3264 (Mexico)	Other	do.
		Beach balls, play balls, toy balls, and other balls for games or sports, not provided for in the foregoing provisions of subpart D, part 5, schedule 7, of the Tariff Schedules of the United States:	
87-58	735.09 (Mexico)	Inflatable balls	Kenner Parker Toys, Inc., Beverly, MA; Mattel, Inc., Hawthorne, CA
87-59	735.10 (Mexico)	Noninflatable hollow balls not over 7.5 inches in diameter	do.
87-60	735.11 (Mexico)	Sponge rubber balls	do.
87-61	735.12 (Mexico)	Other	do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
D.	Petitions for waiver of competitive-need limit for a product on the list of eligible products (con.)		
		Model trains, model airplanes, model boats and other model articles, all the foregoing whether or not toys; and construction kits or sets for assembling such model articles:	
		[Articles provided for in item 737.05]	
87-62	737.07 (Mexico)	Other models and construction kits or sets: Rail locomotives and rail vehicles; railroad and railway rolling stock; track, including switching track; rail depots, round houses, signal towers, water towers, and other trackside structures; trolley buses and trolley-bus systems; cable-car systems; highway vehicles; ships and harbor structures; and airplanes and spacecraft; all the foregoing made to scale of the actual article at the ratio of 1 to 85 or smaller	Kenner Parker Toys, Inc., Beverly, MA; Mattel, Inc., Hawthorne, CA
		[Articles provided for in items 737.09 and 737.14]	
		[Construction kits or sets with construction units prefabricated to precise scale of the actual article]	
87-63	737.14 (Mexico)	Articles described in item 737.07 made to a scale of the actual article at a ratio larger than 1 to 85	do.
87-64	737.16 (Mexico)	Other	do.
		Toys, and parts of toys, not specially provided for:	
87-65	737.80 (Mexico)	Toys having a spring mechanism	do.
		Other:	
		[Kites]	
87-66	737.93 (Mexico)	Toys having an electric motor	do.
87-67	737.96 (Mexico)	Toys wholly or almost wholly of rubber or plastics, not inflatable	do.
87-68	737.98 (Mexico)	Other	do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Annex I

Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
D.	Petitions for waiver of competitive-need limit for a product on the list of eligible products (con.)		
		Jewelry and other objects of personal adornment, and small articles ordinarily carried in the pocket, in the handbag, or on the person for mere personal convenience, all the foregoing, and parts thereof, of precious metal (including rolled precious metal), of precious stones, of natural pearls, of precious metal (including rolled precious metal) set with semiprecious stones, cameos, intaglios, amber, or coral, or of any combination of the foregoing: [Of silver (including rolled silver) and valued not over $18 per dozen pieces or parts] Other: Of precious metals: [Necklaces and neck chains, almost wholly of gold]	
87-69	740.14 (Thailand)	Other	Government of Thailand

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
		[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration.]	
	A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences.	
	1104	Cereal grains otherwise worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading 1006; germ of cereals, whole, rolled, flaked or ground:	
		Rolled or flaked grains:	
87-HS-1	1104.12.00	Of oats	Government of Colombia
	1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products:	
87-HS-2	1302.20.00	Pectic substances, pectinates and pectates	Grinsted de Mexico, S.A., Mexico
	1604	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:	
		Fish, whole or in pieces, but not minced:	
	1604.16	Anchovies:	
		[In oil, in airtight containers]	
		Other:	
87-HS-3	1604.16.40	In immediate containers weighing with their contents 6.8 kg or less each	Government of Morocco
	2001	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid:	
		[Cucumbers including gherkins; onions]	
		Other:	
		Capers:	
		[In immediate containers holding more than 3.4 kg]	
87-HS-4	2001.90.20	Other	do.
		Other:	
		Vegetables:	
87-HS-5	2001.90.30	Beans	do.

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences.(con.)		
	2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen:	
87-HS-6	2005.80.00	Sweet corn (Zea mays var. saccharata)	Government of Thailand
	2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 percent vol.; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used for the manufacture of beverages:	
		Rum and tafia:	
87-HS-7	2208.40.00.30	In containers each holding not over 4 liters	Government of the Philippines
		In containers each holding over 4 liters:	
87-HS-8	2208.40.00.80	Valued over 92c per liter	do.
	2934	Other heterocyclic compounds: [Articles provided for in subheadings 2934.10 thru 2934.30]	
	2934.90	Other: Aromatic or modified aromatic: [Articles provided for in subheadings 2934.90.05 and 2934.90.06]	
		Other:	
87-HS-9	2934.90.25	Drugs	Cynamid Latin America Group, Wayne, NJ
	3604	Fireworks, signalling flares, rain rockets, fog signals and other pyrotechnic articles:	
87-HS-10	3604.10.00	Fireworks	Government of Colombia
	3920	Other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials:	
87-HS-11	3920.20.00	Of polymers of propylene	Government of Mexico Cordelerias Filamentos y Costales, S.A. de C.V. (COFICSA), Mexico

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences.(con.)		
	4421	Other articles of wood: [Clothes hangers] Other: Wood blinds, shutters, screens and shades, all the foregoing with or without their hardware: [Consisting of wooden frames in the center of which are fixed louver boards or slats, with or without their hardware]	
87-HS-12	4421.90.40	Other	Eastman Bell, Inc., Costa Mesa, CA; Ohline Corporation, Gardenia, CA
	6117	Other made up clothing accessories, knitted or crocheted; knitted or crocheted parts of garments or of clothing accessories:	
	6117.10	Shawls, scarves, mufflers, mantillas, veils and the like: [Of wool or fine animal hair; of man-made fibers]	
87-HS-13	6117.10.30(pt.)	Other: Containing 70 percent or more by weight of silk	Government of Thailand
	6213	Handkerchiefs:	
87-HS-14	6213.10.00	Of silk or silk waste	do.
	6214	Shawls, scarves, mufflers, mantillas, veils and the like:	
87-HS-15	6214.10.00	Of silk or silk waste	do.
	6307	Other made up articles, including dress patterns: [Articles provided for in subheadings 6307.10 and 6307.20]	
	6307.90	Other: [Articles provided for in subheadings 6307.90.30 thru 6307.90.75]	
87-HS-16	6307.90.80(pt.)	Other: Plastic pot scourers used chiefly to clean pots and other household articles used in preparing, serving and storing food	Government of Mexico; Filtros Y Mallas Industriales, S.A., Mexico

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
A.	Petitions to add products to the list of eligible articles for the Generalized System of Preferences.(con.)		
	7013	Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of heading 7010 or 7018):	
87-HS-17	7013.10.00	Of glass-ceramics 2/	Corning Glassware, Corning, NY
	7202	Ferroalloys: Ferrochromium: [Containing by weight more than 4 percent of carbon]	
	7202.49	Other: [Containing by weight more than 3 percent of carbon]	
87-HS-18	7202.49.50	Other	Government of Zimbabwe
87-HS-19	7202.50.00	Ferrosilicon chromium	do.
	9502	Dolls representing only human beings and parts and accessories thereof:	
	9502.10	Dolls, whether or not dressed: [Stuffed] Other: [Not over 33 cm in height]	
87-HS-20	9502.10.3060	Other	Playmate Toys, Inc., La Mirada, CA
	9608	Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils (for example, mechanical pencils); pen-holders, pencil-holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 9609:	
87-HS-21	9608.10.00	Ball point pens	Government of Thailand

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).
2/ 504(d) waiver also requested for 7013.10.00.

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
		B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences.	
	2613	Molybdenum ores and concentrates:	
87-HS-22	2613.10.00	Roasted	Cyprus Minerals, Englewood, CO
	2620	Ash and residues (other than from the manufacture of iron or steel) containing metals or metallic compounds: [Articles provided for in subheadings 2620.11 thru 2620.50]	
	2620.90	Other:	
87-HS-23	2620.90.10	Containing mainly molybdenum	do.
	3301	Essential oils (terpeneless or not), including concretes and absolutes; resinoids; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils:	
	3301.30	Resinoids: Prepared oleoresins consisting essentially of nonvolatile components of the natural raw plant:	
87-HS-24	3301.30.1020	Black pepper	Kalsec, Inc., Kalamazoo, MI
	7117	Imitation jewelry: Of base metal, whether or not plated with precious metal:	
87-HS-25	7117.11.00	Cuff links and studs	Manufacturing Jewelers and Silversmiths of America, Inc., Providence, RI
	7117.19	Other: Rope, curb, cable, chain and similar articles produced in continuous lengths, all the foregoing, whether or not cut to specific lengths and whether or not set with imitation pearls or imitation gemstones, suitable for use in the manufacture of articles provided for in this heading:	
87-HS-26	7117.19.10	Valued not over 33 cents per meter	do.
87-HS-27	7117.19.20	Valued over 33 cents per meter	do.
87-HS-28	7117.19.30	Religious articles of a purely devotional character designed to be worn on apparel or carried on or about or attached to the person	do.
87-HS-29	7117.19.50	Other	do.

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
B.	Petitions to remove products from the list of eligible articles for the Generalized System of Preferences.(con.)		
	7307	Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel: Cast fittings: [Of nonmalleable cast iron]	
	7307.19	Other: [Ductile fittings]	
87-HS-30	7307.19.90	Other	American Pipe Fittings Association, Washington, DC
C.	Petitions to remove duty-free status from a beneficiary developing country on the list of eligible articles for the Generalized System of Preferences. 2/		
	2825	Hydrazine and hydroxylamine and their inorganic salts; other inorganic bases; other metal oxides, hydroxides and peroxides: [Articles provided for in subheadings 2825.10 thru 2825.80]	
	2825.90	Other: [Beryllium oxide and hydroxide; tin oxides; tungsten oxides]	
87-HS-31	2825.90.50 (Brazil)	Other	Teledyne Industries, Albany, OR
	3903	Polymers of styrene, in primary forms:	
87-HS-32	3903.30.00 (Korea)	Acrylonitrile-butadiene-styrene (ABS) copolymers	Borg-Warner Chemicals, Inc., Parkersburg, WV; Dow Chemical, USA, Midland, MI
	3924	Tableware, kitchenware, other household articles and toilet articles, of plastics:	
	3924.10	Tableware and kitchenware:	
87-HS-33	3924.10.20 (Hong Kong, Korea, Mexico)	Plates, cups, saucers, soup bowls, cereal bowls, sugar bowls, creamers, gravy boats, serving dishes and platters	Ullman Company, Inc., Hauppauge, NY
87-HS-34	3924.10.30 (Hong Kong, Korea, Mexico)	Trays	do.

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).

2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
	C. Petitions to remove duty-free status from a beneficiary developing country on the list of eligible articles for the Generalized System of Preferences. 2/ (con.)		
	7312	Stranded wire, ropes, cables, plaited bands, slings and the like, of iron or steel, not electrically insulated:	
	7312.10	Stranded wire, ropes and cables:	
		Ropes, cables and cordage other than stranded wire:	
		Of stainless steel:	
87-HS-35	7312.10.50 (Korea)	Fitted with fittings or made up into articles	Committee of Domestic Steel Wire Rope and Specialty Steel Mfg., Washington, DC
		Other:	
87-HS-36	7312.10.70 (Korea)	Fitted with fittings or made up into articles	do.
	7314	Cloth (including endless bands), grill, netting and fencing, of iron or steel wire; expanded metal of iron or steel:	
87-HS-37	7314.50.00 (Korea, Mexico)	Expanded metal	Expanded Metal Fair Trade Coalition, Washington, DC
	7414	Cloth (including endless bands), grill and netting, of copper wire; expanded metal of copper:	
		[Endless bands, for machinery]	
87-HS-38	7414.90.00 (Korea, Mexico)	Other	do.
	7604	Aluminum bars, rods and profiles:	
	7604.10	Of aluminum, not alloyed:	
		Bars and rods:	
87-HS-39	7604.10.30 (Argentina, Brazil, Mexico, Taiwan, Venezuela, Yugoslavia)	Having a round cross section	Southwire Company, Carrollton, GA
		Of aluminum alloys:	
		[Hollow profiles]	
	7604.29	Other:	
		Bars and rods:	
87-HS-40	7604.29.30 (Argentina, Brazil, Mexico, Taiwan, Venezuela, Yugoslavia)	Having a round cross section	do.

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).

2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
C.	Petitions to remove duty-free status from a beneficiary developing country on the list of eligible articles for the Generalized System of Preferences. 2/ (con.)		
	7605	Aluminum wire:	
		Of aluminum, not alloyed:	
87-HS-41	7605.11.00 (Argentina, Brazil, Venezuela)	Of which the maximum cross-sectional dimension exceeds 7 mm	Southwire Company, Carrollton, GA
87-HS-42	7605.19.00 (Argentina, Brazil, Venezuela)	Other	do.
		Of aluminum alloys:	
87-HS-43	7605.21.00 (Argentina, Brazil, Venezuela)	Of which the maximum cross-sectional dimension exceeds 7 mm	do.
87-HS-44	7605.29.00 (Brazil, Korea, Taiwan, Venezuela)	Other	do.
	7614	Stranded wire, cables, plaited bands and the like, including slings and similar articles, of aluminum, not electrically insulated:	
	7614.10	With steel core:	
87-HS-45	7614.10.50 (Argentina, Brazil, Venezuela)	Fitted with fittings or made up into articles	do.
	7614.90	Other:	
87-HS-46	7614.90.50 (Argentina, Brazil, Venezuela)	Fitted with fittings or made up into articles	do.

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
C.	Petitions to remove duty-free status from a beneficiary developing country or the list of eligible articles for the Generalized System of Preferences. 2/ (con.)		
	8501	Electric motors and generators (excluding generating sets): [Articles provided for in subheadings 8501.10 to 8501.40]	
	8501.52	Other AC motors, multi-phase: Of an output exceeding 750 W but not exceeding 75 kW:	
87-HS-47	8501.52.40 (Korea, Taiwan)	Exceeding 750 W but not exceeding 14.92 kW	National Electrical Manufacturers Association, Washington, DC
		Of an output exceeding 75 kW:	
87-HS-48	8501.53.60 (Korea, Taiwan)	[Exceeding 75 kW but under 149.2 kW] 149.2 kW or more but not exceeding 150 kW	do.
		Other:	
87-HS-49	8501.53.80 (Korea, Taiwan)	Exceeding 150 kW but not exceeding 373 kW	do.
	8525	Transmission apparatus for radiotelephony, radiotelegraphy, radiobroadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras:	
	8525.20	Transmission apparatus incorporating reception apparatus:	
		[Transceivers] Other: [Cordless handset telephones]	
87-HS-50	8525.20.60 (Hong Kong, Korea, Taiwan)	Other	Motorola, Inc., Schaumburg, IL
	9503	Other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof: [Articles provided for in subheadings 9503.10 thru 9503.80]	
	9503.90	Other: [Kites]	
87-HS-51	9503.90.40 (Korea, Taiwan)	Other	Hedstrom Corporation, Ashland, OH

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).

2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
C.		Petitions to remove duty-free status from a beneficiary developing country or the list of eligible articles for the Generalized System of Preferences. 2/ (con.)	
	9506	Articles and equipment for gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof: Balls, other than golf balls and table-tennis balls: [Lawn-tennis balls]	
	9506.62	Inflatable balls: [Footballs and soccer balls]	
87-HS-52	9506.62.80 (Korea, Taiwan)	Other	Hedstrom Corporation, Ashland, OH
	9506.69	Other: [Baseballs and softballs]	
87-HS-53	9506.69.40 (Korea, Taiwan)	Noninflatable hollow balls not over 19 cm in diameter	do.
87-HS-54	9506.69.60 (Korea, Taiwan)	Other	do.
	9606	Buttons, press-fasteners, snap-fasteners and press-studs, button molds and other parts of these articles; button blanks: Buttons:	
	9606.21	Of plastics, not covered with textile material: [Of casein]	
87-HS-55	9606.21.40 (Taiwan)	Of acrylic resin, of polyester resin or of both such resins	Cresthill Industries Inc., New York, NY

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).
2/ The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
	D.	Petitions for waiver of competitive-need limit for a product on the list of eligible products.	
	7011	Glass envelopes (including bulbs and tubes), open, and glass parts thereof, without fittings, for electric lamps, cathode-ray tubes or the like:	
87-HS-56	7011.20.00 (Taiwan)	For cathode-ray tubes	Clinton Electronics Corporation, Rockford, IL
	7113	Articles of jewelry and parts thereof, of precious metal or of metal clad with precious metal:	
	7113.11	Of precious metal whether or not plated or clad with precious metal:	
		Of silver, whether or not plated or clad with other precious metal:	
		[Articles provided for in subheading 7113.11.10]	
		Other:	
		[Valued not over $18 per dozen pieces or parts]	
87-HS-57	7113.11.50 (Thailand)	Other	Government of Thailand
	7113.19	Of other precious metal, whether or not plated or clad with precious metal:	
		[Articles provided for in subheading 7113.19.10]	
		Other:	
		[Necklaces and neck chains, of gold; clasps and parts thereof]	
87-HS-58	7113.19.50 (Thailand)	Other	do.
	7113.20	Of base metal clad with precious metal:	
		[Articles provided for in subheading 7113.20.10]	
		Other:	
		[Necklaces and neck chains, of gold; clasps and parts thereof]	
87-HS-59	7113.20.50 (Thailand)	Other	do.

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
D.	Petitions for waiver of competitive-need limit for a product on the list of eligible products.(con.)		
	7616	Other articles of aluminum: [Nails, tacks, staples (other than those of heading 8305), screws, bolts, nuts, screw hooks, rivets, cotters, cotter-pins, washers and similar articles]	
		Other:	
87-HS-60	7616.90.00(pt.) (Taiwan)	Luggage frames	Skyway Luggage Co., Seattle, WA
	8525	Transmission apparatus for radiotelephony, radiotelegraphy, radiobroadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras:	
	8525.20	Transmission apparatus incorporating reception apparatus:	
		[Transceivers]	
		Other:	
87-HS-61	8525.20.50 (Korea)	Cordless handset telephones	Maxon Electronics, Inc., Kansas City, MO
	8708	Parts and accessories of the motor vehicles of headings 8701 to 8705:	
		Brakes and servo-brakes and parts thereof:	
		[Mounted brake linings]	
	8708.39	Other:	
		[For tractors suitable for agricultural use]	
87-HS-62	8708.39.50 (Mexico)	For other vehicles	Cifunsa, S.A., Mexico
87-HS-63	8708.39.5010 (Mexico)	Brake drums and rotors (disc)	do.
87-HS-64	8708.39.5050 (Mexico)	Other	do.
	9503	Other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof: [Articles provided for in subheadings 9503.10 thru 9503.80]	
	9503.90	Other:	
		[Kites]	
87-HS-65	9503.90.40 (Mexico)	Other	Kenner Parker Toys, Inc., Beverly, MA; Mattel, Inc., Hawthorne, CA

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).

Annex II

Petitions Accepted for Review

Case No.	HS Subheading 1/	Article	Petitioner
D.	Petitions for waiver of competitive-need limit for a product on the list of eligible products.(con.)		
	9506	Articles and equipment for gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this chapter; swimming pools and wading pools; parts and accessories thereof: Balls, other than golf balls and table-tennis balls:	
	9506.62	[Lawn-tennis balls] Inflatable balls:	
87-HS-66	9506.62.80 (Mexico)	[Footballs and soccer balls] Other	Kenner Parker Toys, Inc., Beverly, MA; Mattel, Inc., Hawthorne, CA
	9506.69	Other:	
87-HS-67	9506.69.40 (Mexico)	[Baseballs and softballs] Noninflatable hollow balls not over 19 cm in diameter	do.
87-HS-68	9506.69.60 (Mexico)	Other	do.

1/ Proposed United States Tariff Schedules Annotated in the Harmonized System Nomenclature (GPO Stock Number: 040-000-00516-1).

[FR Doc. 87-17584 Filed 8-3-87; 8:45 am]
BILLING CODE 3190-01-C

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending July 24, 1987

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 45037

Parties: Members of International Air Transport Association.
Date filed: July 23, 1987.
Subject: Morocco fares increase.
Proposed effective date: August 1, 1987.

Docket No. 45038 R-1—R-6

Parties: Members of International Air Transport Association.
Date filed: July 23, 1987.
Subject: Specified cargo rates tables.
Proposed effective date: October 1, 1987.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 87-17634 Filed 8-3-87; 8:45 am]
BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended July 24, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45026

Date filed: July 20, 1987.
Due date for answers, conforming applications, or motion to modify scope: August 17, 1987.
Description: Application of Air Ruidoso, Ltd., pursuant to section 401 of the Act and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail between the terminal point Ruidoso, New Mexico, Albuquerque, New Mexico and the terminal point El Paso, Texas.

Docket No. 45027

Date filed: July 20, 1987.
Due date for answers, conforming applications, or motions to modify scope: August 17, 1987.
Description: Application of Air Nova, pursuant to section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit authorizing scheduled foreign air passenger transportation on small aircraft between Yarmouth, Nova Scotia, Canada and Boston (Logan International Airport), Massachusetts. Further requests back-up authority for Air Nova to perform scheduled foreign air passenger transportation on small aircraft between Saint John, New Brunswick, Canada and Boston; and to perform foreign air charter cargo and mail transportation to the extent permitted under existing bilateral provisions.

Docket No. 45029

Date filed: July 21, 1987.
Due date for answers, conforming applications, or motions to modify scope: August 18, 1987.
Description: Application of Aztec Aviation Consulting Ltd. d/b/a Skylink Airlines pursuant to section 402 of the Act and Subpart Q of the Regulations applies for a foreign air carrier permit authorizing it to engage in passengers, property and mail between Vancouver, British Columbia, Canada and Portland, Salem, Eugene, Medford, Oregon, with all flights to the U.S.A. originating or terminating in Vancouver.

Docket No. 45033

Date filed: July 22, 1987.
Due date for answers, conforming applications, or motions to modify scope: August 19, 1987.
Description: Application of Continental Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests a certificate of public convenience and necessity which will authorize Continental to provide foreign air transportation of persons, property and mail between Denver, Colorado and Vancouver, British Columbia, Canada.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 87-17635 Filed 8-3-87; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-87-17]

Petition for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: August 24, 1987.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A) 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11)

Issued in Washington, DC, on July 29, 1987.

Leonard R. Smith,
Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23139	Wylie Aircraft Corporation	14 CFR 91.31(a)	To allow petitioner to operate its McDonnell Douglas DC-6 series aircraft at a 5 percent increased zero fuel and landing weight for the purpose of competing with foreign operators operating under Part 129 of the FAR who are authorized to use the 5 percent increase in zero fuel and landing weight.
015NM	Avions Marcell Dassault-Breguet Aviation (J. Schmitt).	25.813.(E)	To permit installation or fixed partitions with doors in the cabin of FALCON 900 Aircraft.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
24541	Boeing Commercial Airplane Company.	14 CFR 91.45	To allow petitioner to conduct ferry flights with one engine inoperative on its Boeing manufactured 707, 720, 727, or 747 turbine-engine-powered transport catergory airplanes without obtaining a special flight permit. *Granted, July 17,1987.*
25297	NPA, Inc	14 CFR 135.337 and 135.339	To allow petitioner to use another British Aerospace instructor pilot to train petitioner's initial cadre of BA-3100A pilots. *Granted, July 17, 1987.*
25091	Garrett Turbine Engine Company	14 CFR 21.325 (b)(1) and (3)	To allow the issuance of export airworthiness approvals for engines, and parts thereof, assembled and tested under petitioner's Production Certificate No. 413, at the Rolls Royce facility located in East Kilbride, Scotland. *Granted, July 17, 1987.*
25158	Anchorage Air Center	14 CFR 141.91(a)	To allow petitioner to conduct flight and ground training in several villages in Alaska which are more than 25 miles from the petitioner's home base. *Denied, July 14, 1987.*
25205	Robert A. Hoover	14 CFR 91.213(a)(2)	To allow certain single-pilot operations during acrobatic flight demonstrations of North American Sabreliner, NA265-40, Serial No. 282-027, N61RH. *Denied, July 14, 1987*

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought, Disposition
24838	Department of the Air Force	91.24(b)	Petitioner is asking exemption from Federal Aviation Regulations (FAR) to allow aircraft to conduct flight operations above 12,500 feet means seal level (MSL) without having to operate the transponders of those aircraft. *Granted: June 29, 1987.*

[FR Doc. 87-17592 Filed 8-3-87; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Supplemental Environmental Impact Statement; Larimer County, CO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplemental Environmental Impact Statement will be prepared for a proposed highway project in Larimer County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Leon Witman, Division Aministrator, Federal Highway Administration, 555 Zang Street, Lakewood, Colorado 80228, Attention: Mr. Mike Herron, Telephone: (303) 236-3366.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Colorado Deparment of Highways, will prepare a Supplemental Environmental Impact Statement (SEIS) on a proposal to construct a new, limited-access highway known as the Fort Collins Expressway in Larimer County, Colorado. The original environmental impact statement for the expressway (FHWA-COLO-EIS-72-06-F) was approved in 1977.

The Fort Collins Expressway project will provide a divided, four-lane, limited-access highway to alleviate traffic congestion presently encountered by motorists who are using State Highway 14 and U.S. 287 routes through northern Fort Collins. It is intended to accommodate existing and projected traffic demand and to improve safety conditions.

This notice updates an earlier Notice of Intent that was published in the Monday, August 16, 1982, **Federal Register** (Vol. 47, No. 158).

The location and preliminary design of a portion of the proposed facility beginning at College Avenue (U.S. 287) and extending eight miles northwesterly past the town of Laporte have been approved. A five-mile-long portion bypassing Laporte is currently under construction. This first usable segment is initially being built with a two-lane roadway, expandable to four lanes in the future. However, substantial changes in the local street system and other developments have reduced the suitability of the approved route location east of College Avenue.

The portion of the expressway east of College Avenue is now being restudied to determine if a new route location would be appropriate. The lengths of project alternatives range from approximately 2½ miles to over 4 miles. These alternatives will include routes to take the expressway from College Avenue to the connection with either State Highway 14 or Interstate 25 east of the city of Fort Collins. Various corridors to provide these connections, as well as the no-build alternative will be evaluated in environmental studies leading to an SEIS.

This notification is being sent directly to agencies of Federal, State, and local governments which may have an interest in this project.

An initial scoping meeting was held December 8, 1982, in Fort Collins.

To ensure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties.

Agencies, organizations, and individuals interested in submitting comments and/or questions should direct them to the FHWA at the address provided above.

Issued on: July 22, 1987.

Leon Witman,

Division Administrator, Lakewood, Colorado.

[FR Doc. 87-17599 Filed 8-3-87; 8:45 am]
BILLING CODE 4910-22-M

Environmental Impact Statement; Wasco County, OR

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed bridge replacement in the City of The Dalles in Wasco County, Oregon.

FOR FURTHER INFORMATION CONTACT: Elton Chang, Environmental Coordinator and Safety Programs Engineer, Federal Highway Administration, Equitable Center, Suite 100, 530 Center NE., Salem, Oregon 97301, Telephone: (503) 399–5749.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation and the City of The Dalles, will prepare an environmental impact statement on a proposed project to replace the Mill Creek (West Sixth Street) Bridge in The Dalles with a new concrete structure. The existing bridge is eligible for the National Register of Historic Places but is obsolete in width and safety features. The proposed replacement bridge would provide wider travel lanes, sidewalks, and roadway shoulders. The proposed project is located on a main traffic arterial which connects the two main commercial areas within the City of The Dalles.

The proposed bridge replaces an obsolete, narrow structure with a new structure capable of handling existing and future traffic levels, and would subsequently improve the safety and efficiency of the arterial.

Alternatives being considered include replacing the bridge on the existing alignment, constructing an arterial on new alignment which would avoid impacting the existing bridge, and taking no action.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies. No formal scoping meeting is planned at this time. A public hearing for review and comment will be held after release of the document.

Comments or questions concerning this proposed action and the EIS should be directed to the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs" apply to this program.)

Issued on: July 27,1987.

Elton H. Chang,

Environment Coordinator/Safety Program Engineer.

[FR Doc. 87–17630 Filed 8–3–87; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: July 30, 1987.Q04

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Office listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB number: New
Form number: IRS Form 8598
Type of review: New collection
Title: Computation of Deductible Home Mortgage Interest
Description: IRC section 163(h) disallows personal interest as a deduction. Qualified residence interest paid on mortgage loans or residences is not treated as personal interest. The form is needed to determine the amount of qualified residence interest. The data is used to help verify the deduction claimed is proper.
Respondents: Individuals or households
Estimated burden: 14,343,430 hours

OMB number: 1545–0092
Form number: IRS Form 1041 and Schedules D, J, and K–1
Type of review: Revision
Title: U.S. Fiduciary Income Tax Return; Capital Gains and Losses; Trust Allocation of an Accumulation Distribution; Beneficiary's Share of Income, Deductions, Credits, etc.
Description: IRC section 6012 requires that an annual income tax return be filed for estates and trusts. Data used to determine that the estates, trusts, and beneficiaries filed the proper returns and paid the correct tax.
Respondents: Individuals or households, Businesses or other for-profit
Estimated burden: 7,005,180 hours

OMB number: 1545–0177
Form number: IRS Form 4684
Type of review: Extension
Title: Casualties and Thefts
Description: Form 4684 is used by all taxpayers to compute their gain or loss from casualty and thefts, and to summarize such gains and losses. The data is used to verify that the correct gain or loss has been reported.
Respondents: Individuals or households, Businesses or other for-profit, Small business or organizations
Estimated burden: 91,256 hours

OMB number: 1545–0936
Form number: IRS Form 8453
Type of review: Revision
Title: U.S. Individual Income Tax Return Declaration for Electronic Filing
Description: This form will be used to secure taxpayer signatures and declarations in conjunction with the Electronic Filing Pilot. This form, together with the electronic transmission, will comprise the taxpayer's income tax return.
Respondents: Individuals or households
Estimated burden: 29,565 hours
Clearance officer: Garrick Shear, (202) 566–6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Department Reports Management Officer.

[FR Doc. 87–17678 Filed 8–3–87; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

Availability of Harmonized System Advisory Classifications

AGENCY: Customs Service, Treasury.

ACTION: Notice of Availability of Harmonized System Advisory Classifications.

SUMMARY: This notice announces the availability of Harmonized System advisory classifications to interested members of the importing community.

DATES: A printed package of Harmonized Commodity Description and Coding System advisory rulings will be available July 31, 1987, and the last day of each month thereafter until the effective date of the Harmonized System.

ADDRESS AND FOR FURTHER INFORMATION: Legal Retrieval and Dissemination Branch, Office of Regulations and Rulings, 1301

Constitution Avenue, NW., Room 2321, Washington, DC 20229 (202–566–5095)

SUPPLEMENTARY INFORMATION:

Background

If approved by Congress, the Harmonized Commodity Description and Coding System (popularly known as the "Harmonized System") will replace the Tariff Schedules of the United States (TSUS) as the tariff code applicable to articles imported into the United States. The Harmonized System may become effective as early as Janaury 1, 1988.

In order to provide public notice of the possible change to the Harmonized System and to provide examples of the nomenclature and numerical coding employed under the Harmonized System, the United States Customs Service (Customs) has for several months been providing advisory classifications under the Harmonized System in certain of the ruling letters it has issued setting forth binding tariff classifications under the TSUS. The Harmonized System classifications provided in these letters have been accompanied by a caveat stressing that they constitute information of an advisory, nonbinding character and are not challengeable at the present time.

Customs has determined that there is significant public interest in these advisory Harmonized System classifications, notwithstanding their nonauthoritative status. Accordingly, Customs will make available to interested parties printed packages of recently issued ruling letters under the TSUS which also contain advisory Harmonized System classifications. These printed packages of ruling letters will be made available every month.

Persons wishing to receive these printed packages should make written requests to the office identified in the "Address and For Further Information Contact" portion of this document. Unless the requester states otherwise the advisory rulings will be automatically sent to the requester each month. The cost of each package will vary depending on the printing cost. An invoice will be enclosed with each package and subsequent packages will not be mailed to a requester until the invoice for the previous package is paid.

The initial package containing ruling letters, as described above, is now available.

Dated: July 27, 1987.

Richard R. Rosettie,

Acting Assistant Commissioner, Commercial Operations.

[FR Doc. 87–17533 Filed 8–3–87; 8:45 am]

BILLING CODE 4820–02–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) and indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Elaina Norden, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: July 29, 1987.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Extension

1. Department of Veterans Benefits
2. Offer to Rent Month-to-Month Basis and Credit Statement
3. VA Form 26–6725
4. This information is used as the credit statement and rental offer executed by prospective tenants of VA-owned properties. The information is needed to determine eligibility of applicants
5. On occasion
6. Individuals or households; Businesses or other for-profit
7. 100 responses
8. 33 hours
9. Not applicable.

[FR Doc. 87–17645 Filed 8–3–87; 8:45 am]

BILLING CODE 8320–01–M

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Elaina Norden, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: July 29, 1987.

By direction of the Administrator.

Raymond S. Blunt,

Director, Office of Program Analysis and Evaluation.

Extension

1. Office of Facilities
2. Supplement to SF–129, Solicitation Mailing List Application
3. VA Form 08–6299
4. This information is needed to determine specific interests of prospective bidders
5. Annually
6. Businesses or other for-profit and Small businesses or organizations
7. 3,000 responses
8. 500 hours
9. Not applicable.

[FR Doc. 87–17646 Filed 8–3–87; 8:45 am]

BILLING CODE 8320–01–M

CIVIL RIGHTS COMMISSION

Amended Notice of Hearing on Indian Civil Rights Issues; Change of Venue

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1983, Pub. L. 98–183, 97 Stat. 1304, that a public hearing on Indian civil rights issues before a Subcommittee of the U.S. Commission on Civil Rights has been relocated. The hearing will be held in Room 107 of the Social and Behavioral Sciences Building, Dubois Conference Center, Northern Arizona University, McConnell Circle South, Flagstaff, Arizona.

The purpose, dates, and time of the hearing remain the same as previously published in 52 FR 26365 (July 14, 1987).

Dated at Washington, D.C., August 3, 1987.

Clarence M. Pendleton, Jr.,

Chairman.

[FR Doc. 87–17858 Filed 4–3–87; 12:02 pm]

BILLING CODE 6335–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 149
Tuesday, August 4, 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 RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, August 10, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: July 31, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-17766 Filed 7-31-87; 3:49 pm]

BILLING CODE 6210-01-M

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 10:00 a.m., Wednesday, August 12, 1987.

PLACE: Eighth Floor, 1120 Vermont Avenue, NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Adjudication of cases dealing with subject matter jurisdiction and untimely petitions for review.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

Date: July 30, 1987.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 87-17683 Filed 7-30-87; 4:44 pm]

BILLING CODE 7400-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Open Consultation Notice

ACTION: Notice of consultation.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming open consultation to be held pursuant to the Government in the Sunshine Act, 5 U.S.C. 552b. Activities will include:

- Discussion of system planning oversight
- Presentation on status of contract negotiations
- Public comment.

DATE: August 6, 1987, 1:00 p.m.

ADDRESS: The meeting will be held in the Council's central office, 850 S.W. Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: John Marsh, 503-222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 87-17725 Filed 7-31-87; 3:26 pm]

BILLING CODE 0000-00-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

STATUS: Open.

TIME AND DATE: August 12, 1987, 1:30 p.m. and August 13, 1987, 9:00 a.m.

PLACE: Outlaw Inn, 1701 Highway 93 South, Kalispell, Montana.

MATTERS TO BE CONSIDERED:

1. Public Hearing on Proposed Model Conservation Standards for Regional Conservation Programs other than those for New Residential and Commercial Buildings.
2. Public Comment on Draft Analysis of Conservation Measures as required by Section 4(k) of the Northwest Power Act.
3. Staff Presentation on Heating Cost Comparison Study.
4. Council Decision to Enter Rulemaking on Umatilla Hatchery Amendment.
5. Staff Presentation on Yakima-Klickitat Outplanting Facility Master Plan Issue Paper.
6. Council Decision on Rock Island Settlement Amendment.
7. Public Comment on Proposed Guidelines on Notice of Meetings.
8. Council Business.
9. Public Comment.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Atkins at (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 87-17723 Filed 7-31-87; 1:22 pm]

BILLING CODE 0000-00-M

POSTAL SERVICE BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR 27609, July 22, 1987.

PREVIOUSLY ANNOUNCED DATE: August 4, 1987.

CHANGES IN THE MEETING: Addition of the following agenda item:

1. Officer Compensation.

CONTACT PERSON FOR MORE INFORMATION: Mr. David F. Harris, Secretary of the Board, (202) 268-4800.

David F. Harris,

Secretary.

[FR Doc. 87-17754 Filed 7-31-87; 2:28 pm]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 28509 July 30, 1987].

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Friday, July 24, 1987.

CHANGE IN THE MEETING: Additional item.

The following additional item will be considered at an open meeting on Thursday, August 6, 1987, at 10:00 a.m.

Consideration of whether to issue a release announcing the adoption of amendments to Securities Exchange Act Rule 15c3-3 involving the treatment of repurchase agreements by registered brokers and dealers. For further information, please contact Michael P. Jamroz at (202) 272-2398 or Michael A. Macchiaroli at (202) 272-2904.

Commissioner Peters, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Douglas Michael at (202) 272-2467.

Jonathan G. Katz,

Secretary.

July 30, 1987.

[FR Doc. 87-17721 Filed 7-31-87; 1:18 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 52, No. 149
Tuesday, August 4, 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 THE INTERIOR

Bureau of Land Management

[WASH-0844, WASH-04835, WASH-05804, OR-3347(WASH), OR-7308(WASH), OR-943-07-4220-11; GPD7-106]

Proposed Continuation of Withdrawals; Washington

Correction

In notice document 87-5342 appearing on page 7670 in the issue of Thursday, March 12, 1987, make the following correction:

In the second column, in the first line, "7309" should read "7308".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ORE-03393, ORE-06502, WASH-01318, OR-22-22444(WASH); OR-943-07-4220-11; GP-07-213]

Oregon/Washington; Proposed Continuation of Withdrawals

Correction

In notice document 87-13414 appearing on page 22542 in the issue of Friday, June 12, 1987, make the following correction:

In the first column, in the eighth line of text from the bottom, "89" should read "8" and in the fifth line of text from the bottom, insert "T." before "10".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Refuge-Specific Hunting Regulations

Correction

In proposed rule document 87-16781 beginning on page 27828 in the issue of Friday, July 24, 1987, make the following correction:

§ 32.32 [Corrected]

On page 27838, in § 32.32(oo)(1), paragraph designation "(i)" should read "(vi)".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

Addition to List of Labor Surplus Areas; Labor Surplus Area Classifications Under Executive Orders 12073 and 10582

Correction

In notice document 87-16868 appearing on page 27873 in the issue of Friday, July 24, 1987, make the following correction:

In the second column, in the table, in the left column, "Dameron"should read "Cameron".

BILLING CODE 1505-01-D

Federal Register

Tuesday
August 4, 1987

Part II

Department of Commerce

International Trade Administration

Overseas Trade Fair Certification Program; Support of Privately-Organized International Trade Events; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Fair Certification Program; Support of Privately-Organized International Trade Events

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Revisions to the Overseas Trade Fair Certification Program.

SUMMARY: This notice sets forth the revised objectives and application review criteria associated with the Department's Overseas Trade Fair Certification Program, its Program to recognize and support selected, privately organized, U.S. group participation in overseas trade fairs. This notice also describes revised application procedures for organizers of U.S. exhibitors wishing Certification or desiring further information or assistance with regard to the Program.

DATE: These revised administrative procedures are effective September 1, 1987.

ADDRESS: Export Promotion Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. David Earle, Room 2114, Marketing Programs, Export Promotion Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, 20230 (202–377–2525).

SUPPLEMENTARY INFORMATION: While the Department continues to manage its own U.S. Pavilions and solo exhibitions, it established the Overseas Trade Fair Certification Program in 1983 (**Federal Register, vol. 48, no. 93, pg. 21520**) to encourage qualified private sector fair organizers to recruit U.S. exhibitors for fairs overseas.

The revised Program set forth in this announcement provides the private sector with greater opportunities to work with the Commerce Department in support of overseas commercial fairs. The principal changes include:

- The minimum number of exhibitors is reduced from 20 to 10;
- The fair no longer must be "leading", but can be a "good" opportunity for U.S. exporters;
- The Business Information Office and U.S. Pavilion will be provided only if the post deems them essential for the successful marketing of U.S. products in that particular event;
- A $1,000 contribution is required upon Certification.

Certification confers Commerce Department endorsement and support to the private trade show organizer, trade association or any organization that is in the business to conduct trade shows overseas or to organize U.S. participation in international fairs overseas. By Certifying the organizer who assembles group participation for an event, the Program also indirectly serves the U.S. manufacturer seeking export opportunities.

Certification provides a means for the exporter to verify that selected fairs will be a good promotional medium. Prospective U.S. exhibitors at Certified events know Commerce will be on hand to assist them and to counsel them on exporting questions that may arise before or during the show.

In lieu of Commerce operating these fairs, private organizers assume this responsibility. The private sector party in every instance takes the initiative to request Certification. These requests could be for fair promotions overseas that the Department had not previously developed or for events that Commerce handled solo in the past, but now welcomes the private sector as the organizer. An organizer seeking certification for any fair must submit an application, even for a fair that has been previously Certified, in order for Commerce to evaluate current market conditions.

The Department limits Certification to those events, which in its judgment, most clearly meet the Department's program objectives and general selection criteria. A decision not to certify a particular event does not mean that the event should not be considered as a promotional tool by individual U.S. companies or group participation by U.S. industry.

The Commerce Department does not provide a subsidy to organizers or exhibitors of Certified events. The organizer contributes $1,000 to cover Commerce expenses supporting the organizer. The organizer may ask Commerce to perform additional services for which the post Senior Commercial Officer (SCO) will determine the appropriate and additional contribution to cover direct project expenses.

Certification and logo. Commerce provides each successful applicant with a certificate designating the particular event as Certified by the U.S. Department of Commerce. Commerce also provides the applicant with copies of the official Trade Fair Certification Program logo to use in advertising and promotional materials. Certification indicates that the Department has found the event to be a good market opportunity, warranting the participation of U.S. exporting firms. Certification is not intended—nor may it be characterized—as a U.S. Government guarantee of the success of the event or the proper performance of the undertakings of the organizer as to participants or other persons or organizations. Endorsement under this Certification Program indicates that specific organizers for specific fairs have met basic criteria and are prepared to carry out their projects in a way supporting export development objectives of the International Trade Administration (ITA).

Department of Commerce Support of Certified Events. The support provided for Certified events will differ depending on the specific needs identified by the organizer and the Department. Services may include special overseas marketing efforts by staff of the U.S. and Foreign Commercial Service, such as promotion to sales prospects on behalf of exhibitors, presence of commercial officers at the certified fair; publicity in appropriate Departmental periodicals; and trade specialists' advice to organizer and providing potential exhibitor lists when available.

General Criteria for Awarding Certification. Subject to Departmental budget and resource constraints, Certification will be granted to those events which, in the judgment of the Department most clearly and best meet the following criteria:

a. The event must be a good market opportunity for the industry(ies) it is featuring.

In applying this criterion, the Department may consider such factors as:

(i) The degree to which the event provides promise of foreign market exposure for the latest technology or techniques in an industry or a commercially recognized category of goods or services;

(ii) Whether the event provides a unique opportunity for export promotion within a particular market;

(iii) Whether the event is appropriate for and is likely to have a minimum of 10 U.S. industry participants; and

(iv) Whether such participants are likely to exhibit products or services representing U.S. industry in the particular field involved—the theme should represent the U.S. industry.

b. The event must have good potential for export promotion. In applying this criterion, the Department will consider:

(i) Whether the industry or target market of the event promises to attract foreign customers for U.S. products or services that represent a large

proportion of the universe of potential customers in country; and

(ii) The "marketability" of the overall industry products or services likely to be exhibited, i.e., the sales potential in the market area and suitability of the products or services to promotion by the specific exhibition technique identified in the application for certification.

c. The event must be one whose promotion and support would be consistent with the Department's overall export promotion program and its priorities for allocation of human resources and name association. In applying this criterion, the Department will consider such factors as the theme, timing and location and mode of exhibition, and whether under the relevant circumstances, Department of Commerce support would contribute to the enhancement of exports by the industry(ies). The Commerce Department reserves the right to "decertify" an event at any time after Certification is granted if it thinks that the organizer has not or is not likely to meet the stated Certification criteria.

d. The applicant for Certification must demonstrate:

(i) Financial capability and personnel resources sufficient to guarantee planning and implementation of a successful event, including, but not limited to having a U.S. office or appropriate representative for recruitment of participants and capability to provide exhibition and sundry trade services to exhibitors.

(ii) Experience in trade fair management or qualifications in related marketing disciplines;

(iii) A high-level management commitment to develop and execute the trade event. In particular, the applicant must provide documentation showing a firm agreement committing both the applicant and the lessor of exhibit space at the event to lease the necessary exhibition space. Leasing arrangements for such space cannot be made contingent on Certification of the event;

(iv) Commitment that at least 10 individual U.S. companies will participate in the event;

(v) The ability and commitment to provide a comprehensive show management and marketing effort, including ability to identify and seek participation by small and medium-sized, or new-to-market companies; and

(iv) The ability and commitment to satisfy U.S. companies exhibitor needs by arranging or providing exhibition services which normally include booth design and construction, transportation of display, cleaning services and market promotion.

Specific Department of Commerce Actions and Responsibilities. For certified events, the Department of Commerce will:

a. Authorize the use of a Department of Commerce "Trade fair Certification" logo and other Department of Commerce approved references that indicate that an agency of the United States Government recognizes and supports the show.

b. Make general announcement to appropriate Commerce units (district offices, US&FCS overseas) and other private organizations, such as trade associations, Chambers of Commerce, etc., that the Department of Commerce has recognized the exhibition under the Certification Program.

c. Provide a letter accepting the show under the Certification Program and a suggested news release for the organizer to use in public relations campaigns/activities.

d. Assist in marketing the event through the following actions if requested by the organizer:

(i) The SCO will furnish the organizer with a list of key local government entities, associations, distributors, agents, etc., prepared by his staff;

(ii) Resources permitting, US&FCS officers may cooperate with organizer and local representatives of U.S. companies participating in the event, in a variety of pre-show market promotions to foreign customers, key buying organizations or key decision-makers on behalf of U.S. companies participating in the event; and

(iii) The International Trade Administration units such as International Economic Policy country desk officers and Trade Development industry offices can provide on request, and to the extent available, pertinent market information, U.S. industry export potential and advice on how to contract with and service overseas buyers.

e. Encourage potential exhibitors, either in the normal course of their counseling of U.S. firms or through contacts with business or trade associations, to take advantage of the certified fair, and respond to inquiries regarding opportunities afforded by the event.

f. Upon the request of the organizer, provide a Department of Commerce representative for duty at the show (generally stationed overseas). The period of time and nature of support required are to be specifically identified in the organizer's application and agreed to by the Senior Commercial Officer.

Specific Responsibilities of the Organizer. Subject to any specific agreement between the Department of Commerce and the organizer, the responsibilities of the organizer of a certified event are as follows:

a. Designate an individual on the organizer's staff to work on all aspects of the show with Department of Commerce personnel assigned to coordinate activities for the exhibition.

b. Make a $1,000 contribution to the Department of Commerce upon acceptance of the event as Certified.

c. Provide the following exhibition services:

(i) Display space comparable with industry standards for trade events;

(ii) Forwarding and exhibit set-up services including, but not limited to: Unloading participant's equipment at the exhibition site; delivery to the participants' booth, unpacking, placement in display area, storing packing crates, repacking and loading for onward shipment, customs clearance; and any other services required to assure the prompt and orderly receipt and dispatch of materials in and out of an exhibition site; all at the control of the exhibitor;

(iii) Installation of a display system, chairs, tables, standard company identification and standard agent identification signs;

(iv) Normal utilities and hook-up services; and

(v) Assistance in hiring interpreters, clerical personnel or booth attendants required by participants. All fees to be charged to participants for standard and supplementary services must be stated in the organizer's application and be within a reasonable range of such charges in the market as can be verified by the Department of Commerce's Certification staff.

d. Undertake, as appropriate, a comprehensive promotional campaign, such as in-country pre-show press meetings, conferences and meetings to reach importers, distributors, agents, buyers and end-users.

e. Provide at no cost to the U.S. Government, space for use by the post in the form of a Business Information Office (BIO) if required by the SCO because of market conditions. This space (BIO) will be where contacts between U.S. exhibitors and foreign customers can be facilitated by a U.S. Government representative. Also, if host post determines it essential, group U.S. exhibitors in U.S. Pavilion co-located with the BIO.

f. Organizer must focus recruitment mailings and direct solicitations on small- and medium-sized, new-to-market U.S. firms in keeping with the identical Commerce Department mandate.

g. Subject to Departmental guidelines, pay per diem and travel-related

expenses for U.S. Department of Commerce employee(s) whom the organizer has requested.

h. Provide an end of show review to the Senior Commercial Officer within 14 days of show close. This review should be incorporated in an overall report from post for use in evaluating the success of the event, the effectiveness of support provided by the Department, and the organizer's performance of Certification criteria. The end of show report shall include, but not be limited to: number of business visitors, off-the-floor sales, future sales estimates, evaluation of exhibitors' objectives met or unmet. Other statistical data may at times be requested of the organizer by the Department.

When, Where, and how to Apply for Trade Fair Certification. Applications for Certification should be received by the Department one (1) year before the scheduled date of the event. To ensure the availability of Department resources and to fully anticipate workload associated with support provided to organizers, the Department may reject any application received later than that date. An application is not considered to have been received for purposes of this rule until it is complete in all material respects.

H. Michael Stevens,

Manager, Export Promotion Services.

[FR Doc. 87-17583 Filed 8-3-87; 8:45 am]

BILLING CODE 3510-FP-M

Federal Register

Tuesday
August 4, 1987

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121, 125, 127, 129, and 135
Special Federal Aviation Regulation No. 38; Certification and Operating Requirements; Final Rule; Request for Comments

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, 127, 129, and 135

[Docket No. 18510; SFAR No. 38-4]

Special Federal Aviation Regulation No. 38; Certification and Operating Requirements

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment reinstates Special Federal Aviation Regulation [SFAR] No. 38-2 (50 FR 23941; June 7, 1985) and establishes a new termination date. The SFAR 38-2 was previously amended by SFAR 38-3 (51 FR 17274; May 9, 1986) to extend its termination date to allow time for the FAA, in a separate rulemaking action, to prepare a Notice of Proposed Rulemaking (NPRM) that would consolidate the certification rules now in Parts 121 and 135 into a new part of the Federal Aviation Regulations (FAR). This NPRM would also propose incorporating the necessary portions of SFAR 38-2 into the FAR. Having generally reviewed the FAA regulations to determine the most appropriate response to the Airline Deregulation Act of 1978 [ADA] and the termination of CAB functions following the CAB sunset, the FAA now concludes that it is necessary to renew the effectiveness of SFAR 38-2 and to establish a new termination date to allow time for the FAA to complete the rulemaking process that will consolidate the certification rules and incorporate SFAR 38-2 into the FAR. The termination date for reinstated SFAR 38-2 is June 1, 1989. The FAA intends to publish a notice rescinding SFAR 38-2 and a final rule incorporating SFAR 38-2 into the FAR concurrently in the **Federal Register.**

DATES: Effective date August 4, 1987. Comments must be received on or before October 5, 1987.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 18518, 800 Independence Avenue, SW., Washington DC 20591, or deliver comments in duplicate to: Federal Aviation Administration, Rules Docket, Room 916, 800 Independence Avenue SW., Washington, DC. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Coffey, Project Development Branch, AFS-240, Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (202) 267-3750.

SUPPLEMENTARY INFORMATION:

Background

On December 12, 1978, the FAA promulgated SFAR 38 (43 FR 58366; December 14, 1978) in consequence of the ADA (Pub. L. 95-504, 92 Stat. 1705). That Act expresses the Congressional intent that the Federal Government diminish its involvement in regulating the economic aspects of the airline industry. To accomplish this, Congress directed that the CAB be abolished on December 31, 1984, and that various of its functions cease before that date. Anticipating its sunset, the CAB itself curtailed or suspended much of its regulatory activity during the period 1979-1984. On October 4, 1984, additional legislation was enacted further defining the process of CAB sunset. On January 1, 1985, the remaining CAB functions were transferred to the Department of Transportation (DOT).

Because some aspects of FAA safety regulation relied upon CAB definitions and authority, the FAA found it necessary in 1978 to adopt an interim measure to provide for an orderly transition from CAB and FAA interlocking authority to a regulatory regime with no CAB in existence. This action was consistent with the Congressional directive contained in section 107(a) of the Act that the deregulation of airline economics result in no diminution of the high standard of safety in air transportation that existed when the ADA was enacted. The SFAR 38 set forth FAA certification and operating requirements applicable to all "air commerce" and "air transportation" operations for "compensation or hire." (SFAR 38 did not address Part 133 External Load Operations, Part 137 Agriculture Aircraft Operations, or Part 91 training and other special purpose operations.)

On December 27, 1984, the FAA adopted SFAR 38-1 (50 FR 450; January 4, 1985), which merely extended the termination date of the regulation and allowed the FAA time to propose and receive comments on revising SFAR 38.

On May 28, 1985, the FAA adopted SFAR 38-2, which updated SFAR 38 in light of changes since 1978 and clarified provisions stating which FAA regulations apply to each air carrier and each type of operation. This action was necessary because of the changes in the air transportation industry brought about by economic deregulation. Before deregulation, economic certificates were fairly rigidly compartmentalized and each air carrier typically was authorized to conduct only one type of operation (domestic, flag, or charter (supplemental)). The safety certificate issued to the air carrier by the FAA paralleled the authorization granted in the air carrier's economic certificate. Economic deregulation broke down the barriers between the various types of operations. The economic authority granted an air carrier by the DOT is no longer indicative of the safety regulations applicable to the type of operation authorized by the FAA. Thus, it was necessary for the FAA to establish guidelines to determine what safety standards were applicable to an air carrier's particular operation.

On May 8, 1986, the FAA adopted SFAR 38-3, which merely extended the termination date of SFAR 38-2 to allow the FAA time to incorporate its contents into an NPRM that will propose consolidation of the certification rules in Parts 121 and 135, and will incorporate various provisions of SFAR 38-2 into a new part of the FAR.

Good Cause Justification for Immediate Adoption

Because of unavoidable, administrative delays, SFAR 38-2 terminated on June 1, 1987. The reasons which justified the adoption, and the subsequent revision, of SFAR 38 still exist. Therefore, it is in the public interest to reinstate SFAR 38-2 and to establish a new termination date of June 1, 1989, although the FAA anticipates that a final rule incorporating SFAR 38-2 into the FAR will be published before then. If it is, a notice rescinding SFAR 38-2 will be published concurrently. This action is necessary to permit continued operations under SFAR 38, as amended, and to avoid confusion in the administration of FAA regulations regarding operating certificates and operating requirements.

For this reason, and because this amendment continues in effect the provisions of a currently effective SFAR and imposes no additional burden on any person, I find that notice and public procedures are unnecessary, impracticable, and contrary to the public interest, and that the amendment should be made effective in less than 30 days after publication. 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 above. All communications received on or before the close of the comment period will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties.

Trade Impact Statement

The FAA finds that this amendment will have no impact on international trade.

Conclusion

The FAA has determined that this document involves an amendment that imposes no additional burden on any person. Accordingly, it has been determined that: The action does not involve a major rule under Executive Order 12291; it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and its anticipated impact is so minimal that a full regulatory evaluation is not required.

List of Subjects

14 CFR Part 121

Air carrier, Aircraft, Airmen, Air transportation, Aviation safety.

14 CFR Part 125

Aircraft, Airmen, Airports, Airspace, Air traffic control, Air transportation, Chemicals, Children, Drugs, Flammable materials, Handicapped, Hazardous materials, Infants, Smoking.

14 CFR Part 127

Air carriers, Aircraft, Airmen, Airworthiness.

14 CFR Part 129

Air carriers, Aircraft, Air transportation, Aviation safety, Safety.

14 CFR Part 135

Air carriers, Aircraft, Airmen, Air taxis, Air transportation, Airworthiness, Aviation safety, Safety.

Adoption of the Amendment

In consideration of the foregoing SFAR 38–2 (14 CFR Parts 121, 125, 127, 129, and 135) of the Federal Aviation Regulations is amended as follows:

PART 121—[AMENDED]

1. The authority citation for Part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, 1423, 1424, and 1502; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983).

PART 125—[AMENDED]

2. The authority citation for Part 125 continues to read as follows:

Authority: 49 U.S.C. 1354, 1421 through 1430, and 1502; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983).

PART 127—[AMENDED]

3. The authority citation for Part 127 is revised to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, 1422, 1423, 1424, 1425, 1430; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983).

PART 129—[AMENDED]

4. The authority citation for Part 129 is revised to read as follows:

Authority: 49 U.S.C. 1346, 1354(a), 1356, 1357, 1421, 1502, and 1511; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983).

PART 135—[AMENDED]

5. The authority citation for Part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983).

6. Special Federal Aviation Regulation No. 38–2 is reinstated and the last paragraph is amended by removing the words "June 1, 1987", and adding in place thereof the words, "June 1, 1989."

Issued in Washington, DC, on July 15 1987.

Robert E. Whittington,

Acting Administrator.

[FR Doc. 87–17593 Filed 8–3–87; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Tuesday
August 4, 1987

Part IV

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Solicitation of Applications for a Grant Program To Provide Support for Private Nonprofit Missing Children's Agencies Service Activities; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Solicitation of Applications for a Grant Program To Provide Support for Private Nonprofit Missing Childrens' Agencies Service Activities

AGENCY: Office of Juvenile Justice and Delinquency Prevention; Justice.

ACTION: Notice of a solicitation of applications for a grant program to provide support for private nonprofit children's agencies service activities.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to section 406(a)(1)(2)(3)(4) of the Missing Children's Assistance Act, Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, invites applications by private nonprofit voluntary organizations (PVOs) currently serving missing and exploited children for the establishment or expansion of service components designed to educate parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children; and/or to provide information to assist in the locating or return of such missing children; and/or to aid communities in the collection of materials which would be useful to parents in assisting others in the identification of such missing children; and/or to provide treatment pertaining to the psychological consequences on both parents and children of the abduction of a child or the sexual exploitation of a missing child.

OJJDP's National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP) invites eligible private nonprofit voluntary organizations to request the application kit which contains detailed forms and instructions. However, organizations that received grants under a similar solicitation of December 11, 1986 (Federal Register Vol. 51, No. 238) are not eligible for funding and will not be considered.

Up to $250,000 is available for award to qualified projects. Up to 20 awards, ranging in amount from $3,000 to $25,000, are anticipated.

DATE: All applications will be reviewed and acceptable applications processed in the order that they are received, to the extent that funds remain available, or until September 7, 1987.

FOR FURTHER INFORMATION CONTACT: Sylvia Sutton, Program Specialist, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531, (202) 724–7573.

SUPPLEMENTARY INFORMATION:

I. *Introduction and Background.* Funds to provide support to private nonprofit missing children's services agencies in the amount of $250,000 have been reserved for award to qualified PVOs in grants ranging from $3,000 to $25,000. Grants will be awarded for service programs designed to educate parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children, to provide information to assist in the locating and return of missing children, to aid communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children, and/or to provide treatment pertaining to the psychological consequences on both parents and children of the abduction of a child or the sexual exploitation of a missing child.

II. *Program Goals and Objectives.* The goal of the program is to enhance the capacity of private missing children's agencies that utilize volunteers to provide direct support and services to individuals, families and communities impacted by the missing children problem and thus to assist them to become more effective direct service provider organizations.

The objective of the program is to assist PVO's to establish or expand critical missing and exploited children services by providing supplemental funding to support putting into place the administrative, operational and program costs associated with the provision of such services.

III. *Eligibility Criteria.* Eligible applicants are private nonprofit voluntary service organizations whose primary organizational mission is directly related to the problem of missing and exploited children. In order to receive assistance, applicants will be required to give assurance that they will expend, to the greatest extent practicable for the year of award, an amount of funds (without regard to any funds received under any other Federal law) that is not less than the amount of funds for missing and exploited children's activities that they received in the preceding year from State, local, and private sources. This means that the organization must have been in operation and that the Federal grant funds must supplement or be in addition to the applicant's operating budget level of the previous year. Organizations that have received grants from this Office in 1987 are not eligible for awards and should not apply

IV. *Dollar Amount and Duration.* Up to $250,000 is available in Fiscal Year 1987 for awards to qualified projects. Up to 20 awards, ranging in amount from $3,000 to $25,000, are anticipated.

Applications will be reviewed in the order received. Once an applicant is determined to be: (1) Eligible; and (2) qualified for funding through the submission of a complete (see Sec III and Sec V, 1–13) acceptable proposal, OJJDP will enter into negotiations with the applicant to address issues that may be present in program or budget and, if these can be satisfactorily resolved, will process the application for final review approval and award or disapproval by the OJJDP Administrator. Applications will be funded for a single budget period, not to exceed one year, as determined by project need. No additional supplemental or continuation funding is anticipated.

V. *Application Requirements.* Eligible PVOs are required to submit:

1. A fully complete application (Short Form SF 424), from the Program Application Kit, please submit an original and three (3) copies.

2. The PVO must be incorporated as a nonprofit organization, be in good standing in the state of incorporation, and be recognized by the Internal Revenue Service as a 501(c)(3) tax-exempt organization. A copy of the IRS letter of tax-exemption status must be provided.

3. A brief description of sample tasks or activities to be supported which address an identified problem or need and provide services in the area of missing and exploited children, *specifically* those which are designed:

(a) To educate parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;

(b) To provide information to assist in the locating and return of such missing children;

(c) To aid communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children; and/or

(d) To provide treatment pertaining to the psychological consequences on both parents and children of the abduction of a child or the sexual exploitation of a missing child.

4. A brief history of the organization, including the date of incorporation, the organizational goals and objectives, and examples of accomplishments that demonstrate competence in carrying out missing children activities, with emphasis on those described under 3. above, and a brief description of how

the activities proposed to be funded will contribute to the achievement of the goals and objectives.

5. A letter of endorsement from the District Attorney or an active judge of the jurisdiction.

6. A statement supporting the need for and feasibility of carrying out the proposed activity in the community served.

7. The extent to which the applicant has obtained a commitment for the contribution of money or services from other specified sources to assist in carrying out the proposed activities will be viewed as additional evidence supporting the need for the project activity.

8. A roster of the Board of Directors, listing their occupations and affiliations, as appropriate.

9. A statement of the principal objectives of the project and a plan of action to accomplish those objectives, including the following:

(a) A brief description of the qualifications of the individuals who will be primarily responsible for carrying out project activities; and

(b) A schedule of proposed activities and an estimated timetable to complete each activity of the project;

(c) A budget by specific elements and a brief narrative justifying the proposed expenditures.

10. A brief proposed plan for obtaining financial support to continue the funded activity following the period of Federal support.

11. A description of the extent to which volunteer assistance will be utilized in carrying out the project activity funded under the grant.

12. The most recent financial statement or audit, if available.

13. A description of how the success of the funded activities will be determined and reported.

VI. *Funding Criteria.* The application will be screened and rated by a panel of reviewers. Individuals who screen the applications will give consideration to the factors listed below.

1. Appropriateness of project tasks or activities in furthering the eligible services specified under V. 3. above, which are taken from Section 406(a)(1)(2)(3)(4) of the Missing Children's Assistance Act. Clarity of the proposal and establishment of need are important considerations.

2. Feasibility of the proposal and clear objectives.

3. Qualifications of the individuals involved to carry out project activity.

4. Extent to which the applicant organization has demonstrated a track record of success, or has designed a project which demonstrates a clear likelihood of success, in locating missing children or locating and reuniting missing children with their legal guardian *or* providing other eligible program services to missing children or their families.

5. The extent to which the applicant has and will substantially utilize volunteer services.

6. Cost effectiveness of the budget and adequacy of plan for obtaining financial support to continue the funded activity following the period of federal support.

7. Procedures to determine and report project success.

VII. *Submission of Applications.* Applicants who are interested in responding to this solicitation are requested to apply to:

Sylvia Sutton, Program Specialist,
OJJDP/NIJJDP, U.S. Dept. of Justice,
633 Indiana Ave., NW., Room 700,
Washington, DC 20531, 202–724–7573

for an application kit. The kit will contain all required forms and instructions to complete an application.

VIII. *Definitions. Tax Exempt Organization*—A PVO which has incorporated as a nonprofit in a state will not in itself suffice as a tax exempt organization. Eligible PVOs must be recognized by the Internal Revenue Service as a 501(c)(3) organization at the time of application for a grant. PVOs which have not received this formal exemption may apply for a grant jointly through co-applicancy with a qualified 501(c)(3) organization.

Approved:

Verne L. Speirs,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 87–17642 Filed 8–3–87; 8:45 am]

BILLING CODE 4410–36–M

Federal Register

Tuesday
August 4, 1987

Part V

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Fossil-Fuel-Fired Steam Generators; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3127-8]

Standards of Performance for New Stationary Sources; Fossil-Fuel-Fired Steam Generators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Central Illinois Public Service Company (CIPS) petitioned the Environmental Protection Agency (EPA) to amend 40 CFR Part 60, Subpart D, as it applies to sulfur dioxide (SO_2) emissions from the two steam generating units (boilers) at its Newton Power Station in Jasper County, Illinois. The EPA is today amending Subpart D as it applies to these two boilers to provide an alternative method of compliance. The amendment would lower the cost of compliance while yielding SO_2 emissions less than current or projected emission levels under Subpart D.

EFFECTIVE DATE: August 4, 1987.

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

ADDRESS: *Response to Public Comments.* Major comments made on the proposed amendment are summarized, along with EPA's responses, in today's **Federal Register.** Minor comments have been responded to in a memorandum which may be obtained from docket number A–84–01 at the address indicated below, or from the Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578. Please refer to docket item number V–C–1.

Docket. A docket, number A–84–01, containing all of the comments as well as other information considered by EPA in developing this rule, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE–131), West Tower Lobby, Gallery 1, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5568.

SUPPLEMENTARY INFORMATION:

I. Approval of Alternative Compliance Method for CIPS

Legal Basis

Section 111 of the CAA requires the Administrator to establish and enforce certain "standards of performance for new stationary sources." These new source performance standards (NSPS) are intended to reduce emissions, consistent with consideration of costs and other impacts. *Portland Cement Ass'n.* v. *Ruckelshaus*, 486 F.2d 375 (D.C. Cir. 1973), *cert. denied* 417 U.S. 921 (1974); *Essex Chemical Corp.* v. *Ruckelshaus*, 486 F.2d 417 (D.C. Cir. 1973), *cert. denied* 416 U.S. 969 (1974); *Portland Cement Ass'n* v. *Train*, 513 F.2d 506 (D.C. Cir. 1975), *cert. denied* 423 U.S. 1025 (1975).

The NSPS for sulfur dioxide emissions applicable to the Newton units is an emission limit for SO_2 of 1.2 pounds per million Btu (lb/MM Btu) (40 CFR 60.43). The final rulemaking being promulgated in today's notice is not a separate NSPS from Subpart D; rather, it is an alternative method of determining compliance with Subpart D for CIPS' Newton Units 1 and 2. This alternative method of compliance is termed a compliance "bubble" because SO_2 emissions from Units 1 and 2 are averaged together as though the units are under an imaginary "bubble," subject to conditions designed to assure overall emission rates less than those which would be produced by facility-by-facility compliance with Subpart D without the bubble. Two important elements of the compliance bubble, the combined emission limit of 1.1 lb SO_2/MM Btu and use of a 30-day rolling average for computing the SO_2 emission rate, differ from Subpart D as it applies to other boilers. In addition, the bubble contains more protective requirements regarding treatment of emissions during periods of control equipment malfunction and requires that compliance be determined by continuous emission monitoring systems (CEMS) which otherwise would not be required under Subpart D. For these and other reasons, as described in the following sections of this notice, EPA has determined that emissions under the bubble will be less than estimated emissions under the present form of the Subpart D standard of performance applied to Units 1 and 2 separately. For this reason and other reasons discussed in detail in the section entitled DISCUSSION OF COMMENTS, the CIPS compliance bubble is consistent with the emissions-reducing purposes of Section 111 and Subpart D.

Summary of Action and Impacts

CIPS operates two 600 megawatt (electrical output) coal-fired steam generating units at its Newton power station in Jasper County, Illinois. Unit 1 has been operated since 1979, and is equipped with a dual alkali flue gas desulfurization system (DAFGDS) to reduce SO_2 emissions. Unit 2, which came on-line in December 1982, has been fired with a low sulfur compliance coal. Both units are subject to the NSPS requirements of Subpart D for fossil-fuel-fired boilers. The amendment to Subpart D promulgated today creates an alternative way in which the Newton units may comply with Subpart D.

On October 1, 1982, CIPS petitioned EPA to allow the Newton units to demonstrate compliance with the SO_2 standard by averaging emissions from the two units, that is, by treating them as one unit under an imaginary "bubble." CIPS files a supplemental petition on November 30, 1983. On January 25, 1985, EPA proposed to grant CIPS' request provided that SO_2 emissions from the two units, calculated as a 30-day rolling average, did not exceed 1.1 lb/MM Btu, and that CIPS install continuous emission monitoring systems (CEMS) on each unit for the purpose of determining compliance on a continuous basis.

As EPA proposed, the bubble approved today establishes an alternative combined SO_2 emission limit of 1.1 lb/MM Btu for Newton Units 1 and 2. Compliance will be determined by daily calculations of the average emission rate for the most recent 30 days of boiler operation. Approval of this compliance bubble is based on the Administrator's determination that the bubble will result in SO_2 emission rates that are lower than the rates that would be achieved from the Newton units without the bubble,[1] that it will result in

[1] As discussed in detail later in this notice, it is EPA's judgment that emissions under the bubble will be lower than they would be without the bubble. This more than satisfies the criterion for future NSPS bubble approvals, also discussed later in this notice, that bubble emissions be no greater than emissions without the bubble. Thus, even if the projected emissions under this CIPS bubble were somewhat greater, the Administrator still would approve the bubble, provided that the bubble emissions would not exceed the non-bubble emissions.

reduced costs of compliance, that the DAFGDS on Unit 1 is essentially different from the technologies selected as representative of best demonstrated technology (BDT), and that the inclusion of continuous monitoring provisions will ensure continuous compliance with the bubble emission limit. These findings are consistent with the criteria for future NSPS bubble approvals as described below in the section entitled BUBBLE POLICY.

As described in more detail in the CIPS bubble proposal (50 FR 3691), the Administrator has found that the DAFGDS on Unit 1 represents a technology essentially different from the technologies selected as representative of BDT during the development of Subpart D. The DAFGDS on Unit 1 is a technology with a higher scrubbing efficiency than the efficiencies of the lime/limestone flue gas desulfurization (FGD) systems that were recognized as BDT. The EPA believes that the DAFGDS, along with additional improvements to the system planned by CIPS, represents technology that will have SO_2 removal capabilities superior to those of conventional limestone slurry FGD systems. The DAFGDS not only represents essentially different technology than the technology representative of BDT, but the SO_2 removal capacity of the DAFGDS will be used to a much greater extent under the bubble than under the baseline. Therefore, it is appropriate to allow CIPS credit for the additional emission-reducing capability of the DAFGDS.

Today's amendment requires continuous SO_2 monitoring systems on each stack and systems for monitoring heat input (or other indirect indicators of heat input) for the purpose of computing the combined emission rate from the two units. The combined emission rate will be a weighted average based on the heat input to each unit.

An additional provision of the rule, as proposed, is a 250-hour limit on the amount of time CIPS can claim as control equipment malfunctions under § 60.8(c). Also, after 16 continuous hours of a control equipment malfunction, the owner or operator is to begin loading low sulfur coal from the Unit 2 coal supply into the Unit 1 bunker, and continue to load Unit 2 coal for the duration of the malfunction. Once 250 hours of emissions data have been excluded from the compliance calculations, all emissions data for the remainder of the calendar year are to be included in the calculations of the 30-day rolling averages used to determine compliance with the 1.1 lb MM/Btu combined emission limit. These provisions are substantially more protective than existing Subpart D, which contains no ceiling on the amount of malfunction time that can be excluded from emissions calculations.

To reduce scrubber operation costs, CIPS currently operates a variable bypass which can be used to discharge a portion of the Unit 1 flue gas directly to the atmosphere before it is scrubbed by the DAFGDS. In order to assure that the bubble would yield actual emission reductions at least as great as those produced by facility-by-facility compliance with the NSPS under all potential operating conditions, CIPS is prohibited from using the bypass at all times except during periods of malfunctions, start-up, or shut-down. The practical effect of this provision will be to secure significantly greater than equivalent emission reductions under the operating conditions expected for the bubble.

Based on EPA's analysis, implementation of this compliance bubble would result in lower SO_2 emission rates from the two Newton units than what would be achieved by facility-by-facility compliance with Subpart D. CIPS has estimated that cost savings under the bubble it requested could total an estimated $22 million per year. The actual savings will depend on relative fuel prices and other factors, and will probably be lower than CIPS originally estimated, although still significant (on the order of several million dollars per year, as presented in IV-B-12).[2] No other environmental or economic impacts are anticipated as the result of today's amendment.

Determination of Bubble Emissions

An important consideration in the Administrator's decision to propose the bubble was the projection that the bubble and its provisions would achieve an emission reduction greater than the emission reduction obtained by compliance with the NSPS without the bubble.[3] At proposal, EPA assumed that, without the bubble, average emissions from Unit 1 were 1.0 to 1.1 lb/MM Btu, and from Unit 2 were 1.01 lb/MM Btu (50 FR 3690). The EPA concluded that emissions from the two units together would have to average 0.95 lb/MM Btu in order to comply with the bubble. *Id.* The EPA also concluded that emissions would be lower with the bubble than without it.

The EPA has refined its estimates of emissions from the Newton units with and without the bubble.[4] In addition, EPA has revised its assumptions about the types of Midwestern coals that would be fired in Newton Unit 2 under the bubble. As discussed below, the refined estimates confirm that emissions would be lower with the bubble than without it.

To estimate SO_2 emissions from the Newton power station as it complies with Subpart D without the bubble, EPA obtained daily average SO_2 emissions data from CIPS for Newton Unit 1 and fuel sampling and analysis data on the sulfur content of the Unit 2 coal supply (IV–B–2; IV–D–204; IV–D–205; IV–J–1. Previously, in 1983, CIPS had stated its intention to operate Unit 1 in compliance with the 1.2 lb SO_2 emission limit of Subpart D such that emissions from the DAFGDS would range from 1.0 to 1.1 lb SO_2 MM/Btu, and demonstrated the ability to operate the scrubber at the upper end of this range with very low variability in a test run (II–D–10). Based on data supplied by CIPS, EPA has determined that the average Unit 1 SO_2 emission rate for the first three quarters of 1986 was approximately 0.99 lb/MM Btu. Although the apparent average Unit 1 emission rate for that period was 0.97 lb/MM Btu (IV–D–204, IV–D–205), the second and third quarter data include data for periods of reduced emissions during which CIPS experimented with the performance of a different scrubbing solution in the DAFGDS, resulting in lower than typical quarterly average SO_2 emission rates (IV–E–8). Deleting the emissions data for the periods of DAFGDS experimentation from the Unit 1 emissions data base results in an average Unit 1 emission rate of 0.99 lb/MM Btu for the first three quarters of 1986. CIPS also indicated that it fired coal from the Unit 2 low-sulfur coal supply in Unit 1 for brief periods during the 3 quarters to practice procedures

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[2] Throughout this notice, documents in docket no. A-84-01 are referred to by the document number assigned to them (e.g., IV-B-12).

[3] At proposal, EPA assumed that Subpart D would be revised independently to include a 30-day averaging time for determining compliance by all sources with the SO_2 emission limit, as previously proposed by EPA (48 FR 48960, October 21, 1983). However, a final decision on the proposed general revision to Subpart D has not been made. Following proposal of the bubble, some commenters objected to the 30-day averaging time assumption in the bubble proposal, as well as to the proposed general revision to Subpart D. The former objection is addressed by the refined emissions analysis for this rule which analyzes CIPS' emissions under existing Subpart D.

[4] Similarly, CIPS also submitted an analysis in March 1985 (IV–D–113) of actual emissions from Unit 1 and Unit 2 under existing Subpart D (i.e., assuming no amendment to require 30 day averaging). CIPS' analysis concluded that emissions under the bubble would be less than emissions from the two units operating independently under existing Subpart D.

required under the bubble during periods of DAFGDS malfunction. The emission rates associated with the firing of low-sulfur coal in Unit 1 generally are lower than typical daily average emission rates, but EPA did not delete these emissions data from the 3-quarter average. Thus, were the periods when CIPS fired low sulfur coal in Unit 1 excluded, the average long-term baseline emission rate for Unit 1 could be slightly higher than 0.99 lb/MM Btu. Nonetheless, EPA believes that the adjusted 3-quarter average SO_2 emission rate of 0.99 lb/MM Btu is a reasonable estimate of current long-term SO_2 emissions from Unit 1. Based on the data obtained from CIPS, and because these emission data reflect a mode of DAFGDS operation that is generally consistent with CIPS' stated plan for operation of the DAFGDS, EPA believes, for the purpose of this analysis, that 0.99 lb/MM Btu would be representative of future long-term emissions from Unit 1 under existing Subpart D without a bubble. Consequently, EPA used this SO_2 emission rate in its revised estimate of the combined average emissions from the Newton power station.[5]

To estimate current emissions from Newton Unit 2, EPA obtained Department of Energy (DOE) fuels data, then computed the annual average SO_2 emission rate of the compliance coal fired in Unit 2 in 1985. The DOE data used included an annual summary of monthly reports of the quality (percent sulfur and specific heat) and cost of fuels for electric plants, including the Newton power station (see IV–J–1). Based on the 1985 DOE summary of monthly reports, EPA has calculated the average SO_2 emission rate from Newton Unit 2 during 1985 as 1.01 lb/MM Btu (IV–B–5). Because this rate is the average of data for an entire year, EPA believes the 1.01 lb/MM Btu emission rate is representative of baseline long term SO_2 emissions from Newton Unit 2 without the bubble.[6]

The EPA estimated the combined average emission rate from Units 1 and 2 by assuming equal unit load, and computed the arithmetic average of Unit 1 emissions (0.99 lb SO_2 /MM Btu) and Unit 2 emissions (1.01 lb SO_2 /MM Btu.) From this calculation, EPA estimated the combined long-term average baseline emission rate from the Newton station under Subpart D without the bubble to be 1.0 lb SO_2 /MM Btu.[7] This is a potentially conservative estimate based on current emissions.[8]

The EPA also considered the possibility that, at some point in the future, the Agency may revise Subpart D to include a 30-day averaging time for all affected facilities. The EPA's analysis shows that the bubble and its provisions would result in a lower SO_2 emission rate from the Newton units than would result from these units without the bubble under a revised Subpart D incorporating a 30-day averaging time for all units (IV–B–7).

In order to comply with the alternative 1.1 lb bubble limit, CIPS plans to allocate emissions from each unit so that the combined costs of operating the DAFGDS on Unit 1 and of supplying a lower sulfur coal for Unit 2 will be minimized. In other words, the SO_2 removal efficiency of the DAFGDS will be increased as necessary to offset the SO_2 emissions of whatever coal CIPS purchases to fire in Unit 2 such that overall plant compliance costs are as low as possible. Thus, the SO_2 emission potential of the Unit 2 coal supply governs the level of DAFGDS performance necessary to ensure compliance with the alternative bubble emission limit. Because CIPS has not yet signed a contract to purchase a specific coal under the bubble for Unit 2, EPA has used its best judgment to estimate potential emissions under the provisions of the compliance bubble by making reasonable assumptions about the sulfur content of the future Unit 2 coal supply. CIPS has repeatedly indicated that Midwestern coal would continue to be fired in both Newton units under the bubble, and has submitted data to EPA that shows several regional coals (Illinois, Indiana, and western Kentucky) with SO_2 emission potentials ranging from 1.0 to 2.0 lb/MM Btu available for Unit 2 if the bubble is adopted. Thus, the EPA developed a range of emission projections assuming a range of coals for Unit 2.

Initially, EPA considered the range of coals CIPS had indicated it would potentially purchase under the bubble (i.e., with emissions ranging from 1.0 to 2.0 lb SO_2/MM Btu), but was able to dismiss the coals at the extremes of the range. First, CIPS would not need the bubble if it continued to purchase a compliance coal for Unit 2. Therefore, EPA has assumed that CIPS would choose under the bubble to purchase a coal above the 1.0 lb/MM Btu coal presently fired in Unit 2. Moreover, locally available washed bituminous coal with an SO_2 emission potential of 1.2 lb/MM Btu or less is not abundant in Illinois, Indiana, and western Kentucky, and appears to be significantly more costly than higher sulfur regional coals (*see* IV–B–4). Hence, to minimize compliance costs under the bubble, CIPS is not likely to purchase coal with a sulfur content less than 1.2 lb SO_2/MM Btu.

Second, considering the high end of the range, current DAFGDS performance data indicate that a Unit 1 emission rate as low as 0.35 lb/MM Btu is achievable. Even with this extremely low emission rate, CIPS would need to limit Unit 2 coals to emissions of 1.6 lb SO_2/MM Btu or less to account for emissions variability. Thus, EPA estimated emissions under the bubble assuming that Unit 2 coal would range from 1.2 to 1.6 lb/MM Btu. The EPA estimated emissions under the bubble assuming that use of the Unit 1 bypass would be prohibited except during periods of malfunction (*see* IV–B–11). Under this assumption, the combined SO_2 emission rate for Unit 1 and Unit 2 would have to average 0.93 lb/MM Btu or less if CIPS fired a 1.2 lb/MM Btu coal in Unit 2, and would have to average 0.95 lb/MM Btu or less if CIPS fired a 1.6 lb/MM Btu coal in Unit 2 to ensure compliance with the 1.1 lb/MM Btu bubble emission limit (*see* IV–B–5, IV–B–11).

As presented in the above discussion, the entire range of the estimated maximum emission rate under the compliance bubble (0.93 to 0.95 lb/MM Btu with the 30-day averaging time) is lower than the average long-term emission rate anticipated without the

[5] This analysis of CIPS' baseline emission rate is somewhat lower, and more representative, than earlier analyses in the docket (IV–B–5) because it is based on more recent data reflecting Unit 1 operation over a longer period of time.

[6] The data reviewed by EPA for Units 1 and 2 indicate that over the period of time in question there were no actionable violations of the Subpart D standard at either unit.

[7] Even if EPA had used the average emission rate for Unit 1 without excluding the unrepresentative emissions (0.97 lb/MM Btu), the combined baseline emission rate would have been 0.99 lb/MM Btu. As discussed later in this notice, the estimated bubble emissions would still be significantly lower than that baseline emission rate.

[8] The 1.0 lb/MM Btu estimated combined emission rate is potentially a conservative estimate, since the estimated long-term emission rates for each unit indicate that neither unit would emit more than 1.2 lb/MM Btu during any 3-hour period more than 0.5 percent (or less) of the time. However, should the two units emit more than 1.2 lb/MM Btu even 1 percent of the time (based on 3 hour averaging), the combined emission rate of the two units could range up to 1.08 lb SO_2 /MM But (*see* IV–B–5). However, this estimate is based on an assumption of very low variability for Unit 1. CIPS, however, has suggested that such a low variability may not be feasible over long periods and has suggested that a higher variability level would be expected (IV–D–113). In any event, even assuming a higher variability level, the combined average emission rate would still be approximately 1.03 lb/MM Btu (*see* IV–B–5). This estimate corresponds closely to the actual average emission rate (1.0 lb/MM Btu) discussed above and confirms the reasonableness of that estimate.

bubble (1.0 lb/MM Btu).[9] In terms of actual SO_2 emission reductions expected under the bubble, EPA estimated the difference in annual SO_2 emissions between the current and projected combined emission rate (1.0 lb/MM Btu) and the endpoints of the range of average emission rates estimated under the bubble (0.93 and 0.95 lb/MM Btu). From this comparison, EPA estimates that compliance with the bubble would achieve additional SO_2 emission reductions ranging from 1,800 to 2,600 tons/yr compared to expected emissions without the bubble (IV–B–10).

In short, the bubble approved today, with the bypass limitation and other conditions, will result in long-term SO_2 emission rates lower than those that would be produced through source-by-source compliance with either the current Subpart D (1.2 lb/MM Btu limit enforceable by a stack test) or a revised Subpart D incorporating a 30-day average, at a lower cost to CIPS. For these reasons, approval of the bubble is consistent with the purposes of Subpart D and section 111 of the Act.

Based on analysis of the currently available data and the statistical projections discussed above, EPA believes that given the conditions imposed on this bubble, including the bypass restriction, emissions under the bubble will be significantly lower than total emissions would be without the bubble. Of course, if CIPS wishes to petition for modification of the bubble rule to allow greater use of the bypass, it may do so. If CIPS submitted new data (such as data obtained by actual operation under the bubble) in support of such a request, EPA would consider such an amendment of the rule, consistent with the bubble policy discussed later in this notice.

II. Discussion of Comments

Comments on the proposed CIPS compliance bubble were received from numerous interested parties. The major comments and the Agency's responses are summarized in several following sections. Minor comments and EPA responses have been summarized separately in a memorandum which has been placed in the docket (V–C–1). All comments were considered by EPA and, as a result, a change was made to the recordkeeping and reporting requirements of the amendment. This change is described in detail in the appropriate section below. Comments and responses have been divided into the following topics: General; Legality Under Section 111; Averaging Time; Emission Reduction Credit; Technology Better Than BDT; Malfunction Provision; Monitoring, Recordkeeping and Reporting Requirements; and Adequacy of Notice.

General

Two commenters stated that EPA imposed several restrictions on CIPS that are either unnecessary or not required by section 111 of the CAA. Specific bubble requirements cited as excessive were: The bubble emission limit of 1.1 lb/MM Btu which is more restrictive than the 1.2 lb/MM Btu limit of Subpart D; denial of the use of the difference between expected actual performance under the NSPS and the allowable NSPS limit as a source of emission reduction credit; and the special restrictions on emissions during malfunctions.

The Administrator disagrees. The compliance bubble is an optional means of compliance that EPA is making available at CIPS' request for use if it so chooses. The bubble, thus, does not impose an unreasonable restrictions. Second, since approval of the bubble is completely discretionary, the Administrator has the inherent right to impose whatever conditions he deems necessary to ensure that the bubble complies with the purposes of section 111. The restrictions included in the CIPS bubble, specifically the 1.1 lb/MM Btu emission limit and the malfunction provisions, are intended to accomplish the emissions-reducing purposes of section 111, and for that reason are appropriate. An increase in emissions could result if emission reduction credit was given for the difference between expected actual performance under the NSPS and the allowable NSPS limit. Apart from consideration of emissions, CIPS has estimated that the NSPS bubble will provide savings of approximately $22 million per year in operating costs (although actual savings may be somewhat less). Thus, the CIPS bubble should yield substantial benefits to source owners or operators while simultaneously reducing overall emissions. In view of this outcome, the restrictions for the CIPS bubble are wholly justified.

Several commenters opposed application of the bubble concept to CIPS and any other NSPS sources because they claimed that bubbles will sacrifice future air quality, remove national uniformity from the NSPS program, and allow some sources to operate at emission rates exceeding those expected under traditional NSPS compliance.

The EPA's decision to approve a bubble for CIPS that is both enforceable and that results in quantifiable emission reductions greater than those achieved by facility-by-facility compliance assures that the long term air quality benefits of the NSPS will not be sacrificed and that emissions will not exceed those under traditional compliance. Thus, any deviation from national uniformity due to this decision will serve only to further the emission-reducing purposes of the NSPS program.[10]

Legality Under Section 111

One commenter argued that since EPA's proposal would establish—according to the commenter—a new NSPS for CIPS' Newton Station, section 111 of the Act would require EPA to make new decisions as to what is the "best demonstrated technology" (BDT) for each specific source at that station.) The commenter claimed that the BDT previously established by EPA for all coal-fired power plants (36 FR 24876, December 23, 1971) is not BDT for the two Newton units. The commenter asserted that BDT for Unit 1 would be the DAFGDS, without allowing for use of that unit's bypass; that BDT for Unit 2 presumptively would be installation of a DAFGDS; and that if the bubble were approved EPA would have to require that technology at those units.

This commenter has misunderstood the nature of the bubble. As discussed previously, the CIPS bubble is not establishing a new NSPS for the Newton Station. Rather, the bubble merely amends Subpart D to allow CIPS to demonstrate compliance with the existing NSPS in a different manner. Thus, section 111 does not require EPA to make a new BDT determination for the Newton units before approving the bubble. Moreover, the commenter's

[9] The estimated SO_2 emission rates under the bubble would also be well below the 1.08 lb/MM/Btu non-bubble combined emission rate, discussed in n.5 *supra*.

[10] Comments addressing the possible broader implications of future compliance bubble applications are premature and speculative and raise matters which go beyond the merits of today's decision to approve CIPS' bubble. Thus, those comments do not require a response. However, EPA notes that some non-uniformity in compliance with NSPS is inherent, given that affected new facilities have a choice of compliance techniques and operating practices, provided only that the facilities comply with the emission standard. Any future compliance bubbles are unlikely to alter such national uniformity as does exist, since facilities under a bubble remain subject to the applicable NSPS and must produce reductions as great as or greater than those which stack-by-stack performance under such an NSPS would yield. In addition, the States must be consulted in their development. However, since these matters can best be addressed on a case-by-case basis in the context of individual bubble applications which have not yet been submitted, let alone acted upon, they are not further discussed here.

claim that a DAFGDS, without a bypass, would clearly be BDT for Unit 1 and, presumably, Unit 2, is based on the commenter's assumption that use of the bypass at Unit 1 is illegal and, in general, should not be considered in determining what level of emissions is reasonably achievable at that unit. However, as discussed elsewhere in this notice, the commenter erroneously assumed that CIPS was legally required to minimize its emissions by forgoing use of the bypass.

Commenters objected that the Administrator may not set standards for a specific small group of sources, such as the two CIPS boilers. The commenters apparently misunderstood the nature of the proposal. As discussed earlier, the bubble is not establishing a new NSPS for the CIPS Newton units. Rather, it is establishing a new method, including a combined emission limit, by which CIPS can demonstrate compliance with the existing SO_2 NSPS. Moreover, the bubble does not encourage States to weaken their pollution control requirements, as the commenters claim. The bubble has the overall effect of tightening the Federal standards for these two sources. No State standard is relaxed, altered or influenced.

Commenters objected that the bubble would conflict with section 111(j) of the Act regarding waivers for sources using innovative technology. The Administrator disagrees. Section 111(j) simply authorizes the Administrator to waive performance standards in certain cases for innovative technologies; it does not govern the factors the Administrator may consider in establishing methods of compliance. There is no merit to the commenters' argument that because the Administrator must consider technological innovation in granting waivers, he must ignore it in establishing methods of compliance. The legislative history of section 111 makes clear that encouraging technological innovation is one of the principal purposes of section 111, *see* H.R. Rep. No. 95–294, 95th Cong., 1st Sess. 186 (1977), and the action taken today is consistent with that purpose.

One commenter also argued that section 111(e) of the Act effectively precludes approval of the CIPS bubble. That section makes it unlawful for any source to be operated "in violation of any [applicable] standard of performance. . . ." Since, in the case of existing Subpart D, the sources subject to the SO_2 NSPS are individual boilers [40 CFR 60.40(a)], the commenter inferred that it is unlawful for either unit at the Newton Station to exceed the 1.2 lb/MM Btu standard. Thus, since Unit 2 generally would emit in excess of 1.2 lb/MM Btu under the bubble, the commenter concluded that the bubble itself would be unlawful. The Administrator disagrees. The commenter has overlooked the fact that section 111(e) simply creates the legal obligation to operate sources in compliance with any applicable NSPS. Since section 111(e) does not specify how compliance with an NSPS is to be determined for any source, EPA has discretion to establish the appropriate method of compliance. In this case, EPA is expressly amending Subpart D to specify an alternative means of compliance with the standard. Thus, approval of the bubble is not inconsistent with section 111(e).

One commenter asserted that Newton Unit 2 must obtain a permit under the current (post-August 1977) "prevention of significant deterioration" (PSD) regulations because the unit had not "commenced construction" under the PSD program before August 7, 1977. The basis for this assertion was that Unit 2 purportedly had not been issued "all necessary preconstruction approvals or permits" by that date. The commenter noted that a PSD permit would require the "best available control technology (BACT)." The commenter also maintained that the Administrator may not promulgate the bubble, because the burning of local low sulfur coal that CIPS purportedly contemplates at Newton Unit 2 could not meet the BACT requirement.

The Administrator disagrees. First, this rulemaking is limited to amending the NSPS. Even if Newton Unit 2 were subject to BACT, that would have no bearing on how the NSPS should be amended. Any applicable BACT requirements would be defined in a PSD permit, which would be issued at the conclusion of a separate proceeding.

Second, in any case, Newton Unit 2 is not subject to BACT requirements. Briefly, by August 7, 1977, CIPS had "all necessary preconstruction approvals or permits" to begin the construction of Unit 2 within the meaning of the statute and the current PSD regulations. In particular, CIPS had a 1976 construction permit that authorized CIPS to "begin a continuous program of physical on-site construction * * *." Clean Air Act, Section 169(2), 42 U.S.C. 7479(2). Thus, under the transition regime prescribed by Congress in the 1977 Clean Air Act amendments to avoid retroactive application of PSD requirements to a source that already had made a "substantial commitment" to a particular site, CIPS did not need a PSD permit under the post-August 1977 PSD requirements to begin or complete the unit. This issue is analyzed in more depth in the docket (IV–B–3).

The commenter also asserted that, even if Newton Unit 2 is not subject to the post-1977 PSD requirements, it "would still be subject to the pre-1977 EPA regulatory program." However, over ten years ago, CIPS requested from EPA a PSD determination on whether the pre-1977 requirements applied. The EPA Region V formally determined in a June 13, 1977 letter to CIPS that Newton Unit 2 was not subject to those pre-1977 requirements (IV–C–7).[11] The commenter completely failed to explain why that determination may have been wrong or to give any other reason why it thinks Newton Unit 2 was subject to those requirements. The EPA therefore would have to guess at the reasoning of the commenter in order to respond to the comment, and it is not appropriate to do so. Moreover, EPA is not independently aware of any defect in the June 1977 determination.

Finally, EPA notes that CIPS has substantially and specifically relied on the 1977 determination by completing the construction of a utility steam generation unit and associated coal-storage and coal-handling facilities, and by negotiating coal contracts, together representing an investment of several hundred million dollars. Whatever might be the case in other circumstances, any abstract argument that this determination should now be reversed would have to be weighed against that long-standing reliance in considering the equities of the situation.

Accordingly, on the facts of this case, the Administrator concludes that neither the Act's current PSD requirements nor the current or prior PSD regulations apply to Newton Unit 2.

A commenter objected that the Administrator may not amend an NSPS as it applies to sources that have already commenced construction. The Administrator disagrees. First, agencies have inherent authority to amend their regulations. *NAACP* v. *FCC*, 682 F.2d 993, 998 (D.C. Cir. 1982); *United States* v. *O'Brien*, 391 U.S. 367, 380 (1968). Second, EPA has contemporaneously and consistently interpreted Section 111 to permit such amendments. Many NSPS have been amended. The amendments apply to sources that had already

[11] Eight years later, on September 25, 1985, the Regional Counsel for Region V reviewed the facts relating to this issue and concluded that Newton Unit 2 was not subject to PSD review under the pre-1977 regulations or the 1977 PSD requirements (IV–B–1).

commenced construction. *See* 39 FR 39872 (November 12, 1974) (amending opacity standard in NSPS for portland cement plants, originally proposed and promulgated in 1971); 38 FR 28564 (October 15, 1973) (amending all five NSPS proposed and promulgated in 1971 to provide for startup, shutdown, and malfunction conditions); 38 FR 13562 (May 23, 1973) (amending opacity standards in NSPS for sulfuric acid plants and nitric acid plants, originally proposed and promulgated in 1971); 37 FR 14877 (July 26, 1972) (amending the SO_2 standard in the 1971 boiler NSPS to accommodate mixed fuels); 39 FR 20790 (June 14, 1974) and 40 FR 46250 (October 6, 1975) (making various amendments to NSPS, including those originally proposed and promulgated in 1971); 44 FR 61542 (October 25, 1979) (exempting one type of source from the NSPS for petroleum refineries); 49 FR 41030 (October 19, 1984) (amending the NSPS for glass manufacturing plants); 47 FR 32743 (July 29, 1982) (proposing amendment of the NSPS for automobile painting plants). This consistent Agency practice, and Congress' tacit approval of it in reenacting the Act in 1977, show that it is the correct interpretation of the Act, in the absence of compelling evidence to the contrary. *See Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367 (1969); *NLRB* v. *Bell Aerospace Division*, 416 U.S. 267 (1974). Third, this interpretation of Section 111 was tacitly upheld in *Portland Cement Ass'n* v. *Train*, 513 F.2d 506 (D.C. Cir. 1975), *cert. denied* 423 U.S. 1025 (1975). In that case, the Court upheld EPA's 1973 and 1974 amendments of the NSPS for portland cement plants, which applied to sources that had already commenced construction.

Finally, the commenter cites no authority for its argument that the Administrator may not so amend an NSPS.

Averaging Time

The CIPS proposal notice stated that the bubble would use a 30-day averaging time as previously proposed for Subpart D as a whole. Several commenters stated that they supported use of a 30-day averaging time for the CIPS bubble. A number of other commenters believed that the 30-day averaging time should not be approved for the CIPS bubble or for Subpart D. One of these commenters stated that a 30-day average would amount to a relaxation of the standard and result in emission increases. Another commenter recommended that the 1.1 lb limit be an annual average.

As described in the section entitled, "Determination of Bubble Emissions," EPA has refined its analysis of the emission impact of the bubble compared to the current SO_2 emission rate, without 30-day averaging, from the Newton station under Subpart D. The EPA also has determined that the requirements of the bubble would result in actual emission decreases compared to individual unit compliance with Subpart D. Thus, there is no basis for arguing that approval of a 30-day averaging time for the CIPS bubble amounts to a relaxation of the standard. The EPA has concluded that an averaging time longer than 30 days is not necessary because averaging times longer than 30 days have been found to have relatively little additional effect on mitigating the effect of coal sulfur variability compared to a 30-day rolling average. Thus, EPA maintains that a 30-day averaging time is appropriate for the CIPS bubble.

Technology Better than BDT

The CIPS bubble was proposed on the basis of three findings. One of the findings was that the DAFGDS technology applied to Unit 1 constitutes technology that is essentially different from the limestone FGD technologies selected as representative of BDT during development of Subpart D. Several commenters questioned this finding, stating that the DAFGDS technology is not innovative technology and does not achieve better emission reduction than some conventional limestone scrubbers.

The Administrator did not propose to approve the CIPS bubble on the basis that the DAFGDS represents innovative technology as the term is used in section 111(j), but on the basis that this technology is essentially different from and better than the technologies that would otherwise generally be applied. While there are instances where limestone FGD systems have produced emission rates at or below that of the DAFGDS used at Unit 1, the DAFGDS removes SO_2 at a higher efficiency than typical limestone FGD systems.

Emission Reduction Credit

Several commenters questioned EPA's use of the Subpart D emission limit of 1.2 lb SO_2/MM Btu as the basis for determining a baseline against which emission reductions under the bubble are calculated. Two commenters suggested that emissions credit should be given only for emission reductions below the average level of performance achievable by Unit 1 if the *entire* flue gas stream is scrubbed by the DAFGDS (one commenter cited a range of 0.6–0.7 lb/MM Btu). The major concern of the commenters was that excessive emission credits would result in an increase rather than a decrease in emissions under the bubble.

As stated elsewhere, EPA does not agree that CIPS is required to treat the entire Unit 1 flue gas volume by DAFGDS. Moreover, EPA has compared anticipated emissions under the CIPS bubble against emissions that would actually result from compliance with the otherwise applicable NSPS. Consistent with this analysis, emission reduction credits are appropriately calculated against the emission levels of the individual CIPS units when they are operating in compliance with the Subpart D emission limit of 1.2 lb SO_2/MM Btu. In the absence of the bubble, as discussed earlier, the CIPS units are complying with Subpart D with long term average emissions of 0.99 lb/MM Btu from Unit 1 and approximately 1.01 lb/MM Btu from Unit 2. The EPA, therefore, believes that these average emission rates should be the numerical baseline for calculating emission reduction credit for the CIPS compliance bubble. In addition, as adequately demonstrated in the section entitled "Determination of Bubble Emissions," the bubble will in fact result in a decrease rather than an increase in SO_2 emissions.

A commenter objected to the Administrator's estimate of the amount of SO_2 that would be emitted from the Unit 1 boiler if the bubble were not promulgated. The Administrator assumed that CIPS would operate the DAFGDS so as to comply with the 1.2 lb/MM Btu emission limit in the NSPS. The commenter claimed that because Newton Unit 1 is capable of reducing its emissions below 1.2 lb/MM Btu, it is legally obligated to do so under 40 CFR 60.11(d). Specifically, the commenter claimed that CIPS is legally obligated to treat a larger proportion (though not all) of the boiler exhaust gases by FGD than is necessary to meet the 1.2 lb/MM Btu emission limit.

The Administrator disagrees. The NSPS is by definition a standard of performance. The performance that is required is to achieve an SO_2 emission limit of 1.2 lb/MM Btu. The NSPS does not dictate what technique(s) a source must use to meet the emission limit. This is consistent with the literal language of section 111(a)(1) itself, which only requires that an NSPS "reflect the degree of emission reduction achievable through the application of the" best demonstrated technology, and not that such control technology be installed at every affected facility. Thus, CIPS is legally free to choose any technique that meets the emission limit, including its preferred technique of burning coal of a

certain sulfur content and treating a portion of the exhaust gases by FGD. *See Sierra Club* v. *Costle*, 657 F. 2d 298, 321 n. 56 (D.C. Cir. 1981).

Section 60.11(d) is not to the contrary. It provides that "owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions." This requires CIPS to properly operate and maintain the boiler, including the FGD. It does not require CIPS to develop a more effective system of emission control (such as treating a larger amount of the flue gas) merely because that is possible. When the Administrator promulgated § 60.11(d), he made it clear that it simply requires proper operation and maintenance of whatever system meets the standard of performance. This requirement is needed because most NSPS, including Subpart D, require emission tests only occasionally. Section 60.11(d) simply makes clear that the owner is not free to neglect the source during the intervals between emission tests. (38 FR 10820 (May 2, 1973); 38 FR 28564, 28565 (October 15, 1973)). There is no support for the commenter's theory that § 60.11(d) supersedes the performance standard with a vague requirement to achieve the lowest emission level possible.[12]

Malfunction Provision

One commenter on the bubble malfunction provision stated that the malfunction provision did not sufficiently clarify what kinds of upsets would be included in the 250-hour allowance. He stated that malfunctions in support systems such as clarifiers, mixers, sludge disposal, limestone and soda ash delivery systems, reheaters, etc., should not be excluded from counting toward the allowance of 250 hours. Several commenters stated their concern that the increase in emissions because of the malfunction allowance would decrease EPA's estimate of overall emission reductions resulting from the bubble. A commenter added that the proposal also did not clearly state the sulfur content of coal to be used in Unit 1 after 16 consecutive hours of malfunction. One commenter said that allowing 250 hours of malfunctions is excessive, particularly with a 30-day averaging time, because periods of high emissions can be offset by periods of lower emissions over 30 days.

The 250-hour malfunction allowance is based on EPA's analysis of 3 years of Unit 1 malfunction data provided by CIPS (IV–B–6). The data showed that the DAFGDS experienced 755 hours of malfunctions over the 3-year period, or an average of 250 hours per year. Several types of equipment failures compose the basis for the 755 hours considered by EPA to be malfunctions, including reduced scrubbing capacity due to lack of control over bypass dampers or loss of power to booster fans, lime bucket elevator failure, plugged chemical tanks, fly ash deficiency, thickener underflow pump failure, and FGD tray pluggage. The EPA specifically denied CIPS' claims that periods of reduced scrubbing capacity due to load swings represent malfunctions. The types of system failures that might be considered malfunctions certainly are not exhausted by the above list, and enforceability of the standard is not improved by specifying such a list.

As stated in the proposal, the 250 hours represents 97 percent DAFGDS availability. Data on FGD systems on other Subpart D units firing medium-sulfur coal shows that national FGD availability averages approximately 95 percent. Other scrubber units covered by Subpart D are not limited by § 60.8(c) in the number of hours that could be claimed as malfunction periods. In the absence of a limit on the number of hours that could be claimed under the malfunction provision, CIPS could legitimately claim malfunctions in excess of 250 hours per year. The 250 hour limit on malfunctions, therefore, encourages CIPS to continue operating the DAFGDS in the high availability mode that has characterized its performance to date. Therefore, EPA does not consider the 250-hour malfunction allowance excessive.

Moreover, the scrubber malfunctions and the resulting additional emissions would occur whether the CIPS units were operating under the bubble or under unit-by-unit compliance with the 1.2 lb/MM Btu Subpart D limit. Therefore, the 250-hour malfunction provision is, in fact, a limit on the amount of time that can be claimed as malfunction rather than the granting of additional time over what would be allowed under the otherwise applicable requirements of Subpart D. The EPA sees no merit to the claim that the malfunction provision in any way allows, encourages, or promotes additional SO_2 emissions.

In response to the question of the sulfur content of the coal to be used in Newton Unit 1 after 16 hours of malfunction, CIPS is required to fire the coal used in Newton Unit 2. As discussed earlier in this notice, CIPS has not yet made a commitment to purchase the type of coal it will fire in Unit 2 under the bubble. However, EPA anticipates that it will purchase coals ranging in SO_2 emission potential from 1.2 lb/MM Btu to 1.6 lb/MM Btu.

Monitoring, Recordkeeping and Reporting Requirements

One commenter stated that the proposed monitoring requirements are inadequate to accurately track compliance with the bubble. He stated that monitoring 75 percent of the hours per day for 26 out of 30 operating days amounts to only 65 percent of total operating time. Without emissions data for the remaining one third of the time, the commenter believed that it would be impossible to calculate emissions under the bubble. In addition, the commenter stated that the span value of the CEM for the Unit 1 DAFGDS stack needs to be enlarged from 50 percent of the maximum estimated emissions to 200 percent. With the proposed 50 percent span value, concentrations greater than 2.2 lbs/MM Btu will be recorded incorrectly. Thus, high emissions during scrubber malfunctions will not be measured accurately.

Compliance with the final rule is based upon a rolling 30-day average and studies for Subpart Da and proposed revisions to Subpart D have shown that 75 percent of the hours per day for 26 out of 30 days is more than adequate to account for systematic or random emission variations over a 30-day period (IV–B–9). Also, CIPS has demonstrated the ability to exceed these minimum data requirements and will be required under the bubble to use all available data. Therefore, compliance will likely be based upon more than the minimum data. In addition, downtime for monitoring systems must be provided to allow for regular periodic calibration and maintenance of the monitors.

The EPA agrees that the 50 percent span value required for the monitor on the DAFGDS stack will decrease the accuracy of measurement of emission rates greater than 2.2 lbs/MM Btu from the DAFGDS stack. However, under normal operating loans, the Unit 1 DAFGDS facility would need to maintain between 0.35 to 0.7 lbs/MM Btu. If the span value were raised, the

[12] In fact, the history of § 60.11(d) clearly indicates that its main thrust was to require emissions to be minimized during periods when the standards might be exceeded (primarily during periods of start-up and shut-down, malfunction, or maintenance). (38 FR 28565 (October 15, 1973) (purpose of section to require "that the plant operator use maintenance and operating procedures designed to minimize emissions in excess of the standard"))

accuracy of the monitor may not be sufficiently accurate for determining compliance during normal operation. Moreover, the 50 percent span value is consistent with similar scrubber controlled units under Subpart Da for utility boilers and no change is being made in the proposed span value for the CEMS. However, EPA agrees that measurement of emission rates above 2.2 lb/MM Btu is necessary to accurately determine the 30-day average combined emission rate under the bubble. Therefore, EPA has changed the alternative compliance method to require CIPS to develop a plan, to be approved by EPA, to measure the emission rate from Unit 1 whenever the required span value (50 percent of the maximum expected emission rate of the coal fired in Unit 1) of the CEMS is exceeded.

A commenter said that the proposed monitoring requirements require a check for DAFGDS bypass leakage only at the time of an infrequent performance test. However, in his opinion, bypass leakage is probable every time the bypass dampers or other mechanical components are moved. Accordingly, unless the bypass is permanently and securely sealed, continuous monitoring should be required.

The proposed rule does require continuous monitoring of bypass leakage by three different measurements—SO_2 concentration, temperature of the bypass stack, and static pressure of the inlet ducts to the DAFGDS. Any one of these measurements is adequate to indicate leakage into the bypass duct, and when leakage or use of the bypass is indicated, the final rule requires CIPS to monitor emissions from the bypass stack and add these to the scrubber outlet emissions.

Another commenter pointed out that the recordkeeping and reporting requirements do not require collection and reporting of information to monitor possible leakage from the bypass damper, and that recording and reporting such information are essential for verifying monitoring information on emission rates and for ensuring compliance.

The proposed rule required recordkeeping and reporting of emissions from the bypass stack only during any periods that the bypass damper is opened. The EPA agrees that records should be kept of possible leakage from the damper. Therefore, the final rulemaking requires that CIPS keep records of the bypass stack temperature, SO_2 concentrations, and the static pressure at the DAFGDS inlet ducts. In addition, the final rule requires CIPS to report each quarter any periods of bypass usage and periods during which there is any indication of leakage through the bypass damper as indicated by any of the above measurements.

One commenter stated that he did not believe that continuous emission monitors in general have demonstrated the 90 percent reliability attributed to the CIPS monitors. He stated that EPA should not consider the CIPS experience as typical of CEMS reliability.

The EPA does not agree. CIPS and other facilities have demonstrated monitor systems with greater than 90 percent availability and reliability (IV–B–9).

A commenter questioned the method used to calculate the percentage of availability being required of CEMS. He said that, as proposed, each monitor must be available for 26 out of 30 successive boiler operating days, or 86.7 percent of the time. He said the probability of two independent events, such as both CEMS being operable simultaneously, is the product of their individual probabilities and thus he implied that the proposed availability requirements for the CEMS were overly restrictive.

The EPA agrees that multiple monitor availability is the product of the probability of availability for individual monitors. However, the commenter apparently overlooked the fact that the proposal specified minimum data requirements of 75 percent of the hours per day for 26 out of 30 boiler operating days, not 100 percent of the hours per day as inferred by the commenter. Thus, EPA believes that CIPS has demonstrated its ability to operate two independent monitoring systems that, when combined, meet the minimum data requirements. Therefore, EPA believes that the requirements are not overly restrictive, and that CIPS can meet the proposed minimum data requirements.

Adequacy of Notice

One commenter suggested that EPA repropose the CIPS bubble and allow additional public comment on EPA's rationale if EPA planned to approve the bubble without amending Subpart D to require 30 day averaging by all sources. The EPA does not agree that reproposal or additional public comment are necessary or appropriate. The EPA believes that approval of the bubble without further amendment of Subpart D at this time is consistent with the original bubble proposal and is a logical outgrowth of that notice and comments received.

As discussed earlier, EPA's basic rationale for proposing the CIPS bubble was that the bubble would be consistent with section 111 of the Act in that it would reduce overall emissions from the sources, as a whole, below what would otherwise occur under Subpart D, at a lower cost to CIPS. Although the proposal did assume that Subpart D would be amended to require 30-day averaging (*see* 50 FR 3690), that assumption did not change the basic rationale of the proposal or of today's final rule, i.e., that emissions under the bubble would be lower, and that CIPS compliance costs would be less, than they otherwise would be under Subpart D without the bubble. As demonstrated earlier in this notice, this premise is true whether or not Subpart D is amended generically to require 30-day averaging. Thus, EPA's basic rationale for approving the bubble is not materially different from that discussed in the proposal and no additional notice and comment are required.

Moreover, EPA's decision to approve the bubble without first amending Subpart D to require 30-day averaging was responsive to another comment by the same commenter who requested additional notice and comment. That commenter argued that EPA should not amend Subpart D to require 30-day averaging and that emissions under the bubble would be greater than they would be without the bubble under existing Supbart D. The EPA has addressed this concern by refining its estimates of CIPS' future emissions with the bubble and without the bubble under existing Subpart D, and confirming that overall emissions under the bubble would be less than without the bubble.[13] Thus, today's decision is a logical outgrowth of the bubble proposal and comments on it.

In any event, as the comment requesting additional notice itself shows (IV–D–201), approval of the bubble without amending Subpart D was a reasonably foreseeable logical outgrowth of the proposal. Indeed, the basic rationale for this bubble—that even with a bubble emission limit expressed as a 30-day average, emissions will be reduced from current emissions in compliance with Subpart D—has remained unchanged. All commenters have had ample

[13] CIPS, in its comments of June 18, 1985 (IV–D–196), also responded to arguments against amending Subpart D and basing the bubble on the assumption that Subpart D would require 30-day averaging. CIPS pointed out, at that time, that emissions under the bubble would be reduced whether or not Subpart D was amended to require 30-day averaging in general, and urged EPA to approve the bubble whether or not the generic Subpart D rulemaking was finalized (*see* IV–D–196 at page 11).

opportunity to comment on that rationale.

III. Bubble Policy

Today's action represents one example of EPA's willingness to consider, on a case-by-case basis, applications for individual NSPS compliance bubbles. Interested parties should, however, be aware that EPA will also consider applications for NSPS compliance bubbles under other factual circumstances, provided such bubbles, like CIPS, yield actual emission reductions at least as great as those which would be produced by facility-by-facility compliance with otherwise applicable NSPS and assure equal or better enforceability. In order to better effectuate the emission-reducing purposes of Section 111, EPA will give preference to bubbles that result in a net actual emissions decrease from otherwise applicable NSPS (i.e., produce emission reductions greater than those that have occurred or would actually be expected to occur in the absence of the bubble).

Emission reductions eligible for bubble credit must be quantifiable and enforceable and must exceed those which would actually result from facility-by-facility compliance with otherwise applicable NSPS. In accord with this test, applicants must document both tht NSPS compliance bubble applications are not based on windfall [14] emission credits and that their bubbles fully satisfy in all other respects the purposes of the NSPS program.[15] In general, an applicant could do this by showing that claimed bubble credits would result from the use of control technology, production processes, or operating practices that are essentially different than those which would be used without the bubble.[16]

The EPA encourages such NSPS bubble applications and will review them on a case-by-case basis, subject to full public notice and comment as amendments to the relevant NSPS if formal action on the application appears warranted. However, because implementation and enforcement of NSPS set by EPA have long been delegated to many States, EPA also intends to consult, and urges sources considering NSPS compliance bubbles to consult, the relevant State as well as EPA when formulating specific applications. Interested parties will have full opportunity to evaluate and comment on individual bubble applications during any rulemaking proposing approval, and to seek judicial review when final Agency action on bubble applications is taken.

As it gains experience with individual NSPS bubbles, EPA may consider whether this policy's emphasis on case-by-case review could be reduced by adding more detailed review criteria. Those additions to the policy would be set forth in the rulemaking documents for individual bubbles and could eventually be codified in an expanded policy statement.

IV. Administrative

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

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any revision of a new source standard of performance which he determines to be substantial. Because the Administrator has determined that this revision is not "substantial," preparation of an economic impact assessment is not required.

The Paperwork Reduction Act of 1980 requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR). The reporting and recordkeeping requirements associated with this alternative compliance method for CIPS do not qualify as an ICR since they will affect fewer than 10 firms. Therefore, they do not require approval by OMB.

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to the requirements of a regulatory impact analysis (RIA). The Agency has determined that the CIPS bubble regulation would result in none of the adverse economic effects set forth in section 1 of the Order as grounds for finding a regulation to be a "major rule." The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis for those regulations that would result in a significant impact on a substantial number of small entities. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this amendment will not have a significant impact on a substantial number of small entities. Because the CIPS amendment imposes no adverse economic impacts, a Regulatory Flexibility Analysis has not been conducted.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Fossil-fuel-fired steam generating units.

Date: July 24, 1987.

Lee M. Thomas,

Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

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

Authority: 42 U.S.C. 7411, 7414, and 7601(a).

2. Section 60.43 is amended by revising paragraph (a)(2) and adding paragraph (e) to read as follows. (Paragraph (d) is reserved.)

§ 60.43 Standard for sulfur dioxide.

(a) * * *

(2) 520 nanograms per joule heat input (1.2 lb per million Btu) derived from solid fossil fuel or solid fossil fuel and

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[14] Allowing NSPS bubble limits to be calculated against the nominal NSPS requirements, rather than actual or expected BDT performance, could result in "windfall" emission credits and increases in emissions above what would have otherwise resulted.

[15] For this reason, EPA will not consider applications for NSPS compliance bubbles between sources which emit different pollutants or that include sources not subject to NSPS promulgated under section 111. Nor will EPA consider applications for compliance bubbles involving proposed fuel switches between new facilities which are not yet operating. In light of the technical difficulty and potential administrative burden of attempts to determine what mix of fuel an unbuilt facility would use in the future absent the bubble, such future switches must be treated as ineligible for bubble credit.

[16] Some indicators of such essentially different control strategies might be, as in the case of CIPS, use or optimization of advanced control systems that are designed to achieve emission reductions beyond the levels reasonably expected with BDT, significantly increased control expenditures, or more effective operating practices than those expected to be associated with BDT controls.

wood residue, except as provided in paragraph (e) of this section.

* * * * *

(e) Units 1 and 2 (as defined in Appendix G) at the Newton Power Station owned or operated by the Central Illinois Public Service Company will be in compliance with paragraph (a)(2) of this section if Unit 1 and Unit 2 individually comply with paragraph (a)(2) of this section or if the combined emission rate from Units 1 and 2 does not exceed 470 nanograms per joule (1.1 lb per million Btu) combined heat input to Units 1 and 2.

2a. Section 60.46 is amended by adding paragraph (h) to read as follows:

§ 60.46 Test methods and procedures.

* * * * *

(h) If the Central Illinois Public Service Company elects, under § 60.43(e), to comply with the combined SO_2 emission rate of 470 nanograms per joule (1.1 lb per million Btu) of combined heat input to Units 1 and 2, the test methods and procedures described in Appendix G, "Provisions for an Alternative Method of Demonstrating Compliance with 40 CFR 60.43 for the Newton Power Station of Central Illinois Public Service Company" must be used.

3. Part 60 is amended by adding Appendix G as follows. (Appendix E is reserved.)

Appendix G—Provisions for an Alternative Method of Demonstrating Compliance With 40 CFR 60.43 for the Newton Power Station of Central Illinois Public Service Company

1. *Designation of Affected Facilities*

1.1 The affected facilities to which this alternative compliance method applies are the Unit 1 and 2 coal-fired steam generating units located at the Central Illinois Public Service Company's (CIPS) Newton Power Station in Jasper County, Illinois. Each of these units is subject to the Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction Commenced After August 17, 1971 (Subpart D).

2. *Definitions*

2.1 All definitions in Subparts D and Da of Part 60 apply to this provision except that:

"24-hour period" means the period of time between 12:00 midnight and the following midnight.

"CEMS" means continuous emission monitoring system.

"DAFGDS" means the dual alkali flue gas desulfurizaiton system for the Newton Unit 1 steam generating unit.

"Boiler operating day" means a 24-hour period during which any fossil fuel is combusted in either the Unit 1 or Unit 2 steam generating unit and during which the provisions of § 60.43(e) are applicable.

"Coal bunker" means a single or group of coal trailers, hoppers, silos or other containers that: (1) are physically attached to the affected facility; and (2) provide coal to the coal pulverizers.

3. *Compliance Provisions*

3.1 If the owner or operator of the affected facility elects to comply with the 470 nanograms per joule (ng/J) (1.1 lb/million Btu) of combined heat input emission limit under § 60.43(e), he shall notify the Administrator at least 30 days in advance of the date such election is to take effect, stating the date such operation is to commence. When the owner or operator elects to comply with this limit after one or more periods of reverting to the 520 ng/J heat input (1.2 lb/million Btu) limit of § 60.43(a)(2), as provided under 3.4, he shall notify the Administrator in writing at least ten (10) days in advance of the date such election is to take effect.

3.2 Compliance with the sulfur dioxide emission limit under § 60.43(e) is determined on a continuous basis by performance testing using CEMS. Within 60 days after the initial operation subject to the combined emission limit in § 60.43(e), the owner or operator shall conduct an initial performance test, as required by § 60.8, to determine compliance with the combined emission limit. This initial performance test is to be scheduled so that the first boiler operating day of the 30 successive boiler operating days is completed within 60 days after initial operation subject to the 470 ng/J (1.1 lb/million Btu) combined emission limit. Following the initial performance test, a separate performance test is completed at the end of each boiler operating day Unit 1 and Unit 2 are subject to § 60.43(e), and new 30 day average emission rate calculated.

3.2.1 Following the initial performance test, a new 30 day average emission rate is calculated each boiler operating day the affected facility is subject to 60.43(e). If the owner or operator of the affected facility elects to comply with § 60.43(e) after one or more periods of reverting to the 520 ng/J heat input (1.2 lb/million Btu) limit under § 60.43(a)(2), as provided under 3.4, the 30 day average emission rate under § 60.43(e) is calculated using emissions data of the current boiler operating day and data for the previous 29 boiler operating days when the affected facility was subject to § 60.43(e). Operation of the affected facility under § 60.43(a)(2) is not considered a boiler operating day. Emissions data collected during such periods are considered relative to 4.6 and emissions data are not included in calculations of emissions under § 60.43(e).

3.2.2 When the affected facility is operated under the provisions of § 60.43(e), the Unit 1 DAFGDS bypass damper must be fully closed with no flue gas bypassing the DAFGDS and the full flue gas volume treated by the DAFGDS. The DAFGDS bypass may be opened only during periods of DAFGDS startup, shutdown, or malfunction as described under Sections 3.5.1, 3.5.2, 3.5.3, 3.5.4, and 3.5.5.

3.3 Compliance with the sulfur dioxide emission limit set forth in § 60.43(e) is based on the average combined hourly emission rate from Units 1 and 2 for 30 successive boiler operating days determined as follows:

$$E30 = \frac{1}{n} \sum_{i=1}^{n} EC_i$$

where

n = the number of available hourly combined emission rate values in the 30 successive boiler operating day period where Unit 1 and Unit 2 are subject to § 60.43(e).

E30 = average emission rate for 30 successive boiler operating days where Unit 1 and Unit 2 are subject to § 60.43(e).

EC = the hourly combined emission rate from Units 1 and 2.

3.3.1 The average hourly combined emission rate for Units 1 and 2 for each hour of operation of either Unit 1 or 2, or both, is determined as follows:

$EC = [(E1)(H1) + (E2)(H2)]/[H1 + H2)]$

where:

EC = the hourly combined emission rate from Units 1 and 2 where Units 1 and 2 are subject to § 60.43(e).

E1 = the hourly emission rate from Unit 1 as determined from CEMS data using the calculation procedures in EPA Method 19 Section 5 and Section 4 of this Appendix.

E2 = the hourly emission rate from Unit 2 as determined from CEMS data using the calculation procedures in EPA Method 19 Section 5 and in Section 4 of this Appendix.

H1 = the hourly heat input to Unit 1 as determined in Section 4 of this Appendix.

H2 = the hourly heat input to Unit 2 as determined by Section 4 of this Appendix.

If data for any of the four hourly parameters (E1, E2, H1, and H2) under 3.2 are unavailable during an hourly period, the combined emission rate (EC) is not calculated and the period is counted as missing data under 4.6.1., except as provided under 3.5.6.

3.4 After the date of initial operation subject to the combined emission limit, the owner or operator shall remain subject to the requirements of this Appendix unless the owner or operator of the affected facility elects to revert to the 520 ng/J heat input (1.2 lb/MM Btu) limit of § 60.43(a)(2) separately at each unit. The Administrator shall be given written notification from CIPS as soon as practical of their decision to revert to the 520 ng/J heat input (1.2 lb/MM Btu) limit of § 60.43(a)(2) separately at each unit, but no later than 10 days in advance of the date such election is to take effect.

3.5 Emission monitoring data for Unit 1 may be excluded from calculations of the 30 day rolling average only during the following times:

3.5.1 Periods of DAFGDS startup.

3.5.2 Periods of DAFGDS shutdown.

3.5.3 Periods of DAFGDS malfunction during system emergencies as defined in § 60.41a.

3.5.4 The first 250 hours per calendar year of DAFGDS malfunctions of Unit 1 DAFGDS provided that efforts are made to minimize emissions from Unit 1 in accordance with § 60.11(d), and if, after 16 hours of DAFGDS

malfunction, the owner or operator of the affected facility begins loading coal (following the customary loading procedures, but not more than 24 hours later) with a potential SO_2 emission rate equal to or less than the current emission rate of Unit 2 (E2) into the Unit 1 coal bunker. Malfunction periods under 3.5.3 are not counted toward the 250 hour/yr limit under this section.

3.5.5 The malfunction exemption in 3.5.4 is limited to the first 250 hours per calendar year of DAFGDS malfunction. During the first 250 hours, except for the initial 16 hours of each Unit 1 DAFGDS malfunction, the owner or operator shall load coal with a potential SO_2 emission rate equal to or less than the current emission rate of Unit 2 (E2) into the Unit 1 coal bunkers. For malfunctions of the DAFGDS after the 250 hours per calendar year limit (cumulative), other than those defined in 3.5.3, the owner or operator of the affected facility shall combust lower sulfur coal or use any other method to comply with the 470 ng/J (1.1 lb/million Btu) combined emission limit.

3.5.6 During the first 250 hours of DAFGDS malfunction per year or during periods of DAFGDS startup, or DAFGDS shutdown, CEMS emissions data from Unit 2 shall continue to be included in the daily calculation of the combined 30 day rolling average emission rate; that is, the load on Unit 1 is assumed to be zero (H1 = 0; EC = E2).

3.5.7 The provision for excluding CEMS data from Unit 1 during the first 250 hours of DAFGDS malfunctions from combined hourly emissions calculations supercedes the provisions of § 60.11(d). However, the general purpose contained in § 60.11(d) (i.e., following good control practices to minimize air pollution emissions even during malfunctions) has not been superseded.

4. Continuous Emission Monitoring

4.1 The CEMS required under Section 3.2 are operated and data are recorded for all periods of operation of the affected facility including periods of the DAFGDS startup, shutdown and malfunction except for CEMS breakdowns, repairs, calibration checks, and zero and span adjustment. All provisions of § 60.45 apply except as follows:

4.2 The owner or operator shall install, calibrate, maintain, and operate CEMS and monitoring devices for measuring the following:

4.2.1 For Unit 1:

4.2.1.1 Sulfur dioxide and oxygen or carbon dioxide for the Unit 1 DAFGDS stack.

4.2.1.2 Sulfur dioxide, oxygen or carbon dioxide, volumetric flow rate, and static pressure and temperature for the Unit 1 DAFGDS by-pass stack.

4.2.1.3 Volumetric flow rate, static pressure, and temperature at the inlet ducts to the Unit 1 DAFGDS.

4.2.2 For Unit 2, sulfur dioxide and oxygen or carbon dioxide.

4.2.3 For Units 1 and 2, the hourly heat input, the hourly steam production rate, or the hourly gross electrical power output from each unit.

4.3 For the Unit 1 by-pass stack and the Unit 2 stack, the span value of the sulfur dioxide monitoring system is 200 percent of the maximum estimated hourly potential sulfur dioxide emissions of the fuel fired. For the Unit 1 DAFGDS stack, the span value is 50 percent of the maximum estimated hourly potential emissions of the fuel fired.

4.3.1 For the Unit 1 DAFGDS stack, an additional SO_2 monitor with a span value of 200 percent of the maximum hourly potential emissions of the fuel fired is required. During initial application of § 60.43(e), this requirement is considered to be satisfied if:

(1) Within 90 days of initial election to operate under § 60.43(e), the owner or operator of the affected facility submits a monitoring plan to the Administrator to install, maintain, and operate a CEMS with a span value of 200 percent or operate an alternative monitoring system capable of measuring such values;

(2) The plan is approved by the Administrator within 60 days of receipt of the plan; and

(3) During the period before the plan is approved, the owner or operator of the affected facility operates Methods 6 and 3, 8 and 3, or 8A on an hourly basis during all periods emissions exceed 50 percent of the maximum hourly potential emission rate of the fuel fired.

4.3.2 If an alternative monitoring plan under 4.3.1 is not approved by the Administrator within 150 days of initial election to operate under § 60.43(e), or if a separate CEMS with a span value of 200 percent has not been installed and made operational, Unit 1 and Unit 2 will become subject to the requirements of § 60.43(a)(2).

4.4 The monitoring devices required in 4.2 shall be installed, calibrated, and maintained as follows:

4.4.1 The volumetric flow rate monitoring device specified in 4.2.1.2 (DAFGDS bypass stack) shall be installed at the same location as the sulfur dioxide emission monitor.

4.4.2 The volumetric flow rate monitoring devices shall be calibrated using Reference Methods 1 and 2 (Appendix A). The traverse location for Method 2 shall be as near as practicable to the monitoring device location, and such that no gas flow is added or diverted between the measurement sites. The average gas velocity or volumetric flow rate by Method 2 shall be used to calculate a calibration coefficient for the monitoring device. Average gas molecular weight and moisture content may be used to calculate the gas density for use in the velocity or flow rate equations of Method 2.

4.4.3 The volumetric flow rate calibrations shall be conducted prior to the start of the initial performance test required in 3.2, and annually thereafter.

4.4.4 Temperature and pressure monitoring devices shall be calibrated and maintained according to manufacturer's specifications.

4.4.5 Hourly steam production rate or hourly electrical power output monitoring devices for Unit 1 and Unit 2 shall be calibrated and maintained according to manufacturer's specifications. The data from either of these devices may be used for the hourly heat input rates used in the calculation of the combined emission rate in Section 3.3 unless the hourly heat input to steam production or hourly heat input to electrical power output efficiency over a given segment of each boiler or generator operating range, respectively, varies by more than 5 percent within the specified operating range, or the efficiencies of the boiler/generator units differ by more than 5 percent. The hourly heat input may also be calculated based on the fuel firing rates and fuel analysis.

4.5 The Calculation procedures of Method 19, Appendix A are combined with the volumetric flow rate monitoring device results to calculate an emission rate for Unit 1 when leakage or diversion of any DAFGDS inlet gas to the bypass stack occurs (such as during conditions under 3.5.3, 3.5.4, and 3.5.6):

For Unit 1, hourly SO_2 emission rate (E1) is calculated as follows:

$$E1 = \frac{(QF)(EF) + (QB)(EB)}{QF + QB}$$

Where

QB = Dry volumetric bypass stack gas flow rate corrected to standard conditions, dscm/hr (dscf/hr).

QF = Dry volumetric DAFGDS inlet gas flow rate corrected to standard conditions, dscm/hr (dscf/hr).

EF = Hourly SO_2 emission rate measured in DAFGDS stack, ng/J (lb/million Btu).

EB = Hourly SO_2 emission rate measured in bypass stack ng/J (lb/million Btu).

Other than during conditions under 3.5.1, 3.5.2, 3.5.3, 3.5.4, or 3.5.5, the DAFGDS bypass system is not used and no leakage through the bypass damper should be indicated by either the bypass stack static pressure, temperature, or SO_2 measurements, and:

E1 = EF

4.6 For the CEMS required for Unit 1 and Unit 2, the owner or operator of the affected facility shall maintain and operate the CEMS and obtain combined emission data values (EC) for at least 75 percent of the boiler operating hours per day for at least 26 out of each 30 successive boiler operating days.

4.6.1 When hourly SO_2 emission data are not obtained by the CEMS because of CEMS breakdowns, repairs, calibration checks and zero and span adjustments, hourly emission data required by 4.6 are obtained by using Methods 6 and 3, 6A, or 8 and 3, or by other monitoring procedures approved by the Administrator. Failure to obtain the minimum data requirements of 4.6 by CEMS, or by CEMS supplemented with alternative methods of this section, is a violation of performance testing requirements.

4.6.2 Independent of complying with the minimum data requirements of 4.6, all valid emissions data collected are used to calculate combined hourly emission rates (EC) and 30-day rolling average emission rates (E30) are calculated and used to judge compliance with 60.43(e).

4.7 For each continuous emission monitoring system, a quality assurance plan shall be prepared by CIPS and approved by the Administrator. The plan is to be submitted to the Administrator 45 days before initiation of the intial performance

test. At a minimum, the plan shall contain the following quality control elements:

4.7.1 Calibration of continuous emission monitoring systems (CEMS).

4.7.2 Calibration drift determination and adjustment of CEMS.

4.7.3 Periodic CEMS relative accuracy determinations.

4.7.4 Preventive manitenance of CEMS (including spare parts inventory).

4.7.5 Data recording and reporting.

4.7.6 Program of corrective action for malfunctioning CEMS.

4.7.7 Criteria for determining when the CEMS are not producing valid data.

4.8 For the purpose of conducting the continuous emission monitoring system performance specification tests as required by § 60.13 and Appendix B, the following conditions apply:

4.8.1 The calibration drift specification of Specification 2, Appendix B shall be determined separately for the Unit 1 SO_2/diluent systems and the Unit 2 SO_2/diluent system.

4.8.2 The relative accuracy of Specification 2, Appendix B shall apply to the calculated combined emission rate for Unit 1 and Unit 2. The required relative accuracy is ± 20 percent using the procedures in Specification 2 simultaneously at Unit 1 and Unit 2.

4.8.3 If, during the instrument performance test period, the DAFGDS bypass stack gas volumetric flow rate monitoring device indicates a detectable flow or if the temperature or SO_2 concentration in the bypass stack indicates that leakage to the bypass is occurring or if the static pressures in the DAFGDS inlet ducts are positive, then the relative accuracy determination for the Unit 1 CEMS must include the DAFGDS bypass combination. To determine the relative accuracy of the Unit 1 flow combination:

4.8.3.1 Determine the volumetric flow rate using Method 2 at the bypass stack and the DAFGDS inlet ducts concurrently with the Method 6 tests required at the DAFGDS and bypass stacks.

4.8.3.2 Compute "E (Unit 1)" (Section 4.5) using the reference methods results.

4.8.3.3 Compute "E (Unit 1)" using the concurrent CEMS and flow rate monitoring device results.

4.8.3.4 Compute the relative accuracy as outlined in Specification 2 using the results in 4.8.3.2 and 4.8.3.3. The resulting relative accuracy for this separate system must be within ± 20 percent.

5. Recordkeeping Requirements

5.1 The plant owner or operator shall keep a record of each hourly emission rate and each hourly Btu heat input rate, hourly steam rate, or hourly electrical power output for Unit 1 and for Unit 2, and a record of each hourly weighted average emission rate. These records shall be kept for all periods of operation of Unit 1 or 2, including emissions of Unit 1 (E1) during periods of DAFGDS startup, shutdown, and malfunction when H1 is assumed to be zero (0) (see 4.5).

5.2 The plant owner or operator shall keep a record of each hourly gas flow rate to the DAFGDS, each hourly stack gas flow rate to the bypass stack during any periods that the DAFGDS bypass damper is opened, and reason for bypass operation.

6. Reporting Requirements

6.1 The owner or operator of any affected facility shall submit the written reports required under 6.2 of this section and Subpart A to the Administrator for every calendar quarter. All quarterly reports shall be submitted by the 30th day following the end of each calendar quarter.

6.2 For sulfur dioxide, the following data are submitted to the Administrator for each 24-hour period:

6.2.1 Calendar date

6.2.2 The combined average sulfur dioxide emission rate (ng/J or lb/million Btu) for the past 30 successive boiler operating days (ending with the last 30-day period in the quarter); and, for any noncompliance periods, reasons for noncompliance with the emission standards and description of corrective action taken.

6.2.3 Identification of the boiler operating days for which valid sulfur dioxide emissions data required by 4.6 have not been obtained for 75 percent of the boiler operating hours; reasons for not obtaining sufficient data; and description of corrective actions taken to prevent recurrence.

6.2.4 Identification of the time periods (hours) when Unit 1 or Unit 2 were operated but combined hourly emission rates (EC) were not calculated because of the unavailability of parameters E1, E2, H1, or H2 as described in 3.2.

6.2.5 Identification of the time periods (hours) when Unit 1 and Unit 2 were operated and where the combined hourly emission rate (EC) equalled Unit 2 (E2) emissions because of the Unit 1 malfunction provisions under 3.5.3, 3.5.4, and 3.5.5.

6.2.6 Identification of the time periods (hours) when emissions from the Unit 1 DAFGDS have been excluded from the calculation of average sulfur dioxide emisison rates because of Unit 1 DAFGDS startup, shutdown, malfunction, or other reasons; and justification for excluding data for reasons other than startup or shutdown. Reporting of hourly emission rate of Unit 1 (E1) during each hour of the DAFGDS startup, shutdown, or malfunction under 3.5.1, 3.5.2, 3.5.3, 3.5.4, and 3.5.5 (see 4.5).

6.2.7 Identification of the number of days in the calendar quarter that the affected facility was operated (any fuel fired).

6.2.8 Identify any periods where Unit 1 DAFGDS malfunctions occurred and the cumulative hours of Unit 1 DAFGDS malfunction for the quarter.

6.2.9 Identify any periods of time that any exhaust gases were discharged to the DAFGDS bypass stack and the hourly gas flow rate to the DAFGDS and to the DAFGDS bypass during such periods and reason for bypass operation.

6.2.10 Identification of each hourly emission rate (E1) and average heat input rate (H1) for Unit 1, each hourly average emission rate (E2) and average heat input rate (H2) for Unit 2, and each hourly weighted average emission rate (EC).

[FR Doc. 87-17631 Filed 8-3-87; 8:45 am]

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S.J. Res. 76/Pub. L. 100-81

To designate the week of October 4, 1987, through October 10, 1987, as "Mental Illness Awareness Week." (July 31, 1987; 101 Stat. 543; 2 pages) Price: $1.00