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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.

FARM CREDIT ADMINISTRATION

12 CFR Part 606

Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Farm Credit Administration; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published final regulations under Part 606 on June 1, 1988 (53 FR 19884). The final regulations to Part 606 prohibit discrimination on the basis of handicap in programs or activities conducted by the FCA. These regulations provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to the programs and activities conducted by the FCA. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is July 6, 1988.

EFFECTIVE DATE: July 6, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy E. Lynch, Associate General Counsel, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: July 1, 1988.

David A. Hill,

Secretary, Farm Credit Administration.

[FR Doc. 88–15236 Filed 7–6–88; 8:45 am]

BILLING CODE 6705–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Supplemental Security Income for the Aged, Blind, and Disabled; Against Equity and Good Conscience

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: In this final rule we expand the definition of what we consider to be "against equity and good conscience" in deciding whether or not to recover an overpayment of Social Security and/or supplemental security income (SSI) benefits. The new definition provides a more liberal policy for waiving the recovery of overpayments under certain conditions.

DATE: These regulations are effective with waiver decisions made on or after July 7, 1988.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Office of Regulations, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, telephone (301) 965–8470.

SUPPLEMENTARY INFORMATION:

Background

Titles II and XVI of the Social Security Act (the Act), sections 204(b) and 1631(b)(1)(B) respectively, provide that the Social Security Administration (SSA) shall not adjust benefits or make recovery because of an overpayment from any individual who is without fault in causing the overpayment if adjustment or recovery from that individual would "defeat the purpose" of the title or be "against equity and good conscience," and for title XVI cases, "impede efficient or effective administration" of that title. Sections 204(a) and 1631(b) provide authority to issue regulations regarding our overpayment and underpayment policies.

Our current regulations, §§ 404.509 and 416.554, define "against equity and good conscience." In addition, there are examples of how we apply the definition in making determinations on requests to waive recovery of overpayments. Our policy, as contained in the definition of "against equity and good conscience," provides that recovery of an overpayment will be considered inequitable if an individual who is without fault, as defined in §§ 404.510 and 416.552, relinquished a valuable right or changed his or her position for the worse because of a notice that we would make payment or because of the actual payment. The individual's financial circumstances are not considered in our determination of whether recovery would be "against equity and good conscience." Those circumstances are considered, however, in determining whether recovery would "defeat the purpose" of the title (see §§ 404.508 and 416.553).

In title II cases, we generally seek recovery of an overpayment from the individual who actually received the overpayment. If we are unable to obtain repayment from that individual, we then seek recovery by withholding benefits payable to any other individual entitled to benefits on the same record of earnings as the individual who actually received the overpayment. In title XVI cases, the income and resources of both members of the eligible couple are used to determine the monthly payment each receives. Generally, each member will receive a separate check for one-half of the payment due the couple. Thus, when an overpayment occurs in a title XVI case, each member of an eligible couple will, generally, receive one-half of the overpayment. We seek joint recovery from the eligible spouse and the eligible individual. The usual method of recovery is to withhold an equal amount from the benefits of each until the overpayment is recovered. However, if we are unable to obtain recovery from both, we then seek recovery of the entire overpayment from one.

Title II beneficiaries and others have pointed out to us that individuals who are not living the same household as the individual who actually received the overpayment usually have little or no contact with the overpaid individual or that individual's household. As a result, they often do not know the cause or amount of the overpayment. Some individuals in this situation do not learn of the overpayment and their liability for repayment until they become entitled to benefits years later. Additionally, they probably do not derive financial benefit from the overpayment amounts received by someone else because they lived in a separate household from the overpaid

individual at the time the overpayment was made.

We agree that our policy of recovering an overpayment from an individual who receives benefits on the same earnings record as and/or who is the eligible spouse of an eligible individual but who lived in a separate household from the individual at the time the overpayment was made should be changed.

For the reasons stated above, we are expanding the definition for title II at § 404.509 and title XVI at § 416.554 of "against equity and good conscience" in recovery of an overpayment.

Revised Rule

For title II, we are expanding the definition of "against equity and good conscience" at § 404.509 to include an individual who was living in a separate household from that of the overpaid individual and who did not receive the overpayment. For title XVI, § 416.570 provides that each member of an eligible couple is liable for his or her overpayment and the overpayment of his or her eligible spouse. We are expanding the definition at § 416.554 to permit waiver of recovery for that part of the overpayment not received when the overpayment is incurred by members of an eligible couple who are separated 6 months or less as provided in § 416.432.

To show some of the circumstances in which the expanded definition applies, we are adding examples (examples 3 and 4 at § 404.509 and example 3 at § 416.554).

In addition to the expanded definition and the new examples, we are deleting two examples at § 404.509 that are no longer appropriate and editing the remaining examples to reorder or make them clearer.

Public Comments

We published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** at 52 FR 10116 on March 30, 1987. We asked for public comments within a period of 60 days. The comment period closed May 29, 1987. The NPRM discussed the application of the revised "against equity and good conscience" rules to title II cases only. Because the criteria for waiver adopted in the proposed policy could also apply to concurrent cases (individuals receiving both title II and title XVI benefits) as well as some individuals receiving only title XVI benefits, we have decided that it would be inconsistent with the purpose of the proposal not to make it applicable to title XVI as well. The result of this extension will be to give certain couples receiving title XVI benefits an additional basis for waiver in certain limited circumstances.

The rule will apply under title XVI to members of an eligible couple who have been separated 6 months or less as provided in § 416.432. Unless otherwise indicated, the monthly payment for an eligible couple is divided equally and paid in separate checks to each individual. When an eligible couple is overpaid, each individual receives a part of the total overpayment. For the 6 months or less that the members of an eligible couple are separated, the rule provides that adjustment or recovery is "against equity and good conscience" for that part of the overpayment the individual who is without fault did not receive, but is liable for under § 416.570. For that part of the overpayment the individual did receive, the individual may also request waiver under § 416.550.

We received six comments on the NPRM. All commenters approved changing the definition of "against equity and good conscience." However, several commenters proposed additional changes that are addressed below. To facilitate our response, the comments are not addressed individually but rather by issues raised.

Comment: One commenter proposed that we expand the definition to include "or not living with the individual at the time recovery of the overpayment is sought."

Response: We rejected this suggestion. The purpose of the expanded definition reflected in this final rule regarding "against equity and good conscience" is to permit waiver of recovery of an overpayment against an individual who did not receive the overpayment and could not be expected to have known about the overpayment when it was made because the individual was living in a separate household from the person who caused the overpayment. Living arrangements when we initiate recovery of an overpayment are not relevant to the purpose of the definition in the final rule.

Comment: Two commenters suggested that there be a new special waiver definition stating that recovery of an overpayment will not be undertaken against any individual who did not receive the overpayment, whether or not the individual had been living with the overpaid person at the time of the overpayment.

Response: We rejected this suggestion because section 204(a)(1) of the Act requires that we must recover an overpayment either from the individual who received it or from his or her estate or we must decrease any payment that is payable to any other person on the basis of the earnings record which was the basis of the payment to the overpaid individual.

Comment: One commenter proposed that SSA records be used to determine that an individual is not at fault for the overpayment so that the individual would not have the burden of proving that he/she lived in a separate household at the time of the overpayment and derived no benefit from the overpayment.

Response: We rejected this proposal because SSA records do not contain the information we need to determine whether an individual was at fault in causing the overpayment. Unless the individual is without fault and meets the requirements of either "defeat the purpose" of the title or "against equity and good conscience," we cannot waiver adjustment or recovery of the overpayment.

Comment: One commenter recommended that we define the term "derived no benefit" from the overpayment to assist individuals in showing that recovery of the overpayment would be "against equity and good conscience."

Response: We did not adopt the recommendation that we define the term "derive no benefit." However, to avoid public confusion, we are clarifying the standard by substituting "did not receive the overpayment" for the term in question. We believe this new wording is clear and at the same time continues the substance of our policy of providing waiver under the new criteria only to the extent that an individual did not realize financial gain because he or she did not receive the overpayment. We also clarified example 3 and added example 4 at § 404.509 and example 3 at § 416.554 to avoid any confusion.

Comment: One commenter suggested that we eliminate the requirement that the individual must also "derive no benefit from the overpayment" because this is a narrow view of the "against equity and good conscience" standard.

Response: We rejected the substance of this suggestion. We believe it would be unfair to treat those individuals who realized financial gain from the overpayment the same as those who did not.

Comment: One commenter suggested that the regulations show the contents of the notice sent to individuals advising them of the overpayment and of their right to obtain waiver of the overpayment.

Response: We rejected this suggestion because to show this and other notices in the Code of Federal Regulations

(CFR) would expand the CFR to an unmanageable size, make it difficult to revise notices, and would provide little benefit. Section 404.502a explains that we send a notice of right to waiver consideration to the overpaid individual and to any other individual against whom adjustment or recovery of the overpayment is to be effected. We believe the notice mailed to each overpaid individual effectively informs individuals of the right to a waiver determination.

Comment: One commenter proposed that the regulations show the steps we take to recover an overpayment and that we also define what we mean by "unable to collect."

Response: We rejected this proposal because the information is available in the Federal Claims Collection Standards (4 CFR, Parts 101 through 105) which govern our overpayment collection actions and define when an overpayment is to be considered uncollectable. These standards have Federal government-wide application.

Regulatory Procedures

Executive Order 12291

These regulations change the definition of what we consider to be "against equity and good conscience" in recovering an overpayment. The new definition implements a more equitable policy of waiving recovery of overpayments under certain conditions. We estimate the cost to be minor (less than $4 million per year). Therefore, these regulations do not meet the criteria specified in Executive Order 12291 for a major rule and a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements necessitating clearance by the Officer of Management and Budget.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these regulations affect only benefit amounts payable to individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act of 1980, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 13.082—Social Security Disability Insurance; 13.803—Social Security Retirement Insurance; 13.805—Social Security Survivors' Insurance; 13.807—Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Death benefits; Disability benefits; Old-Age, Survivors and Disability Insurance.

20 CFR Part 416

Administrative practice and procedure; Aged; Blind; Disability benefits; Public assistance programs; Supplemental Security Income (SSI).

Dated: April 20, 1988.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: June 8, 1988.

Otis R. Bowen,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Parts 404 and 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

PART 404—[AMENDED]

1. The authority citation for Part 404, Subpart F continues to read as follows:

Authority: Secs. 204(a)–(d), 205(a), and 1102 of the Social Security Act; 42 U.S.C. 404(a)–(d), 405(a), and 1302.

2. Section 404.509 is revised to read as follows:

§ 404.509 Against equity and good conscience; defined.

(a) Recovery of an overpayment is "against equity and good conscience" (under title II and title XVIII) if an individual—

(1) Changed his or her position for the worse (Example 1) or relinquished a valuable right (Example 2) because of reliance upon a notice that a payment would be made or because of the overpayment itself; or

(2) Was living in a separate household from the overpaid person at the time of the overpayment and did not receive the overpayment (Examples 3 and 4).

(b) The individual's financial circumstances are not material to a finding of "against equity and good conscience."

Example 1. A widow, having been awarded benefits for herself and daughter, entered her daughter in private school because the monthly benefits made this possible. After the widow and her daughter received payments for almost a year, the deceased worker was found to be not insured and all payments to the widow and child were incorrect. The widow has no other funds with which to pay the daughter's private school expenses. Having entered the daughter in private school and thus incurred a financial obligation toward which the benefits had been applied, she was in a worse position financially than if she and her daughter had never been entitled to benefits. In this situation, the recovery of the payments would be "against equity and good conscience."

Example 2. After being awarded old-age insurance benefits, an individual resigned from employment on the assumption he would receive regular monthly benefit payments. It was discovered 3 years later that (due to a Social Security Administration error) his award was erroneous because he did not have the required insured status. Due to his age, the individual was unable to get his job back and could not get any other employment. In this situation, recovery of the overpayments would be "against equity and good conscience" because the individual gave up a valuable right.

Example 3. M divorced K and married L. M died a few years later. When K files for benefits as a surviving divorced wife, she learns that L had been overpaid $3,200 on M's earnings record. Because K and L are both entitled to benefits on M's record of earnings and we could not recover the overpayment from L, we sought recovery from K. K was living in a separate household from L at the time of the overpayment and did not receive the overpayment. K requests waiver of recovery of the $3,200 overpayment from benefits due her as a surviving divorced wife of M. In this situation, it would be "against equity and good conscience" to recover the overpayment from K.

Example 4. G filed for and was awarded benefits. His daughter, T, also filed for student benefits on G's earnings record. Since T was an independent, full-time student living in another State, she filed for benefits on her own behalf. Later, after T received 12 monthly benefits, the school reported that T had been a full-time student only 2 months and had withdrawn from school. Since T was overpaid 10 monthly benefits, she was requested to return the overpayment to SSA. T did not return the overpayment and further attempts to collect the overpayment were unsuccessful. G was asked to repay the overpayment because he was receiving benefits on the same earnings record. G requested waiver. To support his waiver request G established that he was not at fault in causing the overpayment because he did not know that T was receiving benefits. Since G is without fault and, in addition, meets the requirements of not living in the same household at the time of the overpayment and did not receive the overpayment, it would be "against equity and good conscience" to recover the overpayment from G.

PART 416—[AMENDED]

1. The authority citation for Part 416, Subpart E continues to read as follows:

Authority: Secs. 1102, 1601, 1602, 1611(c), and 1631 (a), (b), (d), and (g) of the Social Security Act; 42 U.S.C. 1302, 1381, 1381(a), 1382(c), and 1383 (a), (b), (d), and (g).

2. Section 416.554 is revised to read as follows:

§ 416.554 Waiver of adjustment or recovery—against equity and good conscience.

We will waive adjustment or recovery of an overpayment when an individual on whose behalf waiver is being considered is without fault (as defined in § 416.552) and adjustment or recovery would be "against equity and good conscience." Adjustment or recovery is considered to be "against equity and good conscience" if an individual changed his or her position for the worse or relinquished a valuable right because of reliance upon a notice that payment would be made or because of the incorrect payment itself. In addition, adjustment or recovery is considered to be "against equity and good conscience" for an individual who is a member of an eligible couple separated 6 months or less as provided in § 416.432, for that part of an overpayment not received, but subject to recovery under § 416.570.

Example 1. Upon being notified that he was eligible for supplemental security income payments, an individual signed a lease on an apartment renting for $15 a month more than the room he had previously occupied. It was subsequently found that eligibility for the payment should not have been established. In such a case, recovery would be considered "against equity and good conscience."

Example 2. An individual fails to take advantage of a private or organization charity, relying instead on the award of supplemental security income payments to support himself. It was subsequently found that the money was improperly paid. Recovery would be considered "against equity and good conscience."

Example 3. Mr. and Mrs. Smith—members of an eligible couple—separate. During the 6-month period that they are still considered an eligible couple, Mr. Smith receives earned income resulting in an overpayment to both. Mrs. Smith is found to be without fault in causing the overpayment. Recovery from Mrs. Smith of Mr. Smith's part of the couple's overpayment is waived as being "against equity and good conscience." Whether recovery of Mrs. Smith's portion of the couple's overpayment can be waived will be evaluated separately.

[FR Doc. 88-15256 Filed 7-6-88; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 160

RIN 2125—AC08

State Fiscal Procedures and Reports; Rescission of Regulation

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescission of regulation.

SUMMARY: The FHWA is rescinding its regulations concerning the transfer of Federal-Aid Highway and Safety funds because the regulations are merely a restatement of statutory provisions.

EFFECTIVE DATE: July 7, 1988.

FOR FURTHER INFORMATION CONTACT: Larry C. Hanna, Program Analysis Division, (202) 366-2906; or Michael J. Laska, Office of the Chief Counsel, (202) 366-1383, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The provisions contained in 23 CFR Part 160, were issued to prescribe the procedures for transfer of funds under subsections 104 (c) and (d) and 104(g) of title 23, United States Code. The regulations are primarily a simple restatement of the statutory provisions contained in title 23, U.S.C. It has been determined that since the regulations only serve to repeat statutory language, they are no longer considered necessary. States will be able to refer to Volume 1, Chapter 6, Section 3 of the Federal-Aid Highway Program Manual for statutory guidance.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. No economic impacts are anticipated as a result of this action. Accordingly, a full regulatory evaluation is not required. Under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic effect on a substantial number of small entities.

For the reasons stated above, the FHWA finds good cause to rescind the regulation contained in 23 CFR Part 160, without notice and opportunity for comment and without a 30-day delay in effective date required under the Administrative Procedure Act since public comment is impracticable and unnecessary. In addition, notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 160

Grant programs—transportation, Highways and roads.

Authority: 23 U.S.C. 104 (c), (d), and (g), 315; 49 CFR 1.48(b).

PART 160—STATE FISCAL PROCEDURES AND REPORT [REMOVED]

In consideration of the foregoing, the FHWA hereby removes Part 160 from Title 23, Code of Federal Regulations, Chapter 1.

Issued on: June 29, 1988.

Robert E. Farris,

Federal Highway Administrator.

[FR Doc. 88-15248 Filed 7-6-88; 8:45 am]
BILLING CODE 4910-22-M

23 CFR Part 658

[FHWA Docket No. 85-16, Notice No. 3]
RIN 2125-AB66

Truck-Tractor Semitrailer-Semitrailer; B-Trains

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document sets forth the designation of a truck-tractor semitrailer-semitrailer combination vehicle (with a B-train assembly connecting the two trailing units) as specialized equipment under the provisions of section 411(d) of the Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97-424, 96 Stat. 2097.

EFFECTIVE DATE: July 7, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. C.J. MacGowan, Office of Motor Carrier Information Management and Analysis (202) 366-4023 or Mr. David C. Oliver, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPRM) titled "Truck Size and Weight; Revisions" (50 FR 8342, March 1, 1985), the FHWA proposed to interpret 23 CFR 658.13 in such a manner that a combination of vehicles described as a truck-tractor semitrailer-semitrailer (hereinafter referred to as TTSS) be considered as a truck-tractor semitrailer-trailer for purposes of 23

CFR Part 658. The 1985 NPRM proposed to accomplish this by adding the words "truck-tractor semitrailer-semitrailer" each time they appeared in § 658.13. Based on the comments received, the FHWA recognized such a rule would be inappropriate.

Subsequently, a supplemental notice of proposed rulemaking titled "Truck-Tractor Semitrailer-Semitrailer; B-Trains" (53 FR 2603, January 29, 1988), proposed to recognize the TTSS vehicle (with a B-train assembly connecting the two trailing units) as specialized equipment under the provisions of section 411(d) of the Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97-424, 96 Stat. 2097.

There were four responses to the January 29, 1988, supplemental NPRM regarding the proposed definition and the proposed length limitations. All commenters supported the supplemental NPRM, two with minor changes to clarify the definitions as discussed below.

The Government of the District of Columbia and the State of California offered no adverse comment. The State of California offered the comment that the B-train doubles combination vehicle does not off-track as severely as an STAA tractor-semitrailer combination vehicle and provides better stability characteristics than the more common A-train doubles combination vehicle.

The State of Oregon expressed a concern regarding the design of the fifth-wheel connection that does not have the off-tracking benefit of a B-train. In this design, the frame of the first semitrailer is extended back to allow for a fifth-wheel connection. However, the extended frame does not act as a stinger, but, instead, as an extension of the first semitrailer wheelbase. Although Oregon's observation is true, this vehicle still does not off-track as much as a tractor-semitrailer (48-foot) combination, a fact that California pointed out. Therefore, FHWA chooses not to limit this provision to stinger-steered B-trains.

The Western Highway Institute expressed concern about possible misinterpretation of the length exclusion clause. Their concern was that since the lead semitrailer was manufactured and "intended" for use in a doubles combination vehicle, some would conclude that the overall length limitation is 28 feet when there is no semitrailer mounted to the B-train assembly. Such an interpretation would be restrictive in that the truck-tractor lead semitrailer combination vehicle could not then operate on the designated system without a second semitrailer connected. The FHWA did not intend this and has clarified the definition to provide that where there is no semitrailer mounted to the B-train assembly, the lead semitrailer would be limited to an overall length of 48 feet, or longer, if grandfathered.

Regulatory Impact

The FHWA has considered the impacts of this rule and has determined that it is not a major rulemaking action within the meaning of E.O. 12291. Pursuant to E.O. 12498, this rulemaking action has been included on the Department of Transportation's Regulatory Program for significant rulemaking actions.

These determinations by the agency are based on the nature of the rulemaking. The FHWA has determined that this rulemaking technically amends the final rule on truck size and weight (June 5, 1984; 49 FR 23302), by clarifying and further defining certain issues contained therein. The impacts of the provisions addressed in this rulemaking have already been fully considered by the impact documentation prepared for the June 5 final rule. Any changes to the June 5 final rule resulting from this rule would not appreciably affect the impact documentation initially prepared. The Regulatory Impact Analysis prepared for the June 5 rulemaking is available for inspection in the headquarters office of FHWA, 400 Seventh Street, SW., Room 4232, Washington, DC.

For the same reasons and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

In developing this final rule, the FHWA has considered fully the effect this rule will have on the States as required by E.O. 12612 on "Federalism," and the final rule is consistent with those principles.

In consideration of the foregoing, the FHWA is designating the truck-tractor semitrailer-semitrailer combination as described in this final rule as specialized equipment.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highways and roads, Motor carriers—size and weight.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Issued on: June 28, 1988.

Robert E. Farris,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends Part 658, Chapter 1 of Title 23, Code of Federal Regulations, as set forth below.

PART 658—TRUCK SIZE AND WEIGHT; ROUTE DESIGNATIONS—LENGTH, WIDTH AND WEIGHT LIMITATIONS

1. The authority citation for 23 CFR Part 658 continues to read as follows:

Authority: Secs. 133, 411, 412, 413, and 416 of Pub. L. 97-424, 96 Stat. 2097 (23 U.S.C. 127; 49 U.S.C. 2311, 2312, 2313 and App. 2316) as amended by Pub. L. 98-17, 97 Stat. 59, and Pub. L. 98-554, 98 Stat. 2829; 23 U.S.C. 315; and 49 CFR 1.48.

2. Section 658.5 is amended by adding paragraph (o) as follows:

§ 658.5 Definitions.

* * * * *

(o) *Truck-tractor Semitrailer-Semitrailer.* In a truck-tractor semitrailer-semitrailer combination vehicle, the two trailing units are connected with a "B-train" assembly. The B-train assembly is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth wheel connection point for the second semitrailer. This combination has one less articulation point than the conventional "A dolly" connected truck-tractor semitrailer-trailer combination.

3. Section 658.13 is amended by adding paragraph (d)(3) to read as follows:

§ 658.13 Length.

* * * * *

(d) *Specialized equipment.*

* * * * *

(3) *Truck-tractor semitrailer-semitrailer.* (i) Truck-tractor semitrailer-semitrailer combination vehicles are considered to be specialized equipment. No State shall impose a length limitation of less than 28 feet on any semitrailer or 28½ feet if the semitrailer was in legal operation on December 1, 1982, operating in a truck-tractor semitrailer-semitrailer combination. No State shall impose an overall length limitation on a truck-tractor semitrailer-semitrailer combination when each semitrailer length is 28 feet, or 28½ feet if grandfathered.

(ii) The B-train assembly is excluded from the measurement of trailer length when used between the first and second trailer of a truck-tractor semitrailer-semitrailer combination vehicle. However, when there is no semitrailer mounted to the B-train assembly, it will be included in the length measurement of the semitrailer, the length limitation in this case being 48 feet, or longer if grandfathered.

[FR Doc. 88-15249 Filed 7-6-88; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Approval of Alabama Abandoned Mine Land Reclamation Plan Amendment

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

ACTION: Final rule.

SUMMARY: On June 15, 1987, the State of Alabama submitted to OSMRE a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) plan. The amendment consists of minor adjustments in the Alabama policies and procedures regarding land acquisition, management and disposal of property, and reclamation on private land (liens, appraisals and rights of entry). After opportunity for public comment and review of the amendment, OSMRE has determined that the Alabama amendment meets the requirements of the Surface Mining Control and Reclamation Act (SMCRA) and the Secretary's regulations at 30 CFR Part 884. Accordingly, OSMRE is approving the Alabama AMLR plan amendment.

EFFECTIVE DATE: August 8, 1988.

FOR FURTHER INFORMATION CONTACT: Robert A. Penn, Director, Office of Surface Mining Reclamation and Enforcement, Birmingham Field Office, 228 West Valley Avenue, Birmingham, Alabama 35209, Telephone (205) 731-0953.

SUPPLEMENTARY INFORMATION:

I. Background

Title IV of SMCRA, Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an AMLR program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and waters eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State/Tribe or Federal law. Title IV of SMCRA establishes the conditions under which State/Tribes may obtain primary authority to implement this reclamation program.

The Alabama AMLR plan was approved on May 20, 1982 (47 FR 22062). On June 15, 1987, Alabama submitted a proposed amendment to the plan. An approved State/Tribe AMLR plan can be amended under the provisions of 30 CFR 884.15. Under these provisions, if the amendment or revision changes the objectives, scope, or major policies followed by the State/Tribe in the conduct of its reclamation program, OSMRE must follow the procedures set out in 30 CFR 884.14 in approving or disapproving the amendment or revision of a State/Tribe reclamation plan. OSMRE has followed these procedures and effective August 8, 1988, has approved the Alabama AMLR plan amendment.

By letter dated June 15, 1987 (Administrative Record No. AL 423) Alabama submitted an abandoned mine land reclamation plan amendment consisting of revised narratives to replace three sections of the approved Alabama plan. Specifically the following areas of the Plan are being revised.

1. *Land Acquisition, Management and Disposal (30 CFR Part 879)*: Alabama submitted revised procedures and forms for conducting appraisals on lands to be acquired by the State under the AMLR program.

2. *Reclamation on Private Lands (30 CFR Part 882)*: Alabama submitted revised procedures and forms for conducting appraisals of eligible abandoned mine lands (AML) and for considering lien potential, satisfaction, and release of lien for properties being reclaimed under the AMLR program.

3. *Rights of Entry (30 CFR Part 887)*: Alabama submitted revisions making minor changes in the forms used to obtain voluntary and nonconsensual rights-of-entry on AML lands. Minor editorial changes were also proposed to bring the Alabama Plan into line with OSMRE organizational requirements.

OSMRE published a notice of proposed rulemaking on the Alabama amendment and requested public comment on September 16, 1987 (52 FR 34929). The notice addressed in detail the proposed amendment. Since no public hearings were requested, none were held. Comments received by OSMRE on the amendment are discussed below:

II. Public Comment

The U.S. Fish and Wildlife Service suggested that the State AMLR program provide that agency, or the Alabama Department of Conservation and Natural Resources an opportunity to perform an abbreviated review of land parcels obtained under the abandoned mine land program to determine if the parcels could serve a purpose with regard to the protection, conservation and recovery of endangered or threatened species. OSMRE has considered this comment and finds that the coordination suggested by the Fish and Wildlife Service is part of the general coordination requirement, already in the plan, between the State AML agency and other Federal and State agencies.

III. Director's Findings

In accordance with section 405 of SMCRA, OSMRE finds that Alabama has submitted an amendment to its Abandoned Mine Land Reclamation Plan, subsequently revised and clarified, and has determined, pursuant to 30 CFR 884.15, that:

1. The State provided adequate notice and opportunity for public comment in the development of the amendment and that the record does not reflect major unresolved controversies.

2. Views of other Federal agencies having an interest in the plan have been solicited and considered.

3. The State has the legal authority, policies and administrative structure necessary to implement the amendment.

4. The proposed plan amendment meets all requirements of the OSMRE AMLR program provisions.

5. The State has an approved Surface Mining Regulatory Program.

6. The amendment is in compliance with all applicable State and Federal laws and regulations.

Under SMCRA, OSMRE codifies the approved requirements of individual States, including decisions on State reclamation plans and amendments, under Parts 900 to 950 of 30 CFR Subchapter T. Provisions relating to Alabama are found in 30 CFR Part 901. Based on the findings above, the Director is amending 30 CFR 901.25 to codify his approval of the Alabama amendment of June 15, 1987.

IV. Additional Findings

1. *Federal Paperwork Reduction Act:* This rule does not contain information collection requirements which require

approval by the Office of Management and Budget under 44 U.S.C. 3507 *et seq.*

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On November 23, 1987, 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 disapproval of State/Tribe reclamation plans or amendments. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). No burden will be imposed upon entities operating in compliance with the Act.

3. *National Environmental Policy Act:* Approval of State/Tribe AMLR plans and amendments is categorically excluded from compliance with the National Environmental Policy Act by the Department of the Interior's Manual, 516 DM 6, Appendix 8, paragraph 8.4B(30).

List of Subjects in 30 CFR Part 901

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

Dated: June 29, 1988.

Robert E. Boldt,

Deputy Director, Office of Surface Mining Reclamation and Enforcement.

PART 901—ALABAMA

1. The authority citation for Part 901 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. A new § 901.25 is added to read as follows:

§ 901.25 Amendment to approved Alabama Abandoned Mine Land Reclamation Plan.

The Alabama amendment, consisting of minor adjustments in the Alabama policies and procedures regarding land acquisition, management and disposal of property, and reclamation on private land (liens, appraisals and rights of entry), as submitted on June 15, 1987, and modified on January 7, 1988, is approved effective August 8, 1988.

Copies of the approved amendment are available at the following locations.

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, Ten Parkway Center, Pittsburgh, Pennsylvania 15220.

Alabama Surface Mining Reclamation Commission, Central Bank Building, 2nd Floor, 811 Second Avenue, Jasper, Alabama 35501.

Office of Surface Mining Reclamation and Enforcement, Birmingham Field Office, 228 West Valley Avenue, Room 302, Birmingham, Alabama 34209.

Office of Surface Mining Reclamation and Enforcement, Administrative Records Office, Room 5315, 110 L Street NW., Washington, DC 20240.

[FR Doc. 88–15196 Filed 7–6–88; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS Princeton

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Under Secretary of the Navy has determined that USS PRINCETON (CG–59) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: June 27, 1988.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Under Secretary of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS PRINCETON (CG–59) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a naval cruiser. The Under Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead lights not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained.
USS PRINCETON	CG-59	—	—	—	—	—	X	X	38

Dated: June 27, 1988.

H. Lawrence Garrett, III,

Under Secretary of the Navy.

[FR Doc. 88-15200 Filed 7-6-88; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS San Juan

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Under Secretary of the Navy has determined that USS SAN JUAN (SSN-751) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: June 27, 1988.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Under Secretary of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS SAN JUAN (SSN-751) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(i), pertaining to the height of the masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the locations of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Under Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS SAN JUAN (SSN-751) is a member of the SSN 688 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS SAN JUAN (SSN-751).

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows.

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by adding the following vessel:

Vessel	Number	Distance [1]
USS SAN JUAN	SSN-751	3.5

[1] Distance in meters of forward masthead light below minimum required height. § 2(a)(i), Annex I.

3. Table Three of § 706.2 is amended by adding the following vessel:

Vessel	Number	Masthead lights, arc of visibility; Rule 21(a)	Side lights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I	Sten light distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), Annex I
USS SAN JUAN	SSN-751	229°	113°	208°	4.2	6.1	3.5	1.7 below.

Dated: June 27, 1988.

H. Lawrence Garrett III,

Under Secretary of the Navy.

[FR Doc. 88-15201 Filed 7-6-88; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

34 CFR Part 600

Institutional Eligibility Under the Higher Education Act of 1965, as Amended

AGENCY: Department of Education.

ACTION: Suspension of effective date of 34 CFR 600.3(d).

SUMMARY: On April 5, 1988, the Department of Education published in the **Federal Register**, final regulations establishing the rules and procedures that the Secretary uses to determine whether an institution or school qualifies as an eligible institution under the Higher Education Act of 1965, as amended (HEA), 53 FR 11208.

These regulations provided that § 600.3(d) would take effect on July 1, 1988. Section 600.3(d) requires postsecondary institutions which were required to measure their educational programs in clock hours on the documentation submitted in application for state authorization, to measure their programs in clock hours in fact in order to be recognized as "legally authorized" by the Secretary.

Subsequent to the April 5, 1988, publication, the Department received numerous objections to the July 1, 1988, effective date. The objecting parties indicated that this effective date would: require recalculation, and elimination or reduction, of large numbers of 1988–89 student-aid awards; adversely affect postsecondary institutions which relied on prior practice in preparing for the upcoming academic term and cause them to incur substantial costs; and impose significant burdens on State departments of education as a result of postsecondary institutions seeking immediate changes in State authorization requirements.

As a result of these expressions of concern from representatives of postsecondary institutions and other segments of the education community, regarding the impact of the July 1, 1988, effective date, the Secretary suspends the effective date of paragraph (d) of § 600.3 until July 1, 1989. This delay will provide postsecondary institutions with adequate time to conform to these provisions of the institutional eligibility regulations.

For the above reasons, the Secretary finds, in accordance with 5 U.S.C. 553(b)(B), that the solicitation of public comment on this change would be impracticable and contrary to the public interest.

EFFECTIVE DATE: This change in the effective date of § 600.3(d) takes effect 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of this change, call or write the Department of Education contact person. When effective, the change in the effective date is retroactive to July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Virginia G. Re, U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., (Regional Office Building 3, Room 3030), Washington, DC 20202. Telephone number (202) 732–4906.

(Catalog of Federal Domestic Assistance Number does not apply)

Dated: June 30, 1988.

William J. Bennett,

Secretary of Education.

[FR Doc. 88–15215 Filed 7–6–88; 8:45 am]

BILLING CODE 4000-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Parking Fees at VA Medical Facilities

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration (VA) has developed regulations for determining parking fees at certain VA medical facilities and to provide definitions of terms relating to the payment of parking charges at those facilities. The need for this action results from the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 which requires that parking fees be established at VA medical facilities where parking garages are constructed, acquired, or altered at a cost exceeding $500,000, or, in the case of acquisition by lease, $100,000 per year; that employees, visitors and other individuals having business at such medical facility be charged a parking fee for the use of a parking facility at the medical facility; and that the established fees be reasonable under the circumstances. The effect of these regulations will be to provide a uniform basis for establishing fees and to provide definitions of terms relating to payment of fees.

EFFECTIVE DATE: These regulations are effective August 8, 1988.

FOR FURTHER INFORMATION CONTACT: Donald E. Johnson, Chief, Real Property Program Management Division, Office of Facilities, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–5026.

SUPPLEMENTARY INFORMATION: On pages 8934–35 of the **Federal Register** of March 18, 1988, the VA published proposed regulatory amendments to 38 CFR Part 1. Interested persons were given 30 days to submit comments, suggestions or objections.

The VA received two comments concerning the proposal. Of these, one comment supported the proposal in its entirety; the other comment, from the Veterans of Foreign Wars (VFW), suggested that Department Service Officers and other Accredited Representatives of the Veterans of Foreign Wars be added to those for whom no fees shall be established or collected for parking at VA medical facilities. Careful consideration went into the development of the regulations, the requirements of the law, and the effect of the regulations on all concerned. It was determined that only individuals who perform services, without compensation (financial or otherwise), under the auspices of the VA Voluntary Service (VAVS) would be exempt from the payment of parking fees at affected medical facilities. VFW volunteers under the auspices of the VAVS are eligible for free parking. However, compensated VFW employees cannot be exempt from paying required parking fees any more than any VA employee who is required to pay fees.

The regulations are adopted as proposed. We appreciate the interest of the commenters.

The Administrator of Veterans Affairs hereby certifies that these final regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that these regulations do not directly affect any small entities. Only VA employees, visitors and others having business at the medical facilities will be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these final regulations are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The VA has determined, in accordance with Executive Order 12291, Federal Regulation, that this final regulation is nonmajor for the following reasons:

(1) It will not have an effect on the economy of $100 million or more;

(2) It will not cause a major increase in costs or prices;

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

There is no Catalog of Federal Domestic Assistance Program number for these final regulations.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Freedom of information, Government employees, Governmental property, Investigations, Privacy, Veterans.

Approved: June 16, 1988.

Thomas K. Turnage,

Administrator.

PART 1—[AMENDED]

38 CFR Part 1, General, is amended by adding §§ 1.300 to 1.303 and an undesignated center heading to read as follows:

Parking Fees at VA Medical Facilities

Sec.

1.300 Purpose.
1.301 Definitions.
1.302 Applicability and scope.
1.303 Policy.

Parking Fees at VA Medical Facilities

Authority: Sections 1.300 through 1.303 issued under 38 U.S.C. 210, 5009.

§ 1.300 Purpose.

Sections 1.300 through 1.303 prescribe policies and procedures for establishing parking fees for the use of Veterans Administration controlled parking spaces at VA medical facilities.

(Authority: 38 U.S.C. 210(c)(1), 5009)

§ 1.301 Definitions.

As used in §§ 1.300 through 1.303 of this title:

(a) "Administrator" means the Administrator of Veterans Affairs.

(b) "Eligible person" means any individual to whom the Administrator is authorized to furnish medical examination or treatment.

(c) "Garage" means a structure or part of a structure in which vehicles may be parked.

(d) "Medical facility" means any facility or part thereof which is under the jurisdiction of the Administrator for the provision of health-care services, including any necessary buildings and structures, garage or parking facility.

(e) "Parking facilities" includes all surface and garage parking spaces at a VA medical facility.

(f) "Volunteer worker" means an individual who performs services, without compensation, under the auspices of the VA Voluntary Service (VAVS) at a VA medical facility, for the benefit of veterans receiving care at that medical facility.

(Authority: 38 U.S.C. 5009)

§ 1.302 Applicability and scope.

(a) The provisions of §§ 1.300 through 1.303 apply to VA medical facility parking facilities in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, and to such parking facilities for the use of VA medical facilities jointly shared by the VA and another Federal agency when the facility is operated by the VA. Sections 1.300 through 1.303 apply to all users of those parking facilities. Fees shall be assessed and collected at medical facilities where parking garages are constructed, acquired, or altered at a cost exceeding $500,000 (or, in the case of acquisition by lease, $100,000 per year). The Administrator, in the exercise of official discretion, may also determine that parking fees shall be charged at any other VA medical facility.

(b) All fees established shall be reasonable under the circumstances and shall cover all parking facilities used in connection with such VA medical facility.

(Authority: 38 U.S.C. 5009)

§ 1.303 Policy.

(a) *General.* Parking spaces at VA medical facilities shall only be provided under the following conditions:

(1) The VA and its employees shall not be liable for any damages to vehicles (or their contents) parked in VA parking facilities, unless such damages are directly caused by such employees acting in the course of their VA employment.

(2) Parking facilities at VA medical facilities shall only be made available at each medical facility for such periods and under such terms as prescribed by the facility director, consistent with §§ 1.300 through 1.303.

(3) VA will limit parking facilities at VA medical facilities to the minimum necessary, and administer those parking facilities in full compliance with ridesharing regulations and Federal laws.

(b) *Fees.* (1) As provided in § 1.302, VA will assess VA employees, contractor employees, tenant employees, visitors, and other individuals having business at a VA medical facility where VA parking facilities are available, a parking fee for the use of that parking facility. All parking fees shall be set at a rate which shall be equivalent to one-half of the appropriate fair rental value (i.e., monthly, weekly, daily, hourly) for the use of equivalent commercial space in the vicinity of the medical facility, subject to the terms and conditions stated in paragraph (a) of this section. Fair rental value shall include an allowance for the costs of management of the parking facilities. The Administrator will determine the fair market rental value through use of generally accepted appraisal techniques. If the appraisal establishes that there is no comparable commercial rate because of the absence of commercial parking facilities within a two-mile radius of the medical facility, then the rate established shall be not less than the lowest rate charged for parking at the VA medical facility with the lowest established parking fees. Rates established shall be reviewed biannually by the Administrator to reflect any increase or decrease in value as determined by appraisal updating.

(2) No parking fees shall be established or collected for parking facilities used by or for vehicles of the following:

(i) Volunteer workers in connection with such workers performing services for the benefit of veterans receiving care at the medical facility;

(ii) A veteran or an eligible person in connection with such veteran or eligible person receiving examination or treatment;

(iii) An individual transporting a veteran or eligible person seeking examination or treatment; and

(iv) Federal Government employees using Government owned or leased or private vehicles for official business.

(Authority: 38 U.S.C. 5009)

[FR Doc. 88-15251 Filed 7-6-88; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-362; RM-5633]

Radio Broadcasting Services; Copeland, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 256C1 to Copeland, Kansas, as that community's first FM broadcast service, in response to a petition filed by Great Plains Christian Radio, Inc. The coordinates for Channel 256C1 are 37–32–31 and 100–37–45. With this action, this proceeding is terminated.

DATES: Effective July 25, 1988; the window period for filing applications will open on July 26, 1988, and close on August 25, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–362, adopted May 11, 1988, and released June 8, 1988. 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, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Kansas is amended by adding Copeland, Channel 256C1.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–14955 Filed 7–6–88; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 71146–8001]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: The Acting Director, Alaska Region, NMFS (Regional Director), has determined that the portion of the total allowable catches (TACs) of sablefish allocated to hook-and-line gear in the Southeast Outside/East Yakutat District, in the West Yakutat District, and the Central Regulatory Area of the Gulf of Alaska have been taken. Therefore, retention of sablefish by hook-and-line vessels fishing in these areas after 12:00 noon on July 1, 1988, is prohibited. This action is necessary to limit the retention of sablefish to the hook-and-line allocation as established in the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: This notice is effective at noon, Alaska Daylight Time, (ADT), July 1, until midnight, Alaska Standard Time (AST) December 31, 1988. Public comments are invited on this closure through July 16, 1988.

ADDRESSES: Comments should be addressed to James W. Brooks, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m., Monday through Friday) at the Alaska Regional Office, NMFS, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska.

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

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR Part 672. Section 672.2 of the regulations defines the Western, Central, and Eastern Regulatory Areas in the Gulf of Alaska. This section also defines the regulatory districts of the Eastern Regulatory area, which includes the Southeast Outside, East Yakutat, and West Yakutat Districts. For purposes of managing sablefish, the Southeast Outside and East Yakutat Districts are combined. Under the procedure set forth at § 672.20(a), 1988 TACs were established for each of the groundfish species, which were then apportioned among the regulatory areas or districts. One of the species is sablefish, for which the 1988 TAC in the combined Southeast Outside/East Yakutat is 6,500 mt and the TAC in the West Yakutat District is 4,900 mt (53 FR 890, January 14, 1988).

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

The directed sablefish fisheries with hook-and-line gear were previously closed in the Southeast Outside/East Yakutat and West Yakutat Districts of the Eastern Regulatory Area on May 2, 1988 (53 FR 16129, May 5, 1988) and in the Central Regulatory Area on June 12 (53 FR 22327, June 15, 1988). Under § 672.24(b)(3)(i), incidental catches of sablefish were allowed to be retained by fishermen using hook-and-line gear while fishing for other fish species in each of these districts and the Central Regulatory Area until the TACs in these areas had been reached. Amounts of the TACs assigned to hook-and-line gear have now been reached, and further sablefish catches must be treated as prohibited species after 12:00 noon, ADT, on July 1, 1988 and § 672.24(b)(3)(ii).

Under § 672.22(b)(2), public comments on this notice may be submitted to the Regional Director for 15 days following its effective date. If comments are received, the necessity for this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this closure's continued effect, modifying it, or rescinding it.

Classification

The specified allocations of the sablefish resource between hook-and-line and trawl gear in the Southeast Outside/East Yakutat District, in the West Yakutat District, and in the Central Regulatory Area will be jeopardized unless this notice takes effect promptly. Therefore, NOAA finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed.

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

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: June 30, 1988.

Richard H. Schaefer,

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

[FR Doc. 88–15218 Filed 7–1–88; 1:29 pm]

BILLING CODE 3510–22–M

50 CFR Part 674

[Docket No. 80630-8130]

High Seas Salmon Fishery Off Alaska

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

ACTION: Final rule.

SUMMARY: The Secretary of Commerce (Secretary) announces the commercial salmon fishing periods in the exclusive economic zone (EEZ) off Southeast (S.E.) Alaska for 1988. The Secretary notes that the Pacific Salmon Commission (Commission) has established a base harvest limit of 263,000 chinook salmon for all commercial and recreational fisheries in S.E. Alaska in 1988. This action by the Secretary is necessary to establish the opening of the commercial troll fishery for 1988 and is intended to conserve chinook salmon stocks covered by the Pacific Salmon Treaty.

EFFECTIVE DATE: July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Aven M. Andersen (Fishery Management Biologist, NMFS), 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Section 7(a) of Pub. L. 99-5, the Pacific Salmon Treaty Act of 1985, 16 U.S.C. 3631 *et seq.*, requires the Secretary to issue conforming amendatory regulations applicable to the U.S. EEZ to fulfill U.S. treaty obligations to Canada. This action amends the regulations at 50 CFR Part 674 to adopt fishing seasons and catch limitations for 1988 that, in conjunction with similar measures adopted by the State of Alaska (State) for its waters, will ensure that the high seas salmon fishery is conducted in a manner that fulfills our international obligations under the Pacific Salmon Treaty.

Quotas for Chinook Salmon

The Commission established the 1988 chinook salmon quotas at its meeting in February 1988. For all salmon fisheries in S.E. Alaska, the Commission set the harvest quota at 263,000 chinook salmon from the base stocks; this number equals last year's base quota. The base stocks are those wild and hatchery stocks that were being harvested in this fishery when the treaty was signed.

In addition, the Commission entitled Alaska to exceed the base harvest quota with a supplemental harvest of chinook salmon produced by Alaska hatcheries that are in excess of those included in the base stocks. The amount of this supplement will be calculated in season using procedures approved by the Commission; the preseason estimate currently is 27,000 chinook, which will bring the total allowable harvest to about 290,000 chinook.

Chinook Harvest Guidelines for the Troll Fishery

The Alaska Board of Fisheries (Board) met in Sitka during April 1988. It did not consider any changes in the existing harvest guidelines for chinook among the various groups of fishermen; thus, the guidelines established in 1987 apply in 1988. Therefore, of the 263,000 chinook base quota, the harvest guidelines are as follows: Sport—22,000; net (seine, drift gill net, set gill net, and trap)—20,000; troll—221,000. Also, the Board did not allocate the new-enhancement supplement of 27,000, but each fishery will be allowed to catch as many of those supplemental chinook as it can until the Commission's base quota is reached. The exact number of the supplemental chinook salmon each fishery harvests will be determined as the season progresses, from the recovery of coded-wire tags from the Alaska hatchery fish, and these fish will be excluded from the catch in determining when the base quota is reached.

The guideline for the harvest of chinook salmon by the summer troll fishery will be about 156,000 because the winter troll fishery in State waters has already harvested about 65,000 of the 221,000 available. The 156,000 applies to all commercial salmon trolling in the marine waters of S.E. Alaska and the EEZ; there is no separate allocation for the troll fishery in the EEZ.

The Summer Troll Fishing Season

The Board set the opening date of the summer commercial troll season as July 1 and directed that the season be closed when the quota has been harvested. The Board intended that the chinook troll fishery be managed so that there is a single fishing period for chinook salmon and that specific areas be closed if necessary to extend the chinook season.

Seasons are scheduled to avoid, as much as practicable, nonretainable incidental catches of chinook during fisheries for other species. Chinook that are caught and released suffer a high rate of mortality; thus, managers try to keep their incidence low when they cannot be retained. After the troll share of the chinook quota has been harvested, chinook retention in the troll fishery will be prohibited during fishing for the other salmon species (coho, sockeye, pink, and chum). In the past 5 years, NMFS and the State have closed trolling in some small areas in State and Federal waters where chinook are known to concentrate. These closures might be necessary again.

Also, depending on the size of the coho run and the speed at which the coho move from the offshore waters into the inside waters and spawning grounds, the Secretary and the State might close the troll fishery to the harvest of all salmon species for about 10 days between late July and mid-August to protect coho.

Under existing State and Federal regulations, the commercial troll salmon fishery closes on September 20 each year.

Fishing Periods

The fishing periods (Alaska Daylight Time) for the commercial troll fishery in the EEZ off S.E. Alaska are as follows, unless later modified:

Chinook salmon: From 0001 hours on July 1, 1988, until the chinook harvest guideline is reached (probably about July 20).

All salmon species except chinook: From 0001 hours on July 1, 1988, until 2400 hours on September 20, 1988.

After the fishing season begins, NOAA may issue notices to modify the fishing seasons given above on the basis of the following or other contingencies:

(a) The fishery for all species might be closed for about 10 days between mid-July and mid-August unless an evaluation of the S.E. Alaska coho salmon runs shows them to be well above average in number of coho and that there is good inshore movement. This closure, if necessary, is designed: (i) To stabilize or reduce the proportion of the coho runs harvested in the offshore and coastal fisheries, (ii) to allow adequate harvests by the fisheries in the marine and fresh waters inshore of the surfline as described in 5 Alaska Administrative Code (AAC) 33.312(b) of S.E. Alaska, and (iii) to allow adequate numbers of coho to escape the fisheries and reach the spawning grounds.

(b) The fishery for chinook salmon might be allowed to resume for a short time after it has been closed if statistics on the harvest reveal that the fishery closed before the quota established by the treaty had been reached and that there were enough chinook remaining for the fishery to be reopened for more than 12 hours. Any such reopening of the fishery in the EEZ would be identical to a reopening of the fishery in Alaskan waters.

(c) If management actions need to be taken to reduce the hooking mortality of chinook salmon caught incidentally during the fishery for other salmon species or to restrict the harvest of chinook to an incidental harvest, small

areas known to have high concentrations of chinook may be closed, as they have been in the past.

Other Matters

A provision of the Pacific Salmon Treaty (annex IV, chapter 3) requires each nation to submit the plans it has developed for managing its salmon fisheries to the other nation before the start of the fishing season. The United States and Canada exchanged their fishing plans at the February meeting of the Pacific Salmon Commission.

Copies of this notice have been provided to the North Pacific Fishery Management Council, the U.S. Fish and Wildlife Service, and the U.S. Coast Guard for review and consultation as required by section 7(a) of the Pacific Salmon Treaty Act.

Classification

Under section 7(a) of the Pacific Salmon Treaty Act, this action is exempt from sections 4 through 8 of the Administrative Procedure Act (5 U.S.C. sections 553 to 557), the Regulatory Flexibility Act, and the National Enviornmental Policy Act. It is exempt from Executive Order 12291 because it involves a foreign affairs function. It contains no requirement for collecting information for purposes of the Paperwork Reduction Act.

The Director of the NMFS Alaska Region has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. This determination has been submitted for review by the responsible state agency under section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 674

Administrative practice and procedure, Fisheries, Fishing, International organizations.

Dated: June 30, 1988.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth above, 50 CFR Part 674 is amended as follows:

PART 674—[AMENDED]

1. The authority citation for Part 674 continues to read as follows:

Authority: 16 U.S.C. 3631 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 674.21, paragraph (a)(2) is revised to read as follows:

§ 674.21 Time and area limitations.

(a) * * *

(2) *East area.* Fishing periods in 1988 (Alaska Daylight Time) are as follows:

(i) Chinook salmon—0001 hours on July 1 until the commercial troll fleet reaches its harvest guideline of 221,000 chinook from the base stocks.

(ii) Salmon species other than chinook—0001 hours July 1 to 2400 hours on September 20.

* * * * *

[FR Doc. 88-15189 Filed 7-1-88; 11:32 am]
BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 71147-8002]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of closure.

SUMMARY: NOAA announces prohibitions on deliveries to foreign processors in the exclusive economic zone (EEZ) of pollock taken in directed fisheries in the Aleutian Islands subarea. This action is taken under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), and is necessary to limit joint venture processing (JVP) to the amount of pollock specified for JVP. It is intended to assure optimum use of groundfish and promote the orderly conduct of the groundfish fisheries.

DATES: This closure is effective from 2359 GMT (1559 Alaska Daylight Time ADT), July 1 through December 31, 1988. Comments will be accepted through July 18, 1988.

ADDRESS: Comments should be mailed to James W. Brooks, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Resource Management Specialist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the EEZ under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council and is implemented by rules appearing at 50 CFR 611.93 and Part 675. The FMP establishes a split-season apportionment of pollock for JVP and divides the JVP amount of pollock into two parts. Part One, equal to 40 percent of the sum of the initial JVP for pollock plus 15 percent of the TAC for pollock, is available to the directed JVP fishery for pollock from January 15 through April 15 (§ 675.20(b)(3)(i)). Directed fishing is defined in § 675.2. Part Two, the remainder of the initial JVP for pollock plus any reserve releases, is available for the directed JVP fishery from April 16 through December 31 (§ 675.20(b)(3)(ii)).

In 1988, Part One of the JVP apportionment for pollock in the Aleutian Islands subarea was 16,336 metric tons (mt) (53 FR 894, January 14, 1988). Part One of the JVP apportionment was taken by March 4, 1988, when the Aleutian Islands subarea was closed to JVP directed fishing for pollock.

Amounts reapportioned from the reserve on June 22 (53 FR 23402), increased the JVP apportionment for pollock from 34,090 mt to 40,840 mt. NMFS estimates that 38,840 mt of pollock will be taken by July 1, 1988. The Regional Director has determined that the remaining 2,000 mt of the pollock TAC apportioned to JVP is needed for bycatch in other JVP fisheries in the Aleutian Islands subarea during the remainder of the fishing year. Consequently, NOAA is prohibiting the delivery to foreign processors in the EEZ of any pollock taken in a directed fishery.

Notice of Closure to Directed Fishing

Under § 675.20(b)(3)(ii), when the Regional Director determines that the unharvested amount of Part Two is necessary for bycatch in JVP fisheries for other groundfish species during the second period, the Secretary of Commerce will publish a notice in the **Federal Register** prohibiting JVP directed fishing for pollock for the remainder of the second period.

Based on the Regional Director's estimate that directed JVP fisheries for species other than pollock will require a bycatch of 2,000 mt of pollock, the amount of pollock available to foreign processors receiving directed catches of pollock is 38,840 mt. To avoid exceeding the JVP for pollock, U.S. fishermen delivering catches to foreign processing vessels in the Aleutian Islands subarea of the EEZ must cease directed fishing for pollock at 2359 GMT, July 1, 1988.

Under § 675.20(g)(2), interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the

public interest to provide prior notice and opportunity for public comment. Immediate effectiveness of this notice is necessary to prevent the available JVP for pollock from being prematurely exceeded. This action is taken under the authority of § 675.20(b) and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: July 1, 1988.

Richard H. Schaefer,

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

[FR Doc. 88-15217 Filed 7-1-88; 1:29 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 130
Thursday, July 7, 1988

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 929 and 967

Expenses and Assessment Rates for Cranberries Grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, and Celery Grown in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish assessment rates under Marketing Order Nos. 929 and 967 for the 1988–89 fiscal year established for the cranberry marketing order and celery marketing order. Both marketing orders require that the assessment rates for a particular fiscal year shall apply to all assessable commodities handled from the beginning of such year. An annual budget of expenses is prepared by each order's administrative committee and submitted to the U.S. Department of Agriculture for approval. The members of the administrative committees are handlers and producers of the regulated commodities. They are familiar with the committees' needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate appropriate budgets. The assessment rate recommended by each committee is derived by dividing the anticipated expenses by expected shipments of the commodity. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committees' expected expenses. Funds to administer these programs are derived from assessments on handlers.

DATE: Comments must be received by July 18, 1988.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order Nos. 929 [7 CFR Part 929], regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; and 967 (7 CFR Part 967) regulating the handling of celery grown in Florida. These orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

There are approximately 30 handlers of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Washington, and Long Island in the State of New York, and approximately 950 producers in the regulated area. There are seven handlers of celery grown in Florida, and 13 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less that $3,500,000. The majority of these handlers and producers may be classified as small entities.

The marketing orders require that assessment rates for a particular fiscal year shall apply to all assessable commodities handled from the beginning of such year. An annual budget of expenses is prepared by each administrative committee and submitted to the U.S. Department of Agriculture for approval. The members of administrative committee are handlers and producers of the regulated commodities. They are familiar with the committees' needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by each committee is derived by dividing anticipated expenses by expected shipments of the commodity. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committees' expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committees shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committees will have funds to pay their expenses.

The Cranberry Marketing Committee conducted a mail vote and unanimously recommended 1988–89 marketing order expenditures of $198,000 and an assessment rate of $0.055 per 100 pound barrel of cranberries shipped. In comparison, 1987–88 marketing year budgeted expenditures were $154,400 and the assessment rate was $0.043 per 100 pound barrel under M.O. 929. Assessment income for 1988–89 is estimated at $198,000 based on a crop of 3,600,000 barrels of cranberries. Other sources of income, including interest

expected to be received, are estimated at $6,000, bringing total income to $204,000.

The Florida Celery Committee met on June 9, 1988, and unanimously recommended 1988–89 marketing order expenditures of $126,000 and an assessment rate of $0.02 per crate of celery shipped. In comparison, 1987–88 marketing year budgeted expenditures were $126,000 and the assessment rate was $0.02 per crate under M.O. 967. Assessment income for 1988–89 is estimated at $120,000 based on a crop of 6,000,000 crates of celery. Other sources of income, including interest expected to be received, are estimated at $6,000, bringing total income to $126,000.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. Further, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approvals for these programs need to be expedited. The committees must have sufficient funds to pay their expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Parts 929 and 967

Celery, Connecticut, Cranberries, Florida, Long Island in the State of New York, Marketing agreements and orders, Massachusetts, Michigan, Minnesota, New Jersey, Oregon, Rhode Island, Washington, Wisconsin.

For the reasons set forth in the preamble, it is proposed that new §§ 929.229 and 967.324 be added as follows:

1. The authority citation for 7 CFR Parts 929 and 967 continues to read as follows:

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

PART 929—CRANBERRIES GROWN IN MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

2. Section § 929.229 is added to read as follows:

§ 929.229 Expenses and assessment rate.

Expenses of $198,000 by the Cranberry Marketing Committee are authorized, and an assessment rate of $0.055 per 100 pound barrel of assessable cranberries is established for the fiscal year ending August 31, 1989. Unexpended funds may be carried over as a reserve.

PART 967—CELERIES GROWN IN FLORIDA

3. Section 967.324 is added to read as follows:

§ 967.324 Expenses and assessment rate.

Expenses of $126,000 by the Florida Celery Committee are authorized, and an assessment rate of $0.02 per crate of assessable celery is established for the fiscal year ending July 31, 1989. Unexpended funds may be carried over as a reserve.

Dated: July 1, 1988.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–15207 Filed 7–6–88; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Parts 989 and 999

[AMS–FV–88–053PR]

Raisins Produced From Grapes Grown in California; Specialty Crops—Import Regulations; Changes to the Administrative, Supplementary, and Quality Control Rules and Regulations for California Raisins; Import Regulations for Specialty Crops; Segregating the Monukka Varietal Type

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a proposed change to the administrative, supplementary, and quality control rules and regulations of the California raisin marketing order and specialty crops import regulations. This proposal would separate the Monukka varietal type into a Monukka varietal type (Monukka raisins) and an Other Seedless varietal type (Ruby Seedless, Flame Seedless, Black Imperial, and other similar seedless raisins). Currently, the Monukka varietal type includes Monukka, Ruby Seedless, Flame Seedless, Black Imperial, and other similar seedless raisins. Monukka grapes are grown primarily for the production of raisins and there is a special market for raisins made from these grapes. Raisins made from the other varietal types in the Monukka varietal type are generally considered as a salvage outlet for grapes remaining after such grapes have been harvested for table (fresh) use. For those reasons, the Raisin Administrative Committee (Committee), the agency responsible for local administration of the order, has recommended segregating the Monukka varietal type. This would allow both varietal types (Monukka and Other Seedless) to be regulated based on their own separate and distinct conditions of supply and demand.

DATE: Comments must be received by July 22, 1988.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085–S, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 989 (7 CFR Part 989), as amended, regulating the handling of raisins produced from grapes grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

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

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

There are approximately 23 handlers of raisins who are subject to regulations under the raisin marketing order, and approximately 5,000 producers in the regulated area. There are approximately

45 raisin importers subject to the requirements of the raisin import regulations. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California raisins and importers of raisins may be classified as small entities.

This proposed rule invites comments on changes to the administrative, supplementary, and quality control rules and regulations of the raisin marketing order and import regulations for specialty crops. The proposal to amend the domestic regulations was unanimously recommended by the Committee and would separate the Monukka varietal type group into two varietal types: (1) A Monukka varietal type consisting solely of Monukka raisins; (2) an Other Seedless varietal type consisting of Ruby Seedless, Flame Seedless, Black Imperial, and other similar seedless raisins. The U.S. Department of Agriculture proposes to amend the import regulation to conform to the proposed changes in the marketing order.

Section 989.10 of the order provides that the Committee, with the approval of the Secretary, may change the list of varietal types. Thus, it is proposed to amend § 989.110(h); add a new § 989.110(i); amend §§ 989.156(a); 989.210(a); 989.211 (a), (b), and (c); 988.212 (a) and (b); 989.212 (a), (b), (c), and (d); 989.701(a), and 989–702(c) to include the Other Seedless varietal type. In addition, changes are proposed to the import regulations that appear in Part 999.

Presently, the Monukka varietal type includes Monukka, Ruby Seedless, Flame Seedless, Black Imperial and other similar seedless raisins. Monukka grapes are primarily produced for drying into raisins. The market for Monukka raisins is in health and specialty stores, and the number of Monukka growers is small.

In contrast, the Ruby Seedless, Flame Seedless, Black Imperial and other similar seedless raisins grapes are grown primarily for use as table grapes. Grapes left after the vines have been picked are dried into raisins. Raisins produced from these seedless varieties usually are marketed through grocery stores rather than through specialty stores where Monukkas are sold. The Monukka varietal type possesses characteristics differing from the other seedless raisins sufficient to make it desirable to have separate identification and classification.

Currently, when volume regulations are in effect, the same free percentage (the amount which can be handled in the primary market) applies to each kind of raisin in the Monukka varietal type irrespective of differences in market demands for such varietal types. This action would allow the Committee to recommend different volume regulations for the Monukka varietal type and the Other Seedless varietal type and thereby recognize distinct differences in supply and demand conditions.

In addition, the weight dockage system, the weight adjustment system and the minimum grade and condition requirements could vary, if deemed appropriate, between Monukkas and Other Seedless as a result of the proposed change. Further, the proposed change would affect the raisin diversion program provisions in the regulations by separating Monukkas and Other Seedless, thereby permitting the quantity eligible for diversion to be announced separately for these proposed varietal types when appropriate.

The Committee has therefore recommended that the Monukka varietal type be separated into two varietal types: (1) Monukka Seedless; and (2) Other Seedless. This would recognize differences in supply and demand conditions for Monukka and Other Seedless raisins and allow producers of Monukka grapes dried into raisins to take advantage of a separate and distinct market for Monukka raisins. Pursuant to section 8e of the Act, this proposed rule would also amend the import regulations which appear in Part 999 to conform to the proposed changes in the regulations issued under the marketing order. Imported raisins are required to meet the same or comparable quality standards as the domestically produced crop.

Based on the available information, the Administrator of the AMS has determined that the issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

A 15-day comment period is deemed adequate because the proposed changes, if adopted, should be made effective at the beginning of the crop year which is August 1, 1988. Therefore, any changes would be applicable to all 1988–89 crop year raisins.

List of Subjects

7 CFR Part 989

California, Grapes, Marketing agreements and orders, Raisins.

7 CFR Part 999

Dates, Filberts/Hazelnuts, Food grades and standards, Imports, Prunes, Raisins, Walnuts.

For the reasons set forth in the preamble, 7 CFR Parts 989 and 999 are proposed to be amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 989 continues to read as follows:

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

Subpart—Administrative Rules and Regulations

2. Section 989.110, is amended by revising paragraph (h) and adding new paragraph (i) to read as follows:

§ 989.110 Varietal types.

Pursuant to § 989.10, specific definitions for each varietal type of raisins are as follows:

* * * * *

(h) Monukka includes all raisins produced from Monukka grapes.

(i) Other Seedless includes all raisins produced from Ruby Seedless, Kings Ruby Seedless, Flame Seedless and other seedless grapes not included in any of the varietal categories for Seedless raisins defined in paragraph (a), (b), (c), (d) or (h) above.

§ 989.156 [Amended]

3. Section 989.156(a)(1) is amended by revising the second sentence to read: "The quantity eligible for diversion may be announced for any of the following varietal types of raisins: Natural (sun-dried) Seedless, Muscat (including other raisins with seeds), Sultana, Zante Currant, Monukka, and Other Seedless raisins."

Subpart—Supplementary Regulations

§ 989.210 [Amended]

4. Section 989.210(a) is amended by revising the first sentence to read: "A handler may acquire as standard raisins lots of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, Other Seedless, Sultana, Zante Currant and Muscat (including other raisins with seeds) raisins under the weight dockage and/or weight adjustment (moisture) provisions described in §§ 989.211, 989.212 and 989.213."

§ 989.211 [Amended]

5. Section 989.211(a) is amended by revising the first sentence to read:

"Natural (sun-dried) Seedless, Monukka, and Other Seedless raisins containing from 14.1 percent through 16.0 percent moisture or 13.9 percent or lower moisture may be acquired by a handler under a weight adjustment system."

6. Section 989.211(b) is amended by revising the first sentence to read: "Adjustment table for Natural (sun-dried) Seedless, Monukka, and Other Seedless raisins with 14.1 percent through 16.0 percent moisture:"

7. Section 989.211(c) is amended by revising the first sentence to read: "Adjustment table for Natural (sun-dried) Seedless, Monukka and Other Seedless raisins with 13.9 percent moisture or lower:"

§ 989.212 [Amended]

8. Section 989.212(a) is amended by revising the first sentence to read: "Subject to prior agreement between handler and tenderer, Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka and Other Seedless raisins containing from 5.1 through 10.0 percent, by weight, of substandard raisins may be acquired by a handler under a weight dockage system.

9. Section 989.212(b) is amended by revising the first sentence to read: "Substandard dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, and Other Seedless raisins."

§ 989.213 [Amended]

10. Section 989.213(a) is amended by revising the first sentence to read: "Subject to prior agreement between handler and tenderer, Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka and Other Seedless raisins containing from 40.0 through 49.9 percent, by weight, of well-matured or reasonably well-matured raisins may be acquired by a handler under a weight dockage system.

11. Section 989.213(b) is amended by revising the first sentence to read: "Maturity dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, and Other Seedless raisins with 45.0 percent through 49.9 percent Grade B or better:"

12. Section 989.213(c) is amended by revising the first sentence to read: "Maturity dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, and Other Seedless raisins with 40.0 percent through 44.9 percent Grade B or better."

13. Section 989.213(d) is amended by revising the first sentence to read: "Maturity dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, and Other Seedless raisins with 35.0 percent through 39.9 percent Grade B or better:"

14. Section 989.701 is amended by revising paragraph (a) introductory text to read as follows:

Subpart—Quality Control

§ 989.701 Minimum grade and condition standards for natural condition raisins.

* * * * *

(a) *Natural (sun-dried) Seedless, Monukka and Other Seedless Raisins.* Natural condition Natural (sun-dried) Seedless, Monukka, and Other Seedless raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements:

* * *

* * * * *

15. Section 989.702 is amended by revising paragraph (c) to read as follows:

§ 989.702 Minimum grade standards for packed raisins.

* * * * *

(c) *Monukka and Other Seedless Raisins.* Packed Monukka and Other Seedless raisins shall at least meet the requirements prescribed in paragraph (a) of this section, except that the tolerance for moisture shall be 19 percent rather than 18 percent.

* * * * *

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR Part 999 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.2.

2. Section 999.300 is amended by revising paragraphs (a)(2) and (b)(5) to read as follows:

§ 999.300 Regulation governing importation of raisins.

(a) * * *

(2) "Varietal type" means the applicable one of the following: Thompson Seedless raisins, Muscat raisins, Layer Muscat raisins, Currant raisins, Monukka raisins, Other Seedless raisins, and Golden Seedless raisins.

* * * * *

(b) * * *

(5) With respect to Monukka and Other Seedless raisins—the requirements for Thompson Seedless Raisins prescribed in paragraph (b)(1) of this section, except that the tolerance for moisture shall be 19 percent rather than 18 percent;

* * * * *

July 1, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–15208 Filed 7–6–88; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 88–066]

Change in Disease Status of Papua New Guinea Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations in 9 CFR Part 94 by adding Papua New Guinea to the list of countries declared to be free of rinderpest and foot-and-mouth disease. Rinderpest and foot-and-mouth disease have never been reported in Papua New Guinea, and there are adequate controls to prevent the introduction and spread of these diseases. We are also proposing to add Papua New Guinea to the list of countries that, although declared free of rinderpest and foot-and-mouth disease, are subject to special restrictions on the importation of meat and other animal products into the United States. This action would allow the importation of ruminants and swine, and fresh, chilled, and frozen meats of ruminants and swine into the United States from Papua New Guinea under certain restrictions.

DATE: Consideration will be given only to comments postmarked or received on or before August 8, 1988.

ADDRESSES: Send an original and three copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC 20090–6464. Please state that your comments refer to Docket No. 88–066. Comments received may be inspected at Room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Kathleen J. Akin, Staff Veterinarian, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 805, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8499.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 (referred to below as the regulations) regulate, among other things, the importation into the United States of certain animals, meat, and animal products. These regulations are designed, among other things, to prevent the introduction into the United States of rinderpest, foot-and-mouth disease, African swine fever, hog cholera, swine vesicular disease, and viscerotropic velogenic Newcastle disease.

Section 94.1(a)(1) of the regulations provides that rinderpest or foot-and-mouth disease exists in all countries of the world, except those listed in § 94.1(a)(2), which are declared to be free of these diseases. We are proposing to add Papua New Guinea to this list.

Rinderpest and foot-and-mouth disease have never been reported in Papua New Guinea, and there are adequate controls to prevent the introduction and spread of these diseases. We declare a country to be free of rinderpest and foot-and-mouth disease if there has been no case of the disease reported there for the previous one-year period. Based on all pertinent information submitted by its animal health authorities, Papua New Guinea qualifies for listing in § 94.1(a)(2) of the regulations as a country declared to be free of rinderpest and foot-and-mouth disease.

We are also adding Papua New Guinea to the list in § 94.11(a) of countries free of rinderpest and foot-and-mouth disease that are subject to special restrictions on the importation of their meat and other animal products into the United States if they: (1) Supplement their national meat supply by importing fresh, chilled, or frozen meat of ruminants or swine from countries designated in § 94.1(a) as infected with rinderpest or foot-and-mouth disease; (2) or have a common land border with countries designated as infected with rinderpest or foot-and-mouth disease; (3) or import ruminants or swine from countries designated as infected with rinderpest or foot-and-mouth disease under conditions less restrictive than would be acceptable for importation into the United States.

Papua New Guinea has a common land border with Indonesia, which is designated in § 94.1(a)(1) as a country in which rinderpest or foot-and-mouth disease exists. Even though we propose to designate Papua New Guinea as free of rinderpest and foot-and-mouth disease, the meat and other animal products produced in Papua New Guinea may be commingled with meat and other animal products from an infected country, resulting in an undue risk of introducing rinderpest or foot-and-mouth disease into the United States. Therefore, we are proposing that meat of ruminants and swine and other animal products, and ship stores, airplane meals, and baggage containing these meat or animal products, from Papua New Guinea be imported into the United States only under the restrictions specified in § 94.11 of the regulations.

Executive Order and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

This change would not result in the importation of significant numbers of ruminants, swine, animal or meat products. We anticipate an increase in the importation of water buffalo since Papua New Guinea would be one of the few water-buffalo-exporting countries in the world that would be recognized as being free of rinderpest and foot-and-mouth disease. At present, we are aware of only one individual in the United States who has indicated a desire to import water buffalo. This individual is now involved in a project to import these animals from another source, Trinidad. We believe it is unlikely that he would alter his plans in order to import water buffalo from Papua New Guinea, which is farther from the United States than is Trinidad, because of the increased cost of doing so. Since there are only about 700 water buffalo in Papua New Guinea, the number that could be imported from that country would not be great. We do not anticipate that any meat or meat products would be imported.

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

Paperwork Reduction Act

The regulations in this proposal contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

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

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, African swine fever, Exotic Newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Rinderpest, Swine vesicular disease.

Accordingly, 9 CFR Part 94 would be amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for Part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) would be amended by adding "Papua New Guinea," immediately after "Panama Canal Zone,".

§ 94.11 [Amended]

3. In § 94.11, paragraph (a) would be amended by adding "Papua New Guinea," immediately after "Norway,".

Done in Washington, DC, this 29th day of June, 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-15154 Filed 7-6-88; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 535

[No. 88-538]

Consumer Protections; Unfair or Deceptive Credit Practices; Request for Exemption by State of California

Date: June 29, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Request for exemption from consumer credit regulation by the State of California.

SUMMARY: The Federal Home Loan Bank Board ("Board") hereby publishes for comment a request from the State of California ("State") for an exemption from the cosigner notice provision of the Board's consumer credit regulation—Prohibited Consumer Credit Practices (12 CFR 535.3).

DATE: Comments must be received on or before August 8, 1988.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments should be captioned: "California Request for Exemption from the Credit Practices Rule." Comments will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Stephen D. Johnson, Attorney/Advisor, Office of Community Investment, (202) 377-6237, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The Credit Practices Rule ("Rule") provides that with respect to the extension of credit to consumers after January 1, 1986, it is an unfair act or practice for an institution subject to the Rule to include in a consumer credit contract any of the following clauses: A confession of judgment, a waiver or limitation of exemption from attachment or execution, an assignment of wages (with specified exceptions), or a clause granting a nonpossessory security interest in household goods other than a purchase money security interest.[1] The rule also prohibits a lender from engaging in any practice that results in the pyramiding of late charges in connection with the collection of consumer credit debt. Lastly, the Rule prohibits lenders from directly or indirectly misrepresenting the nature or extent of a cosigner's liability and requires that a cosigner be provided a written cosigner disclosure statement that outlines the cosigner's potential liability.

The Credit Practices Rule provides that if a state applies on behalf of insured institutions in that state for an exemption from a provision of the Rule, such exemption will be granted if it is determined by the Office of Community Investment, in conjunction with the Office of General Counsel, that: (1) There is in effect a state requirement or prohibition that applies to any transaction to which a provision of the Rule applies; and (2) the state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the Rule's provision. If such an exemption is granted, the exempted provision of the Rule is not in effect in that state, and the exemption will continue as long as the state effectively administers and enforces its law.

The application of the State of California, through its Attorney General, asserts that California law and enforcement afford a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the Rule. In support of this claim, the application contains copies of provisions of California's Business and Professions Code and California's Civil Code ("Cal. Bus. & Prof. Code" and "Cal. Civ. Code") and a comparison of the cosigner provision of the Board's Rule and the relevant California statutory provisions. The application provides information about the public enforcement activities of the consumer law section of the State Attorney General's office and of the 58 county district attorney offices and about the California Banking Department's examination and enforcement activities. Therefore, the State requests that its state-chartered savings and loan associations be exempt from the operation of the Rule and that the Board consider that this exemption be applied to federally-chartered associations located in California as well.

The Board deems it necessary to publish this exemption request for public comment for 30 days in order to enable the Board to receive views and information from public on the question of whether the California law meets the Rule's regulatory criteria for exemption. *See* 12 CFR 535.5.

Call for comment: Interested persons are invited to comment on the State of California's request for exemption, which is summarized below. The Board is particularly interested in receiving comments on specific issues that have been identified below. However, comments are invited on any aspect of the California petition. At the end of the 30-day comment period, the Director of the Office of Community Investment in consultation with the General Counsel will review the comments received and, under authority delegated by the Board, render a decision whether the requested exemption should be granted. The staff will publish its decision to grant or deny the exemption in the **Federal Register.** In light of the fact that two similar exemption requests by the State of California have been published for comment by the FTC and the FRB, and in light of the early filing of the present request, the Board deems a comment period of 30 days to be sufficient to receive comments from interested parties.

In particular, the Board solicits comment on the following:

- Whether excluding spouses from receipt of a consigner notice, under the California law, adversely affects the level of protection afforded married persons in light of the state's community property law.
- Whether the provisions of California law on unfair competition and misleading statements afford consumers a level of protection that is substantially equivalent to, or greater than, the provision of the Board's Rule concerning misrepresentation of cosigner liability.
- Whether the remedy for violation of the California provisions affecting cosigners affords consumers a level of protection that is substantially equivalent to, or greater than, that afforded by the Board's Rule.
- Whether California administers and enforces its laws, as they relate to cosigners of consumer credit obligations, effectively.

The requirement set forth at 12 CFR 535.5 that a comparable state requirement be "substantially equivalent" to the Board's rule does not require that a state's rule mirror the Rule's provisions exactly. Any differences that exist, however, should

[1] The Credit Practices Rule promulgated by the Board applies to member institutions, which by definition are those engaged in the business of providing credit to consumers and which are members of a Federal Home Loan Bank (including service corporations specified in the Rule). This rule became effective January 1, 1986. The Federal Reserve Board ("FRB") and the Federal Trade Commission ("FTC") have adopted substantially similar rules that apply to banks, lenders, and retail installment sellers within their respective jurisdictions. The FTC's rule, 12 CFR Part 444, became effective in March 1984; the FRB's rule, 12 CFR Part 227, became effective in April 1985.

be so minor as to ensure that consumers are afforded a level of protection equal to that guaranteed by the Rule without significantly complicating compliance by interstate creditors.

California Law As Described in the Application and the Board's Credit Practices Rule.

The State of California asserts that certain provisions of California's Business and Professions Code (Cal. Bus. & Prof. Code 17200 *et seq.* and 17500 *et seq.*) and California's Civil Code (Cal. Civ. Code 1799.90 *et seq.*) afford greater protection to consumers than does the cosigner provision of the Board's Rule and that an exemption should therefore be granted by the Board for as long as the California provisions remain in effect. A comparison of the relevant provisions of California law (as described by the California exemption application) and the cosigner provision of the Board's Rule is set forth below.

A. Cosigner Notice Requirements

1. Coverage

Cal. Civ. Code 1799.91 requires a creditor that obtains the signature of more than one person on a consumer credit contract to deliver (before a person becomes obligated on the contract) a cosigner notice to any person who signs the contract and does not in fact receive any of the money, property, or services that are the subject of the contract, unless the persons are married to each other. A creditor is defined as any person or entity that enters into or arranges for consumer credit contracts in the ordinary course of business (Cal. Civ. Code 1799.90(b)). Consumer credit contracts are obligations primarily for personal, family, or household purposes that are to be paid on a deferred basis. They include retail installment contracts and accounts, conditional sales contracts, credit extensions that are unsecured or secured by personal property, and credit extensions, however secured, that are arranged by real estate brokers or made by consumer financial lenders (Cal. Civ. Code 1799.90(a)). Cal. Civ. Code 1799.99 mandates that the cosigner notice be given in other transactions (other than consumer credit contracts as defined by state law) that are subject to the Board's Rule as well as the rules of the FTC and the FRB. A creditor in California must also give each person signing the consumer credit contract a copy of the debt instrument, security agreement, and any other document evidencing that person's obligation (Cal. Civ. Code 1799.93(b)).

The Board's Rule requires a member institution (or "creditor") to provide a cosigner with a written notice of his or her obligation before the cosigner becomes obligated for an extension of consumer credit (12 CFR 535.3(b)(1)). A creditor bank is not required to give a cosigner copies of the documents evidencing the obligation. Any consumer credit transaction (other than for the purchase of real property) made primarily for personal, family, or household use is covered by the Rule (12 CFR 535.1(b)).

2. Content of the Notice

Under the Board's Credit Practices Rule, a member institution must provide the prescribed disclosure statement, or one that is substantially similar, to the cosigner (12 CFR 535.3(b)(1)). The notice must be clear and conspicuous. It can be contained on the document evidencing the credit obligation or on a separate document.

The California cosigner notice is identical to the notice contained in section 535.3(b)(1) of the Board's Rule. The notice must be in at least 10-point type and can be placed on the contract or other documents establishing liability or on a separate document (Cal. Civ. Code 1799.91(a)). If the notice is contained on a separate document it can also include an identification of the consumer and the consumer credit contract to which it refers, the date, and the consumer's acknowledgement of receipt (Cal. Civ. Code 1799.92(b)). A Spanish language translation of the notice is required to accompany the English version, and if the contract is written in still another language the notice must be translated into that language (Cal. Civ. Code 1799.91 (a) and (b)).

3. Definition of Cosigner

Under the Board's Rule, any natural person who assumes liability for the obligation of a consumer, without receiving goods, services, or money in return for the obligation, is a cosigner. In the case of an open-end credit obligation, a cosigner is a natural person who assumes liability without receiving the contractual right to obtain extensions of credit on an open-end account (12 CFR 535.1(c)). A person who merely pledges property to secure a consumer credit obligation is not a cosigner for purposes of the Board's Rule.

The California Civil Code does not provide a specific definition of cosigner, but Cal. Civ. Code 1799.91 requires that the disclosure notice be given to each person, except a spouse, who signs a consumer credit contract and does not in fact receive the money, property, or services that are the subject of the contract. A person who pledges collateral to secure a consumer credit obligation (even without assuming personal liability) is, therefore, entitled to receive a disclosure notice under California law.

4. Cosigning Spouses

The Board's Rule requires that a cosigner notice be given to all persons who fall within the cosigner definition, including spouses. California law excludes spouses from receipt of a cosigner notice. The Board does not favor eliminating disclosure statements to spouses, and has asked for specific comment on this divergence of California law from the Board Rule.

Under California law, all real property situated in California and all personal property acquired during marriage is deemed to be community property (Cal. Civ. Code 5110). A spouse's share of community property generally will be liable for the other spouse's debts, whether or not both spouses undertake a credit obligation (Cal. Civ. Code 5120.110). A married person in California may have separate property in addition to community property. Separate property may consist of property acquired before the marriage or through gift or inheritance (Cal. Civ. Code 5107 and 5108). This separate property is not liable for the debts incurred by a spouse unless the debts are incurred to obtain the "necessities of life" (Cal. Civ. Code 5120.130(b) and 5120.140(a)(1)). As a result, when a non-applicant spouse cosigns a spouse's obligation, in addition to community property, that spouse's separate property becomes available to satisfy the debt in the event of default.

California's Attorney General asserts in the State's exemption application that California law does not require a creditor to give a cosigner notice to a spouse because the notice would be a misleading statement of legal responsibilities under California's marital property law.

The Attorney General maintains that giving a spouse the cosigner notice may potentially mislead the spouse to conclude that if he or she does not sign the credit obligation, he or she will not be liable for the spouse's debt, even though California's marital property law provides otherwise. California states that the cosigner notice would have to be modified substantially to reflect accurately California's marital property law; and the State believes that such modifications would be so complex as to undermine the notice's effectiveness

in explaining the consequences of cosigning an obligation.

The Attorney General also maintains that a cosigning spouse subject to California law would generally not fall within the Board's definition of a cosigner. Money or property acquired by either spouse on the credit of community property or the personal credit of either spouse is presumed to be community property.[2] Both spouses are legally entitled to enjoy, use, manage and control community property. (Cal. Civ. Code 5125.)

Therefore, both spouses would be entitled to the proceeds of the credit obligation. Under the Board's Rule, a cosigner notice need only to be given to a person who assumes liability without receiving money, property or services. Consequently, the California Attorney General argues that as long as community property assets are available to a creditor to satisfy an obligation, even if a nonapplicant spouse were also to obligate his or her separate property by cosigning a spouse's obligation, a creditor in California would not be required to give the Board's cosigner notice to the cosigning spouse. The Attorney General suggests that in California the situation in which the Board's cosigner notice would have to be given to a nonapplicant spouse (where no community property is being relied upon to satisfy a debt) is virtually nonexistent.

B. Misrepresentation of Cosigner Liability

Under the Board's Rule, it is a deceptive act or practice for a member institution to misrepresent the nature or extent of a cosigner's liability to any person in connection with an extension of credit to consumers (12 CFR 535.3(a)(1)). It is also a deceptive act or practice to obligate a cosigner unless the cosigner is informed, prior to becoming obligated, of the nature of his or her liability as a cosigner (12 CFR 535.3(a)(2)).

Misrepresentation of cosigner liability is not specifically prohibited by California law. Cal. Bus. & Prof. Code 17500 does, however, prohibit a person from disseminating untrue or misleading statements in order to induce the public into entering into an obligation. This section has been interpreted by California case law to include actions by financial institutions. In addition, California case law has held that proof of actual deception, intent of the disseminator, knowledge of the consumer's reliance on the statement, or damages are unnecessary to establish a violation of the section.

Cal. Bus. & Pro. Code 17200 prohibits a wide range of business practices constituting unfair competition. Unfair competition is defined to include unlawful or fradulent business practices. These prohibitions have been interpreted by California case law to protect consumers as well as businesses from the prohibited practices.

C. Remedies and Enforcement

Compliance with the provisions of the Board's Rule is provided through administrative enforcement, including periodic compliance examinations and investigations. Failure to comply with the cosigner provision of the Board's Rule is deemed an unfair or deceptive act or practice. The rule does not *per se* alter the obligation between the institution and the cosigner. No private right of action is provided under the Board's Rule. Noncompliance may result in administrative actions, including the issuance of cease and desist orders.

To assure compliance with the state law provisions affecting cosigners, California reports that it relies on the private remedy and public enforcement, through the state's unfair business practices law, by various prosecutorial agencies. If a creditor fails to comply with the California cosigner requirements, the creditor is barred from bringing any action or enforcing any security interest against a person entitled to receive notice who did not in fact receive any of the money, property, or services involved in the contract (Cal. Civ. Code 1799.95).

California courts are empowered to issue injunctive relief, to order restitution, and to fashion any appropriate equitable order to redress the dissemination of untrue or misleading statements and any unlawful business practice. An action for an injunction, restitution, and other equitable relief may be brought by the Attorney General, any of the 58 district attorneys, and local prosecutors. The Attorney General, the district attorneys, and certain local prosecutors can obtain a mandatory civil penalty of up to $2,500 for a violation of each of the statutes. In addition, these agencies may seek a civil penalty of up to $6,000 per day for each violation of an injunction issued pursuant to Cal. Bus. & Prof. Code 17203 and 17535. In addition, Cal. Bus. & Prof. Code 17204 and 17535 provide that actions for injunctive relief may also be brought by any person acting for the interests by itself, its members, or the general public. Thus, California case law has held that individuals and organizations have standing to redress violations of these provisions even if they were not directly aggrieved by the violations.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88-15285 Filed 7-6-88; 8:45 am]

BILLING CODE 6720-01-M

[2] The State cites Cal. Civ. Code 5110 and case law in support of this position. *See In re marriage of Fischer*, 78 Cal. App. 3d 558, 581, 146 Cal. Rptr. 581 (1978); *Ford v. Ford*, 276 Cal. App. 2d 9, 12-13, 60 Cal. Rptr. 435 (1969).

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 881 0038]

The Vons Companies et al.; Proposed Consent Agreement With Analysis To Aid Public Comment; Comment Period

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; comment period.

SUMMARY: A Commission document previously published in the **Federal Register** on Thursday, June 2, 1988, 53 FR 20131 incorrectly initiated a comment period of 60 days for the proposed consent agreement. A document published in the **Federal Register** on Monday, June 13, 1988, 53 FR 22022 corrected this error and reduced the public comment period to 30 days to permit earlier consideration of the consent order. In light of the error, the Commission will accept comments for an additional 15 days.

DATE: Comments will be received until July 20, 1988.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. & Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joan S. Greenbaum, FTC/S-3302, Washington 20580. (202) 326-2629.

SUPPLEMENTARY INFORMATION: In FR Doc. 88-12442, appearing in the **Federal Register** issue for Thursday, June 2, 1988, 53 FR 20131, the deadline date for receiving comments should now be July 20, 1988.

List of Subjects in 16 CFR Part 13

Supermarkets, Trade practices.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 88-15193 Filed 7-6-88; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 419

Games of Chance in the Food Retailing and Gasoline Industries Proposed Amendment of Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to amend the existing Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries (16 CFR Part 419). The Rule imposes certain requirements on users, promoters or manufacturers of such games. The Commission is taking this action in response to a petition for a waiver of certain provisions of the Rule related to broadcast advertising disclosures. In response to the petition, the Commission granted a temporary exemption relating to broadcast media disclosures, and, in an Advance Notice of Proposed Rulemaking, invited public comments upon whether or not other revisions of the Rule would be appropriate. The proposed amendment of the Rule addresses many of the concerns expressed in the public comments received.

The Commission has determined to reexamine the various provisions of the Rule because of the Commission's continuing concerns with reducing the cost burdens on industry and consumers and with the inflationary impact of government regulation. In keeping with these aims the proposed amendment will eliminate a requirement for certain disclosures in advertising and promotional materials; raise the threshold for winners' list disclosures to prizes of $50.00 and over; permit replenishment of prize game pieces; and eliminate the requirement for a waiting period between games.

This notice sets out the rulemaking procedures to be followed, the text of the proposed Rule, reference to the legal authority under which the amendment is proposed, a statement of the Commission's reasons for proposing this amendment, a list of specific questions and issues upon which the Commission particularly desires written and oral comment, an invitation for written comments, and instructions for prospective witnesses and other interested persons who desire to present oral statements or otherwise participate in the proceedings.

DATES: Written comments should be received on or before September 6, 1988. Notification of interest in questioning witnesses must be submitted on or before August 8, 1988. Prepared statements of witnesses and exhibits, if any, must be submitted on or before September 20, 1988. Public hearings will commence at 9:30 a.m. October 5, 1988.

ADDRESS: Written comments, notification of interest in questioning witnesses, requests to testify at the hearings and prepared statements of witnesses and exhibits, if any, should be submitted to Henry B. Cabell, Presiding Officer, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580. The public hearing will be held in Room 332, Federal Trade Commission Building, 6th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brinley H. Williams, Federal Trade Commission, Cleveland Regional Office, Suite 500, The Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114, telephone: (216) 552–4207; or Robert E. Easton, Federal Trade Commission, 6th & Pennsylvania Avenue, NW., Washington, DC 20580, telephone: (202) 326–3029.

SUPPLEMENTARY INFORMATION: The Commission is proposing to modify the Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries (16 CFR Part 419). This proceeding has been instituted upon receipt of a petition for modification of paragraph (b) of the Rule, and the Commission's determination that other aspects of the Rule should be updated. Several petitions have been received by the Commission in recent years requesting waivers of the various provisions of the Rule. The Commission has determined to reexamine the provisions of the Rule because of the Commission's continuing concern with reducing the cost burdens on industry and consumers and with the inflationary impact of government regulation.

Section A. Background

The Games of Chance Rule requires among other things:

- Disclosure of specified information in all broadcast advertising, all promotional material, and all game pieces that meet certain requirements.
- Post-game disclosure of winners lists and other specified information.
- Continuation of the game until all game pieces are distributed.
- No replenishment of winning game pieces.
- A waiting period between the running of new games.

The Rule provides certain benefits for consumers. Primarily, it reduces possible deception about consumers' likelihood of winning prizes. It does this by requiring disclosure of information such as odds of winning, and by imposing and certain restrictions on game procedures such as total random mixing.

The costs engendered by the Rule are difficult to assess, but can be divided into three general groups: costs to the games promoters, costs to consumers, and costs to the Federal Trade Commission (and hence to taxpayers). With regard to the actual costs to games promoters, the Commission has little information. Although the Rule has been in effect for over 15 years, staff is unaware of any study attempting to quantify the costs of regulating games of chance in particular, or sweepstakes in general.

The disclosure and record-keeping requirements are the major source of costs to games promoters. Disclosure requirements increase the costs of print and broadcast advertising, since the inclusion of additional information beyond that which the game promotor might have chosen is required. Additional administrative costs may be incurred by games promoters to assure that retail outlets are complying with the Rule. Also, the retention of records adds storage and administrative costs. To the extent that these costs may deter the use of games as a promotional technique, other marketing promotions, such as coupons, contests, trading stamps, non-regulated forms of sweepstakes (such as random drawings), and general advertising may be selected to help build retail sales. Some of these options may be less efficient than games of chance in building sales, thereby adding interest costs to the Rule of unknown magnitude.

Consumers may experience increased search costs where the Rule requires disclosures that provide more information than consumers want and need; this excess creates possible confusion and requires consumers to expend additional time and effort to choose among the retail options available. Consumers may have difficulty in finding the information that is of most concern to them among the Rule's voluminous disclosures. Furthermore, the disclosure requirements may dissuade firms altogether from promoting games via broadcast advertisements, consequently making it harder for consumers to learn of their existence. The Commission has undertaken a survey of consumers regarding games of chance and finds that consumers do not have a need for many of the disclosures required by the Rule. This survey has been made public and will be introduced as a part of the Rulemaking record.

The Commission incurs some costs in enforcing the Rule. In the 15 years of the Rule's exitence, enforcement has required few resources. Staff have been called upon primarily for informal interpretations of the Rule, and the Commission has sometimes been asked for formal advisory opinions.

The Commission has carefully and deliberately considered the recommended trade regulation rule and the comments received in response to the Advance Notice of Proposed Rulemaking. Based on the evidence presented to date, the Commission believes that the initiation of a rulemaking proceeding would be in the public interest.

The public is advised that the Commission has not adopted any findings or conclusions of the staff. All findings in this proceeding shall be based solely on the rulemaking record. Accordingly, the Commission invites comment on the advisability and manner of implementation of the proposed amended Rule.

The Commission's Rules of Practice shall govern the conduct of the rulemaking proceeding, except that, to the extent that this notice differs from the Rules of Practice, the provisions of this notice shall govern. This alternative form of proceeding is adopted in accordance with section 1.20 of those rules (16 CFR 1.20).

Section B. Section-by-Section Analysis

The proposed Rule substantially changes the form of the Rule, rather than simply amending certain sections. The purpose of this approach is both greater clarity and closer conformity to current rulemaking practices. The following discussion is intended to highlight the major provisions of the proposed amendments, and to explain briefly their anticipated effect.

Section 419.1 of the proposed Rule is a definition section. The current Rule does not specify any definitions. Over the years, the Commission's staff has routinely been confronted with questions about what the Rule is intended to regulate. The definitions address these questions.

Section 419.2 of the proposed Rule incorporates the preamble and section (a) of the current Rule. There is no substantive revision of this part of the rule, which makes it unfair and deceptive to misrepresent game participants' chances of winning.

Section 419.3 of the proposed Rule requires that in printed advertising of a game of chance, the user, promoter or manufacturer must include the following statement: "Odds of winning, prizes available, and winner lists are available at participating retail outlets." Section 419.1(b) of the current Rule requires detailed disclosures in all promotional material, broadcast or printed. These disclosures include disclosing odds of winning, number and value of prizes, the geographic area of the game, the termination date of the game and the number of retail outlets where the game is being run. If the game is still offered after four weeks, certain of these disclosures must be updated. The proposed Rule will eliminate these duplicative disclosures, while alerting consumers that the particular information is available at the "retail outlet."

Section 419.4 of the proposed Rule requires the user, promoter, or manufacturer of a game of chance to disclose the number and value of prizes available, the odds of winning such prizes, and the termination date of the game. These disclosures may be made in one of two ways: Either on a poster or in a form likely to be retained by the game participant (such as on game pieces). This section corresponds to § 419.1(b) of the current Rule. The major differences between the proposal and the current Rule are three. First, as noted above, duplicative disclosure in advertising, promotional material and other media are alleviated. Second, disclosure of the geographic area of the game is eliminated. And third, disclosure of the total number of retail outlets is eliminated.

Preliminary indications from the consumer survey support these modifications. In terms of desired information, consumers place little value on knowing the geographic area and number of outlets. Regarding the method of disclosure, game pieces and posters are by far the instruments of choice by consumers for finding disclosures.

Section 419.5 of the proposed Rule requires random mixing of game pieces, but will permit what is termed "batch mixing." The current Rule (section 419.1(c)) requires mixing at the beginning of the game of winning pieces among all game pieces—"total random mixing." The proposed Rule will permit random mixing among smaller batches of game pieces, so long as the odds of wining within each batch are no less favorable than the overall odds disclosed to consumers. Such mixing is done commonly in non-regulated industries without apparent consumer deception or misunderstanding. Staff is unaware of any other federal, state or local statute or regulation that requires "total random mixing."

Section 419.6 of the proposed Rule is identical to § 419.1(d) of the current Rule. This provision prohibits games susceptible of being solved or "broken" so that winning pieces or prizes can be predetermined.

Section 419.1(e) of the current Rule requires certain postgame disclosures. Sections 419.7 and 419.8 of the proposed Rule address post-game disclosures. There are three primary differences between the current Rule and the proposed Rule. First, the current rule requires disclosure of all winners while the proposed Rule imposed a $50.00 floor, below which users, promoters and manufacturers need not disclose winners. The consumer survey indicates that game participants are primarily interested in the winners of more valuable prizes. Second, although the current Rule requires that these disclosures be made on an outlet by outlet basis, the proposed Rule would require a single list of all game winners. This will reduce record keeping costs for users, promoters and manufacturers, with no increased risk of deception or unfairness. Third, the winners list itself need not be posted if it is available upon request at each retail outlet that participated in the game.

Section 419.9 of the proposed Rule is a record retention requirement on the part of game users, promoters and manufacturers. The primary difference from the current Rule's § 419.1(e) is that it reduces the retention of records from 3 years to 1 year.

The requirements of § 419.1(f) of the current Rule have been deleted in the proposed Rule. This provision is commonly termed the "hiatus" provision because it requires a waiting period of up to 30 days between new games run by the retail outlets. The original intent of this provision was to prevent confusion among consumers concerning the running of back-to-back or concurrent games. However, consumer confusion has not been an apparent problem with concurrent games run by states, not-for-profit institutions and other types of for-profit business establishments. Staff is unaware of any federal, state or local statute or regulation that imposes a similar "hiatus" period.

Section 419.10 of the proposed rule is identical to § 419.1(g) of the current Rule. This provision prohibits game termination prior to the distribution of all game pieces. This is to prevent a situation in which a substantial number of winning pieces (and hence prizes) have not yet been awarded, but the game user, promoter or manufacturer discontinues the game.

Section 419.1(h) of the current Rule prohibits adding winning pieces during the course of a game. The proposed Rule

would delete this prohibition. Should a user, promoter or game manufacturer wish to add winning pieces, this is permissible. Such persons will continue to be prohibited from misrepresenting chances of winning under § 419.2 of the Rule as being greater than what the odds actually are.

Section C. Questions and Issues

All interested parties are hereby notified that they may submit to Henry B. Cabell, Presiding Officer, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW. Washington DC 20580, written data, views, or arguments on any issues of fact, law or policy which may have some bearing on the proposed modification of 16 CFR Part 419. Set forth below is a list of specific questions and issues upon which the Commission particularly desires comment and testimony. The list of questions is not intended to be a list of "disputed issues of material fact that are necessary to resolve," and any right to cross examine will be determined with reference to the criteria set forth in the Commission's Rules of Practice and this notice.

Interested persons are urged to consider carefully the following questions. The Commission retains its authority to promulgate a final rule which differs from the proposed Rule in ways suggested by these questions and based upon the rulemaking record:

(1) Are the proposed Rule's definitions of key terms clear, meaningful, and appropriate (section 419.1)? Should "game users" "game promoters", and "game manufacturers" also be defined?

(2) The proposed Rule defines the terms "food retailing industry", "gasoline industry" and "retail outlets" in section 419.1. Do the definitions expand or reduce the scope of the Rule? If so, what are the costs and benefits of expansion or reduction?

(3) The term "value" is used in the proposed Rule. It is used with regard to disclosure of the odds of winning (section 419.4), to disclosure of the winners (section 419.8), and to retention of records (section 419.9). Should other terms such as "value" be defined? If so, should "value" be based on the cost of the prizes to the promoter, on the retail price of the prize, or on some other measure?

(4) The proposed Rule eliminates detailed disclosure requirements in broadcast and printed advertising, including requirements that the odds of winning and the number and value of prizes be disclosed. Instead, it requires that any printed advertising include a disclosure indicating the availability at each participating retail outlet of the odds of winning, the number and value of prizes, and the winners list (section 419.3). What are the costs and benefits of this change in the disclosure mechanism?

(5) The proposed Rule only requires that game promoters make disclosures of odds of winning and number or value of prizes on store posters or on game pieces (section 419.4). Under the existing rule, such disclosures were required in any form of advertising or promotional method. What are the advantages and disadvantages of this change? Is the method of disclosure in the proposed Rule adequate to notify consumers effectively of the odds of winning and number or value of prizes?

(6) The proposed Rule requires that display posters and game pieces include a printed reference to the Federal Trade Commission (section 419.4). What are the costs and benefits of this requirement?

(7) If the promoter of the game of chance chooses to disclose odds of winning on a poster (section 419.4(a)), such poster must be located in an "area reasonably accessible to the prospective participants." Is this requirement sufficient to ensure that posters are located in conspicuous locations?

(8) What would be the advantages and disadvantages of allowing game promoters to aggregate prizes having a value of less than $5.00, $25.00, $50.00, or some other value, into one category for the purposes of disclosing odds of winning, and the number or value of prizes available (section 419.4)?

(9) Consumer commenters are asked to address the question of how important it is to know the odds of winning a prize valued at less than $25.00, $50.00 or $100.00?

(10) What would be the costs and benefits of limiting the "odds of winning" disclosure requirement (section 419.4)a to apply only to those prizes exceeding specified values such as $25.00, $50.00, $75.00 or $100.00?

(11) In contrast to the current Rule, the proposed Rule does not require disclosure of the geographic area of the game or the number of participating retail outlets. In eliminating these disclosures, do game participants lose any significant or useful information, considering that the odds of winning disclosure must always be made?

(12) The proposed Rule would permit the use of "batch-mixing" of winning games pieces—that is, it would allow randomness in mixing game pieces in "batches" rather than requiring total randomness among all game pieces (section 419.5). Dose "batch-mixing" have any potential for misleading consumers in their assessment of the odds of winning? For example, would the proposed Rule make it easier or harder for game promoters to "skew" or "load" the odds of winning, so that certain locations or certain classes of consumers would be less likely to win than others?

(13) In what ways and to what extent, if any, might "batch-mixing" affect the ability of the FTC to monitor compliance with the proposed Rule?

(14) The proposed Rule reduces the time that game promoters must retain pertinent records from three years to one year (section 419.9). What are the costs and benefits of reducing this time period?

(15) The proposed Rule reduces the obligation of game promoters to disclose winners' names and addresses to those winners who win prizes of $50.00 or more (section 419.7 and 419.8). What would be the costs or benefits of raising or lowering the proposed dollar value of prizes that triggers inclusion of the winner on the winner list? What would be the optimal value for disclosure, if different from $50.00, and why?

(16) Does the requirement of the proposed Rule regarding disclosure of winners' lists (section 419.7 and 419.8) adequately balance winners' interests of privacy and security against non-winners' interests in validating prize distribution? Should the proposed Rule require game promoters either (1) to obtain a release from winners authorizing the use of their names and addresses in the winners' list disclosures required by the Rule, or (2) to disclose in a pre-game notice that winners' names and addresses may be posted or otherwise distributed at the conclusion of the game?

(17) At the discretion of the game promoter, the $50.00 limitation in the proposed Rule relating to the disclosure of winners' lists (section 419.7 and 419.8) may be substituted with a dollar limit based upon the most recent quarterly Implicit Price Deflator for the Gross National Product. What are the costs and benefits of this alternative?

(18) The proposed Rule eliminates the current Rule's 30-day waiting period between the running of an old game and a new game. What are the advantages and disadvantages of this change?

(19) What are costs and benefits of the proposed Rule's prohibition on termination of a game prior to the distribution of all game pieces to the participating public (section 419.10)?

(20) What effects, if any, would promulgation of the proposed Rule have on existing state law?

(21) To what extent, if any, do the provisions in the current or proposed

Rule correspond to or differ from state provisions regarding the conduct of state lotteries? For example, are state run lotteries required to disclose either on the game piece or on posters reasonably accessible to consumers, the odds of winning, for every prize offered? What accounts for any differences?

(22) Should the proposed Rule be expanded to cover industries other than grocery stores and gasoline stations, such as restaurants, soft drink bottlers and confectionery manufacturers? Is there evidence of deception in the use of game by these other industries?

(23) Is there a continued need for the Rule? What additional benefits or costs, if any, might accrue to consumers or grocery stores and gasoline stations from repeal of the Rule in its entirety?

(24) Are any other modifications to the proposed Rule appropriate?

In all comments, the Commission particularly welcomes empirical evidence. Written comments will be accepted until September 6, 1988. Prepared statements will be accepted until September 20, 1988. To assure prompt consideration of all comments, they should be identified as "Games of Chance Amendment Comment" and, when feasible and not burdensome, submitted in five (5) copies.

Section D. Public Hearings

Public hearings will be held commencing on October 5, 1988, at 9:30 a.m., in Room 332 of the Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580. Persons desiring to present their views orally at the hearing should so advise Henry B. Cabell, Presiding Officer, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580, 202–326–3642, as soon as possible.

The Presiding Officer appointed for this proceeding shall have all power prescribed in 16 CFR 1.13(c), subject to any modifications prescribed in this notice.

Section E. Instructions to Witnesses

1. Advance Notice

If you wish to testify at the hearings, you must notify the Presiding Officer of your desire to appear and file with him your complete, word-for-word statement no later than September 20, 1988. This advance notice is required so that other interested persons can determine the need to ask you questions and have an opportunity to prepare to do so. Any examination that is permitted will be conducted with regard to the written testimony, which will be entered into the record exactly as submitted. Consequently, it will not be necessary for you to repeat this statement at the hearing. You may simply appear to answer questions with regard to your written statement, or you may deliver a short summary of the most important aspects of that statement within time limits to be set by the Presiding Officer. As a general rule, such oral summaries should not exceed 20 minutes.

Prospective witnesses are advised that they may be subject to questioning by designated representatives of interested parties and by members of the Commission's staff. Such questioning will be conducted subject to the discretion and control of the Presiding Officer and within such time limitation as he may impose. In the alternative, the Presiding Officer may conduct such examination himself or he may determine that full and true disclosure as to any issue or question may be achieved through rebuttal submissions or the presentation of additional oral or written statements. In all such instances, the Presiding Officer shall be governed by the need for a full and true disclosure of the facts and shall permit or conduct such examination with due regard for relevance to the factual issues raised by the proposed Rule and the testimony delivered by each witness.

2. Use of Exhibits

Use of exhibits during oral testimony is encouraged, especially when they are to be used to help clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the period for submission of written comments so they can be studied by other interested persons. If those documents are unavailable to you during this period you must file them as soon as possible thereafter, and not later than the deadline for filing perpared statements. Mark each of the documents with your name, and number them in sequence (*e.g.*, Jones Exhibit 1). The Presiding Officer has the power to refuse to accept for the rulemaking record any hearing exhibits that are not furnished by the deadline.

3. Expert Witnesses

If you are going to testify as an expert witness, you must attach to your statement a *curriculum vitae*, biographical sketch, resumé, or summary of your professional background, and a bibliography of your publications. It would be helpful if you would also include documentation for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based upon, or chiefly concerned with, one or two major scientific works, copies should be furnished. The remaining citations to other works can be accomplished by using footnotes in your statement referring to those works.

4. Results of Surveys and Others Research Studies

If in your testimony you will present the results of a survey or other research study, as distinguished from simple references to previously published studies conducted by others, you must also present as an exhibit or exhibits in compliance with paragraph 2, above, the following:

(a) A complete report of the survey or other research study and the information and documents listed in (b) through (e), below, if they are not included in that report.

(b) A description of the sampling procedures and selection process, including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

(c) Copies of all completed questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

(d) Description of the methodology used in conducting the survey or other research study, including the selection of and instructions to interviewers, introductory remarks by interviewers to respondents, and a sample questionnaire or other data collection instrument.

(e) A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested persons may wish to examine the questionnaires, data collection forms, and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information, along with punch cards or computer tapes which were used to conduct analyses, should be made available (with appropriate explanatory data) upon request of the Presiding Officer. The Presiding Officer will then be in a position to permit their use by other interested persons or their counsel.

5. Identification, Number of Copies, and Inspection

To assure prompt consideration, all materials filed by prospective witnesses pursuant to the instructions contained in paragraphs 1–4, above, should be identified as "Games of Chance Statement" ("and Exhibits," if appropriate) and submitted in five (5) copies when feasible and not burdensome.

6. Reason for Requirements

The foregoing requirements are necessary to permit us to schedule the time for your appearance and that of other witnesses in an orderly manner. Other interested parties must have your expected testimony and supporting documents available for study before the hearing so they can decide whether to examine or cross-examine you or file rebuttals. If you do not comply with all of the requirements, the Presiding Officer may refuse to let you testify.

7. General Procedures

These hearings will be informal, and courtroom rules of evidence will not apply. You will not be placed under oath unless the Presiding Officer so requires. You are also not required to respond to any question outside the area of your written statement, although, if such questions are permitted, you may respond if you feel you are prepared and have something to contribute. The Presiding Officer will assure that all questioning is conducted in a fair and reasonable manner and will allocate time according to the number of parties participating, the legitimate needs of each group for full and true disclosure, and the number and nature of the factual issues discussed. The Presiding Officer has the right to limit the number of witnesses to be heard if the orderly conduct of the hearing so requires. The deadlines established by this notice will not be extended, and hearing dates will not be postponed unless hardship can be demonstrated.

Section F. Notification of Interest

If you wish to avail yourself of the opportunity to question witnesses you must notify the Presiding Officer by August 8, 1988, of your position with respect to the proposed Rule and each individual provision thereof. Your notification must be in sufficient detail to enable the Presiding Officer to identify groups with the same or similar interests respecting the proposed Rule, and the Presiding Officer may require you to submit additional information if your notification is inadequate. If you fail to file an adequate notification in sufficient detail, you may be denied the opportunity to question witnesses.

Before the hearings commence, the Presiding Officer will identify groups with the same or similar interests in the proceeding. These groups will be required to select a single representative for the purpose of conducting direct or cross-examination. If the members of a group are unable to agree upon a representative who is willing to serve in that capacity, the Presiding Officer may select one, or alternatively, elect to conduct examinations on behalf of the group himself. The Presiding Officer will notify all interested persons of the identity of the group representatives as soon as possible.

Group representatives will be given an opportunity to question each witness on any issue relevant to the proceeding and within the scope of that witness' testimony. The Presiding Officer may disallow any questioning that is not appropriate for full and true disclosure as to relevant issues. The Presiding Officer may impose fair and reasonable time limitations on the questioning. Since the broad scope of permissible questioning by group representatives and the staff will satisfy the statutory requirements regarding cross-examination, disputed issues will not be identified or designated by the Commission or by the Presiding Officer.

Section G. Post-Hearing Procedures

Interested persons will be afforded forty-five (45) days after the close of the hearings to file rebuttal submissions. Rebuttal representations shall be permitted only if the Presiding Officer determines that the presentation of rebuttal submissions is required for a full and true disclosure with respect to any disputed issue of fact that is material and necessary to resolve. Rebuttal submissions must be based only upon identified, properly cited matters already in the record. The Presiding Officer will reject all submissions which are essentially additional written comment in contrast to rebuttal. The 45-day rebuttal period is intended to include the time consumed in securing a complete transcript.

Within a reasonable time after the close of the rebuttal period, the staff shall release its recommendations to the Commission as required by the Commission's Rules of Practice. The Presiding Officer's report shall be released not later than 45 days thereafter and shall include a recommended decision based upon his findings and conclusions as to all relevant and material evidence. Post-record comments, as described in § 1.13(h) of the Rules of Practice, shall be submitted not later than 60 days after the submission of the Presiding Officer's Report.

Section H. Rulemaking Record

In view of the substantial rulemaking records that have been established in prior trade regulation rulemaking proceedings (and the consequent difficulty in reviewing such records), the Commission urges all interested persons to consider the relevance of any material before submitting it for placement on the rulemaking record. While the commission encourages comments on its proposed Rule, the submission of material that is not generally probative of the issues posed by the proposed Rule merely overburdens the rulemaking record and decreases its usefulness, both to those, reviewing the record and to interested persons using it during the course of the proceeding. The Commission's rulemaking staff has received similar instructions.

Material that the staff has obtained during the course of its investigation prior to the initiation of the rulemaking proceeding that is not placed in the rulemaking record will be made available to the public, to the extent that it considered to be non-exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552.

Section I. Preliminary Regulatory Analysis

The following discussion is included in the Commission's Preliminary Regulatory Analysis of the proposed Rule pursuant to the Requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The Act requires an analysis of the anticipated impact of the proposed Rule on small business. The analysis must contain a description of the reasons why action is being considered; the objectives of and legal basis for the proposed Rule; the class and number of small entities affected; the projected reporting, recordkeeping and other compliance requirements of the proposed Rule; any existing federal rules which may duplicate, overlap or conflict with the proposed Rule; and any significant alternatives to the proposed Rule which accomplish its objectives and, at the same time, minimize its impact on small entities.

A description of the reasons why action is being considered and the objectives of and legal basis for the proposed Rule have been explained elsewhere in this Notice.

Amendment of the Rule would affect all grocery stores. The Small Business Administration has defined any grocery

store with less than $13.5 million in revenue as a small business. 13 CFR Part 121.2 (1986). In 1984, there were 156,000 grocery stores, of which 2,400 had sales of less than $12 million. *Progressive Grocer* 30 (April 1985).

Amendment of the Rule also affects all gasoline service stations. The SBA defines service stations with less than $4.5 million in revenue as a small business. 13 CFR Part 121.2 (1986). In 1984, there were 132,080 gasoline service stations—23,774 of these were company-owned, the remaining 108,306 were franchisee-owned. *1985 National Petroleum News Factbook Issue* 111. The average revenue of the service station is $856,322. It is estimated that the majority of the 132,080 franchisee service stations earn less revenue than SBA's definition of a small business.

The Rule currently requires a substantial number of different disclosures to consumers during the game and after the game. The Rule also requires the retention of a certain number of records for three years after the termination of a game of chance. These requirements fall equally on large and small businesses, although many such businesses choose alternative promotional forms which are close substitutes, thereby avoiding application of the Rule.

The proposed Rule will greatly decrease the costs of compliance and recordkeeping. Fewer disclosures are required, fewer records need to be retained after the game, and record retention diminishes to one year. Thus, if a retailer, large or small, chooses to use a form of game of chance regulated by this Rule, costs will be significantly reduced under the proposed Rule.

The Commission is not aware of any existing federal rules which would conflict, duplicate, or overlap with the proposed Rule.

The only significant alternative to the proposed Rule is repeal of the Rule itself. Repeal of the Rule, however, might create uncertainty regarding compliance requirements with the Commission's more general prohibitions against deception and unfairness. The proposed amendments balance the needs of consumers and food retailers of all sizes by reducing compliance burdens and retaining disclosures and procedures to minimize unlawful conduct.

Section J. Paperwork Reduction Act

The Games of Chance Rule contains information collection requirements as defined by the Paperwork Reduction Act, 44 U.S.C. 3501–3518. Those requirements have been reviewed and approved by the Office of Management and Budget (OMB Control No. 2084–0067). Because the proposed amendments would affect those information collection requirements, the proposed amendments have been submitted to OMB for review under 5 CFR 1320.13 (1986). Comments on that submission may be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20403, Attention: Don Arbuckle, Desk Officer for the Federal Trade Commission.

Section K. Proposed Trade Regulation Rule

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, *as amended*, 15 U.S.C. 41, *et seq.*, the provisions of Part I, Subpart B of the Commission's Procedures and Rules of Practice, 16 CFR 1.7, *et seq.*, and the Administrative Procedures Act, 5 U.S.C. 553, *et seq.*, has initiated a proceeding for the amendment of the Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries.

List of Subjects in 16 CFR Part 419

Advertising, Foods, Gambling, Gasoline, Trade practices.

Accordingly, the Commission has proposed the following amendment to 16 CFR Chapter I by revising Part 419 as follows:

PART 419—GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES

Sec.

Authority: 38 Stat. 717, as amended (15 U.S.C. 41–58).

§ 419.1 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) *Games of Chance.* A promotional mechanism that is one form of sweepstakes in which:

(1) Winning and non-winning game pieces are purportedly randomly mixed and distributed to retail store visitors;

(2) The odds of winning can be determined at the beginning of the promotion; and

(3) Retail store visitors can visit the retail outlet many times to attempt to obtain prize-winning game pieces.

(b) *Food retailing industry.* The industry composed of retail outlets that primarily sell groceries.

(c) *Gasoline industry.* The industry composed of retail outlets at which the sale of gasoline is a significant proportion of sales.

(d) *Index number.* $50.00, adjusted by a ratio, the numerator of which is the most recent published (prior to the initiation of the game of chance) quarterly "Implicit Price Deflator" for the Gross National Product (IPD), and the denominator of which is the IPD for the last quarter of 1987, adjustments to be rounded to the nearest dollar. IPDs used in these annual adjustments shall have been computed using the same base year. At the discretion of the user, promoter, or manufacturer, where the dollar value "$50.00" appears in §§ 419.7 and 419.8, the dollar value corresponding to the "Index Number" may be substituted to comply with the Rule.

(e) *Random Basis.* Any method of mixing, dispersing, or distributing game pieces or tickets to participants which ensures that the participants' chances of obtaining a winning piece or ticket are at least as great as those disclosed in posters or on the game pieces or cards, in accordance with 16 CFR 419.4.

(f) *Retail outlets.* Those locations where members of the good retailing and gasoline industries sell groceries or gasoline to consumers. In disclosures required by this Rule, appropriate terms such as "stores" and "gas stations" may be substituted by the promoter, user, or manufacturer of the game of chance for the term "retail outlets." In all other aspects, the wording of the disclosures required by this Rule must be made as specified in this Rule.

§ 419.2 General duties.

In connection with the use of games of chance in the food retailing and gasoline industries, it is an unfair and deceptive act or practice for users, promoters, or manufacturers of such games to engage in advertising or other promotions which misrepresent by any means, directly or indirectly, participants' chances of winning any prize. The Commission has adopted this Rule in order to prevent the unfair and deceptive acts or practices defined in this paragraph, § 419.2. It is a violation of this Rule for any user, promoter, or manufacturer of a game of chance used in the food retailing or gasoline industries (you) to fail to comply with the requirements set forth in §§ 419.3 through 419.10 of this part.

§ 419.3 Printed advertising.

You must include clearly and conspicusously in any printed advertising that refers to a game of chance the following statement:

The odds of winning, prizes available, and winners lists are available at participating retail outlets.

§ 419.4 Point of sale disclosures.

At your election, you must comply with either paragraph (a) or (b) of this section:

(a) At the beginning of each game, post a display poster at least 30" × 40" in size in an area reasonably accessible to the prospective participants in each individual retail outlet which uses the game. The poster shall remain posted for the duration of the game and must disclose the following information clearly and conspicuously:

(1) The following statement, accompanied by the disclosures required by paragraphs (a)(2) through (a)(5):

The following information is disclosed in compliance with a Regulation issued by the Federal Trade Commission:

(2) The value of each prize that is to be made available during the game program and the minimum number of each such prize that is to be awarded; and

(3) The odds of winning each such prize; and

(4) The scheduled termination date of the game; and

(5) The following statement:

Winners lists are available at participating retail outlets at the conclusion of the game;

or

(b) Provide to every game participant in legible print on a form likely to be retained by the game participant (e.g., on game places or on game cards) the following information:

(1) The following statement, accompanied by the disclosures required by paragraphs (b)(2) through (b)(5):

The following information is disclosed in compliance with a Regulation issued by the Federal Trade Commission:

(2) The value of each prize that is to be made available during the game program and the minimum number of each such prize that is to be awarded; and

(3) The odds of winning each such prize; and

(4) The scheduled termination date of the game; and

(5) The following statement:

Winners lists are available at participating retail outlets at the conclusion of the game.

§ 419.5 Game piece mixing.

You must mix, distribute, and disperse all game pieces on a random basis, consistent with the odds of winning disclosures required by § 419.4, and maintain such records as are necessary to demonstrate to the Commission that randomness was used in such mixing, distribution, and dispersal.

§ 419.6 Game security.

You must not promote, sell, or use any game which is capable of or susceptible to being solved or "broken" so that winning game pieces or prizes can be or are predetermined or preidentified by such methods rather than by random distribution to the participating public.

§ 419.7 Post-game disclosure.

You must post clearly and conspicuously for a period of 14 days after the conclusion of each game in an area reasonably accessible to game participants in each individual retail outlet which used the game:

(a) The following statement, accompanied by the disclosures required by paragraphs (b) through (d) of this section:

The following information is disclosed in compliance with a Regulation issued by the Federal Trade Commission:

(b) Either the names and addresses of all persons who redeemed a prize having a value of $50.00 or more and the dollar value of each prize won by each person, or the statement:

Names and addresses of winners of prizes of $50.00 or more are available for examination at this retail outlet upon request.

(c) The total number of game pieces distributed in all participating retail outlets; and

(d) The total number of prizes in each category or denomination which were made available in all participating retail outlets.

§ 419.8 Winners' list disclosure.

For a period of 14 days after the conclusion of each game at each participating retail outlet, you must provide for examination to anyone who requests winners' names and addresses: the names and addresses of each person who redeemed a prize having a value of $50.00 or more, and the dollar value of each prize won by such person.

§ 419.9 Record keeping.

For a period of not less than one (1) year, you must retain:

(a) The records required by § 419.5; and

(b) The information required by paragraphs (c) and (d) of § 419.7; and

(c) The information required to be provided by § 419.8; and

(d) The total number and value of prizes in each category or denomination which were awarded in all retail outlets; and

(e) The odds of winning any prize that was advertised or disclosed to be available during the promotion.

Upon reasonable request, such information shall be made immediately available to the Commission and its staff for inspection and copying.

§ 419.10 Game termination

You must not terminate any game, regardless of the scheduled termination date, prior to the distribution of all game pieces to the participating public.

Issued: June 22, 1988.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 88–15192 Filed 7–6–88; 8:45 am]

BILLING CODE 6750-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FLR. 3410–6]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing to disapprove a site-specific State Implementation Plan (SIP) revision to the ozone portion of the Ohio SIP, under the Clean Air Act (Act). In the March 10, 1986, revision request, the State requested a compliance date extension and a relaxation of emission limits for Navistar's (formerly called International Harvester) one surface coating line at its Body plant and nine lines at its Assembly plant, both of which are located in Springfield, Clark County, Ohio.

USEPA is today proposing to disapprove this SIP revision because the State has not demonstrated that Navistar's compliance plan is expeditious, that the present emission limits are technically or economically infeasible, and that the approval of this revision will not interfere with attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) for ozone.

DATE: Comments on this revision and on the proposed USEPA action must be received by August 8, 1988.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031/FTS 886-6031, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 1800 Water Mark Drive, P.O. Box 1049, Columbus, Ohio 43266-0149.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible).

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031/FTS 886-6031.

SUPPLEMENTARY INFORMATION: On March 10, 1986, the Ohio Environmental Protection Agency (OEPA) submitted a site-specific revision to the Ohio ozone SIP for volatile organic compound (VOC) emissions from Navistar's one surface coating line at its Body plant and nine lines at its Assembly plant, both of which are located in Springfield, Clark County, Ohio. Clark County is designated nonattainment for the pollutant ozone under section 107 of the Act (40 CFR 81.336). [1]

The two Navistar plants contain surface coating lines that are used to paint truck cabs, hoods, chassis, and miscellaneous parts. Under the existing federally approved SIP, each miscellaneous metal parts and products surface coating line is subject to the control requirements contained in Ohio Administrative Code (OAC) Rule 3745-21-09(U). OAC Rule 3745-21-09(U)(1)(a)(iii) limits the VOC content of an extreme performance coating to 3.5 pounds of VOC per gallon (lbs of VOC/gal) of coating, excluding water. OAC Rule 3745-21-04(C)(28) requires compliance with this limit by December 31, 1982. USEPA approved these rules and others as meeting the Reasonably Available Control Technology (RACT) [2] requirements of Part D and the Act on June 29, 1982 (47 FR 28097). Nine lines at the Assembly plant (P001-P004, P007-P009, R004 and R005) and one line at the Body plant (K001) are currently being operated in violation of OAC Rule 3745-21-09(U) for surface coating of miscellaneous metal parts and products. In lieu of the requirements mentioned above, OEPA has submitted for Navistar as a revision to the Ohio SIP (1) a compliance date extension until December 31, 1987, and (2) for seven of the lines, a relaxation from the RACT based limits to the VOC content of coatings currently in use on these lines. The coatings currently used are acrylic enamel, urethane, and chassis coating with VOC contents of 4.86, 4.66, and 3.66 lbs of VOC per gallon of coating, excluding water, respectively.

Compliance Data Extension

OEPA has requested a compliance date extension to December 31, 1987, for lines K001, P001, and P002. By that date, the lines will be shut down and replaced with new coating lines which will be in compliance with OAC Rule 3745-21-09(U). In order for a compliance date extension to be approvable, the request must comply with EPA criteria. The extension for Navistar's surface coating lines does not satisfy one of these criteria because Ohio did not adequately research the compliance status of other similar sources to determine if compliance by the original deadline was reasonable. As explained below, Illinois has documentation that complying coatings are available (and in use) for the heavy duty off highway vehicle manufacturing industry. In addition, EPA policy requires the State to demonstrate that the extension will not interfere with the timely attainment and maintenance of the ozone standard and, where relevant "reasonable further progress" (RFP) towards timely attainment. This would generally be done by comparing the margin for attainment predicted by the approval ozone attainment demonstration and the increased emissions that would result under the proposed extension. However, if the State or USEPA believes that there has been a substantial change in the inventory since the ozone SIP was approved so that the margin of attainment has changed significantly, a revised demonstration in support of the revision request is required. Such a demonstration would be necessary in areas which purported to demonstrate attainment by 1982, but for which post-1982 monitoring data are indicating exceedances of the ozone standard. Because Navistar is located in such an area, a revised demonstration of attainment for the Dayton area would be required before the compliance date extension can be approved.

Relaxation of the Emissions Limit

OEPA has also requested a relaxation from emission limits contained in OAC Rule 3745-21-09(U) for the remaining seven coating lines at its Assembly plant. OEPA believes that this relaxation is necessary because Navistar claims that it has been unable to reformulate its coatings to a compliance level and that add-on control is not economically feasible. OEPA is proposing to limit the VOC content of coatings used on these lines to that of the coatings currently in use. The total annual VOC emissions from the coating lines in 1984 were 765.5 tons, while the allowable emissions were 460.7 tons.

Part D of the Act requires RACT-level controls in all areas which have not attained a NAAQS. USEPA approved OAC Rule 3745-21-9(U) as meeting the RACT requirements on June 29, 1982. A relaxation from these limits can only be approved if the State can meet two tests: first, it must demonstrate that it is technically or economically infeasible for the source to meet the limit. Second, it must demonstrate the new limits are RACT for that particular source. In the case of the proposed Navistar SIP relaxation, this means that the State must document both that complying coatings are not available and that add-on controls are not feasible in order to meet the first test.

To document this first test, OEPA initially provided correspondence with only four coating suppliers regarding the availability of low solvent coatings. Most of this correspondence is dated October 1983, and states that complying topcoats are not available but that research is continuing. On April 16, 1986, OEPA submitted additional information concerning Navistar's efforts to develop complying coatings. This documentation indicates that although Navistar has been able to reformulate some coatings, there are still many for which reformulation has been unsuccessful.

[1] Because of the proximity of Clark County to Dayton, Clark County emissions and emission reductions were included as an integral part of the greater Dayton ozone demonstration area SIP. USEPA approved Ohio's attainment demonstration for the greater Dayton area, including Clark County, on October 31, 1980 (45 FR 72122), because the State's plan for the area as a whole demonstrated the attainment and maintenance of the ozone standard there by December 31, 1982. Violations of the ozone standard were recorded in the Dayton area subsequent to 1982.

[2] RACT is defined as the lowest emission limit that a source is capable meeting by the application of control technology that is reasonably available considering technological and economic feasibility. In order for a relaxation from an existing SIP limit to be approved as site-specific RACT, the State must demonstrate that it is technically or economically infeasible to meet a limit lower than that proposed as RACT.

However, as discussed in a January 1986, "Study of Low-VOC Coatings Available for Use in the Illinois Heavy-Duty Off-Highway Vehicle Manufacturing Industry", complying coatings are avilable and in use at similar coating facilities. According to this study, there are at least six coating companies supplying complying coatings (3.5 lb/gal) and at least six manufacturing facilities currently using such coatings. OEPA has provided no explanation of why Navistar would be unable to use these coatings. Therefore, it has not been demonstrated that it is infeasible for Navistar to meet the existing SIP limit using reformulated coatings.

OEPA's November 17, 1986, submittal contains cost estimates for add-on control. The cost estimates in this report have not been adequately explained and documented. In particular, OEPA has not provided the following:

1. Documentation of capital costs (e.g., vendor quotes).
2. Explanation of assumptions used in calculating operating costs.
3. Possible reasons for the high cost of VOC control for this source compared to the range of estimates contained in the CTG for miscellaneous metal products.

In addition, the study submitted does not appear to consider possible alternative control methods. For example, it may be less expensive to control oven exhaust than spray booth exhaust.

Status of Ozone Attainment Demonstration—Clark County

Navistar's Body and Assembly plants are located in Clark County, which is designated nonattainment of the ozone NAAQS, and which is a part of the greater Dayton nonattainment area for ozone. Navistar provided an air quality demonstration for the proposed revision which was based on the 1979 USEPA approved ozone SIP for the Dayton area. (See footnote 1.) In order to get approval of a source-specific SIP revision, a State must demonstrate that the revision will not interfere with expeditious attainment and maintenance of the ozone standard and reasonable further progress toward attainment. Dayton's 1979 ozone SIP was approved for attainment of the ozone standard by the end of 1982 and maintenance thereafter. However, because violations have been measured in 1983 and 1984, and there have been more recent exceedances of the ozone standard (as late as 1987), USEPA cannot determine whether the SIP is maintaining the ozone standard. Ohio cannot, therefore, rely on the 1979 demonstration of attainment to show that the revision will not interfere with continued maintenance of the ozone standard. While USEPA has not chosen to call for a SIP revision because of a substantially inadequate plan for this area, any relaxations, such as the one addressed in this notice, must be accompanied by a persuasive demonstration that the area will continue to maintain the ozone standard for the foreseeable future despite the relaxation. Since the State has not made this demonstration, USEPA cannot approve this relaxation.

USEPA is proposing to disapprove this variance as a SIP revision because (1) the State has not shown that the granting of the variance will not interfere with expeditious attainment of the ozone NAAQS in the area; (2) the State did not demonstrate the Navistar's compliance plan is expeditious; and (3) the State has not demonstrated that the current emission limits for Navistar are technically or economically infeasible and that the proposed limits are RACT for that particular source.

List of Subject in 40 CFR Part 52

Air pollution control, Hydrocarbon, Intergovermental relations, Ozone.

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before August 8, 1988 will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

Under 5 U.S.C. 605(b), I certify that this SIP disapproval will not have a significant economic impact on a substantial number of small entities, because the effect of this disapproval is to leave in effect existing emission limitations. Therefore, there is no change or any impact on any source or community.

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Authority: 42 U.S.C. 7401–7642.

Dated: June 29, 1987.

Valdas V. Adamkus,

Regional Administrator.

Editorial note: This document was received at the Office of the Federal Register, July 1, 1988.

[FR Doc. 88–15253 Filed 7–6–88; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Findings on Pending Petitions and Description of Progress of Listing Actions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of findings on pending petitions.

SUMMARY: The Service announces its findings on pending petitions to add to and revise the Lists of Endangered and Threatened Wildlife and Plants. These findings must be made within one year of either the date of receipt of such a petition or of a previous positive finding. The Service also describes its progress in revising the lists during the period from October 1, 1986, to September 30, 1987.

DATES: The findings announced in this notice were made between June 11, 1987, and October 15, 1987. The description of the Service's progress in revising the lists is current as of October 1, 1987. Comments regarding any species or petition mentioned may be submitted until further notice.

ADDRESSES: Chief, Division of Endangered Species and Habitat Conservation, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–2771 or FTS 235–2771). Comments regarding the western or Pacific island species should be addressed to Regional Director, U.S. Fish and Wildlife Service, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Gerge Drewry (703/235–1975 or FTS 235–1975.)

SUPPLEMENTARY INFORMATION:

Background

Section4(b)(3)(B) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information, a finding be made on the merits within 12 months of the date of receipt of the petition. Provisions of the Endangered Species Act Amendments of 1982 required that such petitions pending on the date of enactment of the Amendments be treated as having been filed on that date, i.e. October 13, 1982. Section 4(b)(3)(C)(i) of the Act requires that any petition for which a 12-month

finding of "warranted but precluded" is made should be treated as having been resubmitted on the date of such a finding, with substantial scientific or commercial information that the petitioned action may be warranted, thereby requiring an additional finding to be made within 12 months. This notice reports findings made on or before October 14, 1987, in respect to pending petitions for which such additional findings were due, and describes the Service's progress in revising the Lists of Endangered and Threatened Wildlife and Plants during the fifth year following the enactment of the 1982 Amendments.

All but one of the plant species involved in these petition findings were listed individually in a comprehensive notice of review for plants first published in the **Federal Register** on December 15, 1980 (45 FR 82480), and most recently updated as a notice of review published September 27, 1985 (50 FR 39526). The animal species mentioned below, but not named individually, were identified individually in the first announcement of 12-month petition findings published in the **Federal Register** on January 20, 1984 (49 FR 2485), and again in the second annual announcement published on May 10, 1985 (50 FR 19761).

Findings

Section 4(b)(3)(B) of the Act requires that the Service make one of the following 12-month findings on each petition presenting substantial information: (i) The petitioned action is not warranted; (ii) the petitioned action is warranted and will be proposed promptly; or (iii) the petitioned action is warranted but precluded by other efforts to revise the lists, and expeditious progress is being made in listing and delisting species. Petitioned actions found to be warranted are the subjects of proposals that will be published promptly or have already been published in the **Federal Register.** Therefore only findings of "not warranted" and "warranted but precluded" for pending petitions are reported here.

"Not warranted" and "warranted but precluded" findings for pending plant petitions repeat the findings made in October 1986 and announced in the **Federal Register** for June 30, 1987 (52 FR 24312), except for the removal of 24 plant species proposed for listing as threatened or endangered during fiscal 1987. Findings on the plants are made by notice of review categories; application of these to individual taxa is published in a notice of review for plants published September 27, 1985 (50 FR 39526). Tfhe plant notice category number opposite the name of each taxon that is the subject of a pending petition indicates the Service's finding on that taxon. Findings of "not warranted" on the petitioned action are reported by the designation of subcategories 3A, 3B, or 3C for such taxa. Findings of "warranted but precluded" are reported by the designation of category 1,1*,1**,2, 2*, or 2** for subject taxa. The complete definitions of these category numbers are described on pages 39526 and 39527 in the 1985 general plant notice of review (50 FR 39526). A finding of "warranted but precluded" was also made for a petition to list the plant *Talinum humile* (the Pinos Altos fame flower) received October 15, 1985, from Mr. Paul R. Neal. This plant is being treated as a category 2 candidate species.

The Service's 12-month findings of "not warranted" and "warranted but precluded" on pending animal petitions are presented in Table 1. Each petition mentioned in Table 1 has had one or more previous findings of "warranted but precluded" reported in the **Federal Register.** The initial (90-day) findings for petitions listed in Table 1 were announced in the **Federal Register** on February 15, 1983 (48 FR 6752), January 16, 1984 (49 FR 1919), December 18, 1984 (49 FR 49118), April 2, 1985 (50 FR 13054), July 5, 1985 (50 FR 27637), August 30, 1985 (50 FR 35272), or May 2, 1986 (51 FR 16363).

The word "Yes" in the "Warranted?" colum of Table 1 indicates petitions to list, delist, or reclassify species for which the principal findings are "warranted but precluded" from immediate proposal by other efforts to revise the lists. Note in the "Description" column that at least some species mentioned in the original petitions have been individually found to be warranted. The species so noted were named in previous notices of petition findings. Three of the species (noted by the word "No" in the "Warranted" column) have new 1987 findings of "not warranted" announced here.

TABLE 1.—TWELVE-MONTH FINDINGS ON PENDING ANIMAL PETITIONS

Description	Petitioner	Date received	Warranted? [1]
5 species of sponges (2 others not warranted)	Mr. Ronald M. Cowden	June 17, 1974	Yes.
38 species of cave crustaceans (12 others not warranted).	National Speleological Society	Sept. 9, 1974	Yes.
6 species of cave amphipods (1 other not warranted)	Dr. John Holsinger	July 12, 1974	Yes.
Uncompahgre fritillary butterfly	Dr. Lawrence F. Gall	Nov. 5, 1979	Yes.
Columbia River tiger beetle	Mr. Gary Shook	Dec. 15, 1979	Yes.
Shoshone sculpin	Dr. Peter A. Bowler	Dec. 3, 1979	Yes.
Bonneville cutthroat trout	Desert Fishes Council	Oct. 23, 1979	Yes.
Silver rice rat	Center for Action on Endangered Species	March 12, 1980	Yes.
Bliss Rapids snail and Snake River physa snail	Dr. Peter A. Bowler	Feb. 7, 1980	Yes.
10 U.S. and 60 foreign species of birds (4 others listed, 5 not warranted).	International Council for Bird Preservation	Nov. 24, 1980	Yes.
Guam rufous-fronted fantail	Hon. Paul M. Calvo, Governor of Guam	Dec. 23, 1981	No.
Organefin madtom and Roanoke logperch	Mr. Noel M. Burkhead	Oct. 6, 1983	Yes.
Barbara Anne's tiger bettle and Guadaloupe Mountains tiger beetle.	W.D. Sumlin, III and Christopher D. Nagano.	July 24, 1984	Yes.
Spiny River Snail	American Malacological Union	Aug. 13, 1984	Yes.
Desert tortoise in remainder of its range	Dr. Martha L. Stout, Dr. Faith T. Campbell, and Mr. Michael J. Bean.	Sept. 14, 1984	Yes.
Samoan fruit bat (flying fox)	Mr. Paul Allen Cox	Nov. 27, 1984	No.
Lower (Florida) Keys marsh rabbit	Ms. Joel L. Beardsley	April 27, 1985	Yes.
Henne's eucosman moth	Mr. Bruce S. Mannheim, Jr.	May 21, 1985	Yes.
Lora Aborn's moth	Mr. Bruce S. Mannheim, Jr.	May 21, 1985	No.

[1] But precluded by other actions to revise the List of Endangered and Threatened Wildlife.

Three findings of "not warranted" in Table 1 require explanation. The Service was requested by the Governor of Guam to list the Guam rufous-fronted fantail, *Rhipidura rufifrons uraniae*, in a petition received by the Service December 23, 1981. Repeated efforts to locate the species subsequently have been unsuccessful, and the accumulated evidence has reached the point at which the Service considers this bird to be extinct. It will be treated in future notices of animal review as a category 3A species, believed to be extinct. The appropriate petition finding is "not warranted" in respect to its addition to the List of Endangered and Threatened Wildlife and Plants.

A second finding of "not warranted" was made for a petition to list the Samoan fruit bat (flying fox), *Pteropus samoensis samoensis*. This petition came from Mr. Paul Allen Cox and was received by the Service on November 27, 1984. An earlier finding of "warranted but precluded" was announced on May 2, 1986 (51 FR 16363), but discrepanices between the population levels indicated by the petitioner and those found in subsequent (1985) surveys were mentioned at that time. Continued study has led to the conclusion that although the species is rare enough for some concern, there is not sufficient evidence that it is threatened to warrant its listing. It is a solitary species not as easily decimated by hunting as are some of its colonial relatives, and populations on several of the islands of Samoa appear to be stable at or near the carrying capacity of the environment. Remaining habitat is estimated to constitute 74 percent of Western and American Samoa. According to the best scientific and commercial information available, including the Service's own positive field survey data, the action requested by the petitioner is not warranted. It should be noted, however, that this species was recently included with other western Pacific *Pteropus* species on Appendix II of CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora), to regulate trade. The Service therefore expects to continue monitoring of its welfare at some level, and to be able to respond to any evidence of further decline. That commitment will be reflected in retention of category 2 status for this species in the next notice of animal review.

The other "not warranted" finding in Table 1 concerns Lora Aborn's moth, *Lorita abornana*. One of two subjects of a petition received from Mr. Bruce S. Mannheim, Jr., on May 21, 1985, it belongs to a group that was the subject of dissertation research study by Dr. Michael G. Pogue. His research into the genus led to the scientific conclusion that *Lorita abornana* Busck is a synonym of *Lorita scarificata* (Meyrick), a widely distributed species of the New World tropics and Hawaii. Therefore, the population of *Lorita* at the El Segundo dunes of Los Angeles, California, does not appear to represent an entity qualified for listing under the Endangered Species Act. Separate findings are now indicated for the two subjects of Mr. Mannheim's petition on the basis of the best scientific and commercial information available, a finding of not warranted for Lora Aborn's moth, *Lorita abornana*, and a continued finding of warranted but precluded for Henne's eucosman moth, *Eucosma hennei*. *Lorita abornana* will be included in category 3B of the next notice of animal review, signifying that it lacks taxonomic validity.

The information in previous 12-month finding notices is current for the species indicated by "Yes" in the "Warranted" column of Table 1. In the case of the desert tortoise the Service has some information to add to the finding announced on July 1, 1987 (52 FR 24485). A name recognized by many authorities for the desert tortoise is *Xerobates agassizii*. Three major genetic groups of the desert tortoise exist, separated by the Colorado and Yaqui Rivers, apparently as genetically distinct from one another as is the Texas tortoise, *X. berlanderi*, from the desert tortoise. The Service believes that for certain area's of the species' range in Arizona and Mexico additional study is needed to determine the species' status. However, substantial information suggests that the degree of threat facing the species in California and Nevada is increasing. The Service retains the option to list those populations that currently face the highest degree of threat while studies proceed to resolve existing questions regarding remaining portions of the species' range.

The following petitions are not included in Table 1 and have first one-year findings announced here:

Dr. Thomas O. Lemke of Thomson Falls, Montana, in a petition dated February 24, 1986, and received March 4, 1986, requested the Service to determine endangered status for populations of the Marianus fruit bat, *Pteropus mariannus mariannus* and *Pteropus mariannus paganensis*, in the Commonwealth of the Northern Mariana Islands. The population of this species on Guam was listed as endangered on August 27, 1984 (49 FR 33885). The entire species, including the populations identified in this petition, was already the subject of a status review initiated May 18, 1979 (44 FR 29128). In respect to Dr. Lemke's petition, the Service made a 90-day administrative finding that substantial information was presented that the action requested may be warranted; the 90-day finding was reported in the **Federal Register** on January 21, 1987 (52 FR 2239).

After subsequent review of all the scientific and commercial information available, the Service has determined that the action requested in respect to populations of this species on the islands of Agiguan, Tinian and Siapan is warranted but precluded by other pending proposals of higher priority. The finding is based on low population and decline in the fruit bat populations on these islands owing to their vulnerability to human disturbance, hunting, and inadequate legal protection. On Rota, Asuncion, Guguan, and other northern islands of the Commonwealth that may be inhabited by this species, the Service has determined that existing legal protection and inaccessability to hunting are adequate to protect the populations, and that the action requested by the petitioner is not presently warranted.

In a separate petition dated February 24, 1986, and received March 4, 1986, Dr. Thomas O. Lemke also requested the Service to determine endangered status for the Sheath-tailed bat (*Emballonura semicaudata*) in the Commonwealth of the Northern Mariana Islands. This species in Guam was the subject of a status review initiated December 30, 1982 (47 FR 58454), and the distribution corrected to include the Northern Mariana Islands on September 18, 1985 (50 FR 37958). The Service made a 90-day administrative finding for this petition that substantial information was presented that the action requested may be warranted, and reported that finding in the **Federal Register** on January 21, 1987 (52 FR 2239).

After review of the best scientific and commercial information available, the Service has determined that the action requested by this petitioner is not warranted. The basis for the finding was that there is only sketchy evidence of any decline in the petitioned population, and that it may be an "outlier" of a widespread species in the western Pacific.

In a petition dated March 10, 1986, and received March 19, 1986, the Service was requested by Mr. Tom R. Johnson, representing the Missouri Department of Conservation, to list the Oklahoma salamander (*Eurycea tynerensis*) as threatened. A status report of this

species in Missouri was submitted with the petition. An administrative finding that the action requested may be warranted was made on June 20, 1986. The species was already the subject of a status review initiated September 18, 1985 (50 FR 37958). A **Federal Register** notice announced the 90-day petition finding on January 21, 1987 (52 FR 2240).

The Oklahoma salamander is a neotenic (retaining larval gills throughout its life) member of the family Plethodontidae (lungless salamanders). It is restricted to stream systems and springs in the mountainous areas of northwestern Oklahoma, southwestern Missouri, and northwestern Arkansas. Oklahoma, southwestern Missouri, and northwestern Arkansas. Oklahoma has the largest known distribution (several sites along two river systems); Missouri has 40 recorded localities, and Arkansas has five. Surveys supported by the Missouri Department of Conservation and information furnished by the Arkansas Natural Heritage Program and by Bill Resperman of Oklahoma State University all indicated widespread deterioration of habitat throughout this species' range. Grazing and pollution have reduced the habitat quality at a number of sites, especially in Missouri and Oklahoma. Recent surveys of the Arkansas Heritage Program failed to find Oklahoma salamanders in at least two sites where they formerly occurred. Although general population data is still unavailable, former sites of occurrence that are either polluted or heavily grazed appear to have reduced or no Oklahoma salamander populations.

The action requested by this petition for the Oklahoma salamander was judged to be warranted according to the best information available, but precluded by other pending proposals of higher priority. The Service will continue to evaluate the status of the Oklahoma salamander. Additional data are needed on populations of this species in Oklahoma and Arkansas; the species will therefore be retained in Category 2 of the next comprehensive notice of animal review.

In a petition dated July 20, 1986, and received July 25, 1986, the Service was requested by Alexander R. Brash of the Rutgers University Graduate School, New Brunswick, New Jersey, to list the white-necked crow, *Corvus leucognaphalus* as an endangered species. This bird is in the somewhat unique position of being extirpated, as far as known, from the United States (Puerto Rico), but still extant in the Dominican Republic on the island of Hispaniola. It is, therefore, a foreign species at present, but one that could conceivably be used in domestic restoration attempts. The petition was accepted as an action that may be warranted in a 90-day finding made in October 1986 and reported in the **Federal Register** for July 1, 1987 (52 FR 24485).

The information needed to determine the actual status of the white-necked crow in Hispaniola is not yet available. As a foreign species the priority for seeking the necessary data is somewhat lower than that accorded domestic species, while at the same time costs to obtain the data are expected to be higher. The evidence presented by this petitioner is not adequate alone to justify a decision to list the species. At this time, however, the best scientific and commercial information available support a finding that the action requested is warranted, but precluded by work on other species judged to be in greater need of protection.

A petition submitted by Mr. Rodney Bartgis and Mr. D. Daniel Boone of the Maryland Natural Heritage Program was dated July 22, 1986, and received by the Service on August 13, 1986. It requested the Service to list the Appalachian Bewick's wren, *Thryomanes bewicki altus*, as endangered. The petition acknowledged that not all authorities agree on the exact geographic limits of the various subspecies of this wren, but included extensive documentation that a definable Appalachian population is nearly extirpated from the few remaining States in which it has been reported since 1980. This petition was accepted as an action that may be warranted in a 90-day finding made in November 1986 and reported in the **Federal Register** for July 1, 1987 (52 FR 24485).

Subsequent review of the data on Bewick's wren in the eastern United States indicates that the action requested by this petitioner is warranted. An immediate rule to propose this species for listing is precluded by work on other species judged to be in greater need of protection. It has, however, been accorded a high priority within the Service's priority ranking system.

Progress in Revision of the Lists

Section 4(b)(3)(B)(iii) of the Act states that petitioned actions may be found to be warranted but precluded by other listing actions when it is also found that the Service is making expeditious progress in revising the lists. The Service's progress in revising the lists in the year following October 1, 1986, the cutoff date of the previous report, is described below. For simplification in reporting, the 12-month period described actually coincides with the 1987 fiscal year; activity during the last 12 days preceding the anniversary of the Amendments will be described in a subsequent notice. The described activities prevented immediate action on the "warranted but precluded" petitioned actions.

The Service's progress in revising the lists during fiscal year 1987 is represented by the publication in the **Federal Register** of final listing actions on 52 species, and proposed listing actions on 46 species. The number of species affected by each type of listing action published during this period is presented in Table 2.

TABLE 2.—LISTING ACTIONS TAKEN DURING THE PERIOD OCTOBER 1, 1986, THROUGH SEPTEMBER 30, 1987

Type of action	Number of species affected
Final endangered status	36
Final threatened status	15
Final reclassification to threatened due to similarity of appearance to a listed species	1
Proposed endangered status	31
Proposed threatened status	11
Proposed critical habitat	1
Proposed delisting	1
Proposed reclassification from endangered to threatened	2
Total	98

As of October 1, 1987, the Service's Division of Endangered Species and Habitat Conservation was also reviewing draft documents that would propose or make final listing actions on 37 species. The types of action and numbers of affected species are given in Table 3.

TABLE 3.—SUMMARY OF POTENTIAL LISTING ACTIONS NOT FINALIZED BUT UNDER ACTIVE REVIEW AS OF THE END OF THE REPORTING PERIOD

Type of action	Number of species affected
Final endangered status	10
Final threatened status	9
Final delisting	1
Proposed endangered status	11
Proposed threatened status	4
Proposed change from endangered to threatened status	1
Proposed experimental population	1
Total	37

The general plant and animal notices of review are important tools for gathering data on species that are

candidates for listing and for informing interested parties on the Service's general views on the status of present and past candidate species. The Service is currently preparing a general notice of review for animals, to include both vertebrate and invertebrate species. The most recent previous general notices were for plants on September 27, 1985 (50 FR 39526), for vertebrate animals on September 18, 1985 (50 FR 37958), and for invertebrate animals on May 22, 1984 (49 FR 21664).

Author

This notice was prepared by George Drewry, Division of Endangered Species and Habitat Conservation, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1975 or FTS 235–1975).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 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); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

List of Subjects in 50 CFR Part 17

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

Dated: June 27, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–15257 Filed 7–6–88; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 53, No. 130
Thursday, July 7, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

July 1, 1988.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection;

(2) Title of the information collection;

(3) Form number(s), if applicable;

(4) How often the information is requested;

(5) Who will be required or asked to report;

(6) An estimate of the number of responses;

(7) An estimate of the total number of hours needed to provide the information;

(8) An indication of whether section 3504(h) of Pub. L. 96–511 applies;

(9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer of USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should adivse the OMB Desk Officer of your intent as early as possible.

Extension

- Food and Nutrition Service.
- Nutrition Education and Training Program-State Plan and Annual Participation Report.
- FNS–42.
- Recordkeeping; Annually.
- State or local governments; 60 responses; 3,120 hours; not applicable under 3504(h).
- Martha A. Poolton (703) 756–3554.

Reinstatement

- Food and Nutrition Service.
- State Plans, Operating Guidelines, Forms and Waivers.
- FNS–366A; FNS–366B.
- Annually.
- State or local governments; 159 responses; 2,586 hours; not applicable under 3504(h).

Paul Jones (703) 756–3385.

Revision

- Farmers Home Administration.
- 7 CFR 1980–A, Guaranteed Loan Program (General).
- FmHA 449–14, –30, –35, –36; 1980–19, –41, –43, and –44.
- On occasion.

Businesses or other for-profit; 29,356 responses; 45,127 hours; not applicable under 3504(h)

- Jack Holston (202) 382–9736
- Farmers Home Administration.
- 7 CFR 1965–A, Servicing of Real Estate Security for Farmer Program Loans and certain Note-only cases.
- FmHA 440–2, –9, –26, 443–16, 465–1, –5, 1965–11, –13, –15.
- On occasion.

Individuals or households; Farms; Businesses or other for-profit; Small businesses or organizations; 82,150 responses; 34,433 hours; not applicable under 3504(h).

- Jack Holston (202) 382–9736.
- Farmers Home Administration.
- 7 CFR 1980–B, Guaranteed Farmer Program Loans.
- FmHA 449–11, –12; 1980–15, –24, –25, –38, and –58.
- On occasion.

Individuals or households; State or local governments; Farms; Businesses or other for-profit; 54,990 responses; 47,385 hours; not applicable under 3504(h).

Jack Holston (202) 382–9736.

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 88–15210 Filed 7–6–88; 8:45am]

BILLING CODE 3410–01–M

Office of the Secretary

Meat Import Act; Third Quarterly Estimate

Public Law 88–482, enacted August 22, 1964, as amended by Pub. L. 96–177 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lamb, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62), which may be imported into the United States in any calendar year. Such limitations are to be imposed when the Secretary of Agriculture estimates that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1988 by section 2(c) as adjusted under section 2(d) of the Act.

As published on January 6, 1988 (53 FR 267), the estimated aggregate quanity of meat articles prescribed by section 2(c), as adjusted by section 2(d) of the Act, for calendar year 1988 is 1,386.8 million pounds. In accordance with the requirements of the Act, I have determined that the third quarterly estimate for 1988 of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1988 is 1,510 million pounds.

Done at Washington, DC this 1st day of July, 1988.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 88–15278 Filed 7–6–88; 8:45 am]

BILLING CODE 3410–10–M

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of establishment of Privacy Act System of Records.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture (USDA), in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), proposes to establish a system of records: USDA/SCS–2, Volunteers—Soil Conservation Service. This action is necessary to implement the program authorized by 7 U.S.C. 2272, and to keep necessary records required by the program.

Records are kept on each volunteer in order to credit each volunteer with the appropriate number of hours worked for work experience credit and for suitable recognition in the form of certificates of appreciation. Names are also used for inclusion in agency directories and for general mailings pertaining to the program. Documentation is also required to implement available coverage under the Federal Tort Claims Act, 28 U.S.C. 1346, 2671 et seq., and the Federal Employees Compensation Act, 5 U.S.C. Chapter 81. Records contain personal data such as names, home addresses, home telephone numbers, Social Security Account numbers, educational level, driver's license, emergency data, duty station, previous occupation, skills, interests, job titles, dates of service, hours worked, work performed, performance evaluation data, and reason for separation. Social Security Account numbers are required in order to enter the data in the National Finance Center recordkeeping system.

DATES: Public comments must be received by August 8, 1988. This system shall take effect without further notice on September 6, 1988, unless comments received during the comment period cause a contrary decision.

ADDRESS: Interested individuals may comment on this notice by writing to Gerald D. Seinwill, Director, Information Resources Management Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013. All comments will be available for public inspection during business hours in room 6844–S, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Gerald D. Seinwill, at the above address, telephone (202) 475–4047.

SUPPLEMENTARY INFORMATION: USDA hereby establishes a new system of records, USDA–SCS–2, Volunteers—Soil Conservation Service. This system of records is the primary source of information SCS uses to manage its Earth Team Volunteer Program. It will consist of a manual system of volunteer applications and position descriptions and an automated data base that will include information from the applications and information on the management of the program.

A "Report on New System," required by 5 U.S.C. 552a(o), as implemented by OMB Circular A–130, was sent to the President of the Senate, the Speaker of the House of Representatives, and the Office of Management and Budget on June 10, 1988.

Signed at Washington, DC, on June 10, 1988.

Peter C. Myers,

Acting Secretary.

USDA–SCS–2

SYSTEM NAME:

Volunteers—Soil Conservation Service, USDA/SCS.

SYSTEM LOCATION:

All offices of the Soil Conservation Service. Addresses of Soil Conservation Service offices are listed in the telephone directories under the heading, "United States Government, Department of Agriculture, Soil Conservation Service."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who volunteer to serve the Soil Conservation Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an automated retrieval system and file folders on individual volunteers which record information on the volunteers and their positions and hours worked. These files contain personal data including names, home addresses, home telephone numbers, Social Security Account numbers, education level, driver's license, emergency data, duty station, previous occupation, skills, interests, job titles, dates of service, hours worked, work performed, performance evaluation data, and reason for separation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 7, U.S. Code, Section 2272, authorizes USDA to utilize volunteers to carry out soil and water conservation work.

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

Records and data may be disclosed, as is necessary: (1) To Members of Congress to respond to inquiries made on behalf of individual constituents who are record subjects; (2) to the Department of Justice when: (a) The agency, or any component thereof; or (b) an employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected; (3) in a proceeding before a court or adjudicative body before which the agency is authorized to appear when: (a) The agency, or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the court is a use of the information contained in the records that is compatible with the purpose for which the records were collected; (4) in the event that material in this system indicates a violation of law, whether civil or criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule, or order issued pursuant thereto, the relevant records may be disclosed to the appropriate Federal, State, foreign or local agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

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

STORAGE:

Records are maintained in an automated database retrieval system and in file folders in the offices in which volunteers work.

RETRIEVABILITY:

Records are retireved by name of volunteer, Social Security Account Number, and duty station.

SAFEGUARDS:

System access is restricted to authorized Soil Conservation Service employees. The automated data retrieval system is secured by a series of restricted user passwords. Manual files are maintained in file cabinets. Offices are locked during nonbusiness hours.

RETENTION AND DISPOSAL:

Records are maintained in the system for as long as the individual volunteer works for the agency. Upon termination, records of hours worked are transferred to the National Finance Center in New Orleans, to provide the individual credit for the work experience.

SYSTEM MANAGER(S) AND ADDRESS:

The system is managed by the Coordinator of Volunteer Services, Judith K. Johnson, 7515 NE Ankeny Road, Ankeny, Iowa 50021.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records by contacting the state volunteer program coordinator. For general information regarding the system or if the location of the record is not known with sufficient specificity, the individual should address his request to the Chief, Records Management Branch, Information Resources Management Division, USDA Soil Conservation Service, P.O. Box 2890, Washington, DC 20013, who will refer it to the appropriate office.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him by submitting a written request to the above-named system manager or to the Chief, Records Management Branch, USDA–SCS, Washington, DC 20013.

CONTESTING RECORD PROCEDURES:

All inquiries should be addressed to the Chief, Records Management Branch, USDA–SCS, Washington, DC 20013.

RECORD SOURCE CATEGORIES:

Information in this system is supplied by the volunteers themselves, using application forms and interest and skills questionnaires approved for this use. Information on hours worked is provided by the volunteers through their direct supervisors.

[FR Doc. 88–15209 Filed 7–6–88; 8:45 am]

BILLING CODE 3410–11–M

Agricultural Stabilization and Conservation Service

1988–1989 Marketing Year Penalty Rates for All Kinds of Tobacco Subject to Quotas

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination: 1988–1989 marketing year penalty rates for all kinds of tobacco subject to quotas.

SUMMARY: This notice sets forth the determination of the 1988–1989 marketing year penalty rate for excess tobacco for all kinds of tobacco subject to marketing quotas. In accordance with section 314 of the Agricultural Adjustment Act of 1938, as amended, marketing quota penalties for a kind of tobacco are assessed at the rate of seventy-five (75) percent of the average market price for that kind of tobacco for the immediately preceding marketing year.

EFFECTIVE DATE: July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Dennis Daniels, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, DC 20013, (202) 382–0200.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation No. 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Section 314 of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1314), provides that the rate of penalty per pound for a kind of tobacco that is subject to marketing quotas shall be seventy-five (75) percent of the average market price for such tobacco for the immediately preceding marketing year. The Agricultural Statistics Board, National Agricultural Statistical Service, U.S. Department of Agriculture determines and announces annually the average market prices for each type of tobacco. The penalty rates are determined on the basis of this information.

Since the determination of the 1988–1989 marketing year rates of penalty reflect only mathematical computations which are required to be made in accordance with a statutory formula, it has been determined that no further public rulemaking is required.

Accordingly, it has been determined that the 1988–1989 marketing year rates of penalty for kinds of tobacco subject to marketing quotas are as follows:

RATE OF PENALTY

[1988–1989 Marketing Year]

Kinds of tobacco	Cents per pound
Flue-Cured	119
Burley	117
Fire-Cured (Type 21)	99
Fire-Cured (Types 22, 23 and 24)	113
Dark Air-Cured (Types 35 and 36)	98
Virginia Sun-Cured (Type 37)	77
Cigar-Filler and Binder (Types 42, 43, 44, 53, 54, and 55)	75

Signed at Washington, DC on June 29, 1988.

Milton Hertz,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 88–15205 Filed 7–6–88; 8:45 am]

BILLING CODE 3410–05–M

Commodity Credit Corporation

Proposed Determinations With Regard to the 1989 Feed Grains Program and Farmer-Owned Reserve Program Provisions

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1989 crop of feed grains: (a) The established

"target" price for corn, grain sorghums, barley, and oats; (b) the percentage reduction under an acreage reduction program (ARP); (c) whether an optional paid land diversion (PLD) should be established and, if so, the percentage of diversion under the program; (d) whether a marketing loan program should be implemented; (e) if a marketing loan program is implemented, whether the inventory reduction program (IRP) should also be implemented; (f) whether corn silage should be eligible for loans and purchases; and (g) other related provisions. The Secretary also requests comments with respect to the entry of 1988 crops of wheat and feed grains into the Farmer Owned Reserve (FOR) Program.

These determinations are made pursuant to the Agricultural Act of 1949, as amended (the "1949 Act"), and the Commodity Credit Corporation (CCC) Charter Act, as amended.

DATE: Comments must be received on or before August 1, 1988, in order to be assured of consideration.

ADDRESS: Dr. Orval Kerchner, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Philip Sronce, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, Room 3748, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447–7924. The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed determination and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "major."

It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The titles and numbers of the federal assistance programs, as found in the catalogue of Federal Domestic Assistance, to which this notice applies are:

Titles	Numbers
Commodity Loans and Purchases	10.051
Feed Grains Production Stabilization	10.055

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

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

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

On April 19, 1988 (FR Vol. 53, No. 75) a notice of proposed determinations was published which set forth provisions common to the 1989 feed grains, wheat, upland cotton, ELS cotton, and rice price support and production adjustment programs.

Accordingly, the following program determinations are proposed to be made by the Secretary with respect to the 1989 crop of feed grains and the FOR Program.

a. *Established "Target" Price:* Section 105C(c)(1)(A) of the 1949 Act provides that the Secretary shall make available to producers payments for the 1989 crop of corn, grain sorghums, oats, and, if designated by the Secretary, barley, in an amount computed by multiplying (1) the payment rate by (2) the individual farm program acreage by (3) the farm program payment yield.

Section 105C(c)(1)(C)(i) of the 1949 Act provides that the payment rate for the 1989 crop of corn shall be the amount by which the established "target" price for the crop exceeds the higher of (1) the national weighted average market price received by producers during the first five months of the marketing year for such crop and (2) the basic loan level for such crop. Section 105C(c)(1)(D) provides that if the level of basic loan is adjusted, the Secretary shall provide emergency compensation by increasing the established price "deficiency" payments by an amount determined necessary to provide the same total return to producers as if the adjustment in the basic loan level had not been made. In determining the "deficiency" payment rate, the Secretary shall use the national weighted average market price of corn received by producers during the marketing year for such crop. Section 105C(c)(1)(E) provides that the established "target" price for the 1989 crop of corn shall not be less than $2.84 per bushel.

In accordance with section 105C(c)(1)(D), notwithstanding the provisions of sections 105C(c)(1)(A)–(C), if the Secretary exercises the discretionary authority to adjust the loan and purchase level the Secretary shall increase the established price payments in such amount as the Secretary determines necessary to provide the same total return to producers as if such adjustment had not been made. This second payment rate level will be determined based on the difference between (1) the weighted national average market price of corn received by producers during the 1989–1990 marketing year (September 1989–August 1990) and (2) the adjusted loan level, but not less than $1.65 per bushel. The maximum payment rate would be $0.41 per bushel. Payments that are made based upon this payment rate would not be subject to the $50,000 payment limitation but would be subject to the overall $250,000 payment limitation.

Section 105C(c)(1)(F) provides that the payment rate for grain sorghums, oats, and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available to corn.

The Secretary proposes to designate barely, to set forth the target price for corn at the minimum statutory level of $2.84 per bushel and to use feed value relationships to corn to determine the target prices for grain sorghums, oats and barley. The target prices per bushel would be as follows: $2.84 for corn; $2.70 for grain sorghums; $1.46 for oats; and $2.41 for barley.

Comments are requested on the proposed determinations by the Secretary for the corn, grain sorghums, oats and barely established "target price" levels for purposes of making 1989 crop deficiency payments in accordance with section 105C(c)(1)(C) of the 1949 Act.

b. *Acreage Reduction Program (ARP):* Section 105C(f) of the 1949 Act provides, with respect to the 1989 crop of feed grains, that if the Secretary estimates, not later than September 1, 1988, that the quantity of corn on hand in the United States on the first day of the marketing year (September 1, 1989) for such crop (not including any quantity of corn of such crop) will be more than 2 billion bushels, the Secretary shall provide for an ARP under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base (CAB) for the farm for the crop reduced by not

less than 12.5 percent nor more than 20 percent.

If the quantity is estimated to be 2 billion bushels or less, the Secretary may provide for an ARP under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain CAB for the farm for the crop reduced by not more 12.5 percent.

If a feed grain ARP is announced, such limitation shall be achieved by applying a uniform percentage reduction to the feed grain CAB for the crop for each feed grains-producing farm. Producers who knowingly produce feed grains in excess of the permitted feed grain acreage for the farm shall be ineligible for loans, purchases, and payments with respect to feed grains produced on that farm. An acreage on the farm shall be devoted to acreage conservation reserve (ACR) determined by dividing: (1) The product obtained by multiplying the number of acres required to be withdrawn from the production of feed grains times the number of acres planted to such commodity by (2) the number of acres authorized to be planted to such commodity under the ARP announced by the Secretary.

The quantity of feed grains on hand on September 1, 1989, is currently estimated to exceed 2 billion bushels. Accordingly, the Secretary would be required to implement an ARP of 12.5–20.0 percent.

Comments are requested as to the percentage level, if any, at which an ARP should be implemented for the 1989 crop of feed grains.

c. *Paid Land Diversion (PLD):* Section 105C(f)(5) of the 1949 Act provides that the Secretary may make land diversion payments to producers of feed grains, whether or not an ARP or set-aside program for feed grains is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved ACR an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers.

The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

In the case of the 1989 crops of corn, grain sorghums, and barley, except if the Secretary determines that it is necessary to maintain an adequate supply of corn, grain sorghums, or barley, the Secretary shall make land diversion payments to producers of corn, grain sorghums, and barley, under which the required reduction in the CAB shall be 10 percent and the diversion payment rate shall be $1.75 per bushel for corn. The Secretary shall establish the diversion payment rate for grain sorghums and barley at such level as the Secretary determines is fair and reasonable in relation to the rate established for corn.

Any additional acreage reduction under a PLD would be at a producer's option.

Comments are requested with respect to the need for an optional PLD and, if implemented, the provisions of such program.

d. *Marketing Loans and Loan Deficiency Payments:* Section 105C(a)(4) of the 1949 Act provides that the Secretary may permit a producer to repay a loan for feed grains at a level that is the lesser of: (1) The announced loan level or (2) the higher of: (i) 70 percent of the basic loan level or (ii) the prevailing world market price for feed grains, as determined by the Secretary.

If the Secretary permits a producer to repay a loan as described above, the Secretary shall prescribe by regulation: (1) A formula to define the prevailing world market price for feed grains and (2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for feed grains.

Section 105C(b) provides that the Secretary may, for the 1989 crop of feed grains, make payments available to producers who, although eligible to obtain a loan or purchase agreement, agree to forgo obtaining such loan or agreement in return for such payments. The payment shall be computed by multiplying: (1) The loan payment rate by (2) the quantity of feed grains the producer is eligible to place under loan.

For purposes of this section, the quantity of feed grains eligible to be placed under loan may not exceed the product obtained by multiplying: (1) The individual farm program acreage for the crop by (2) the farm program payment yield established for the farm. The loan payment rate shall be the amount by which the announced loan level exceeds the level at which a loan may be repaid.

The Secretary does not intend to implement a marketing loan and other related provisions for the 1989 crop of feed grains since other price support authorities permit adjustments in support levels that generally make feed grains competitive in domestic and international markets. Accordingly, comments are requested with respect to the Secretary's intentions or whether the Secretary should implement marketing loans and "loan deficiency" payments for the 1989 crop of feed grains and the formula and methodology for determining the prevailing world market price to be used if marketing loans are implemented.

e. *Inventory Reduction Program (IRP):* Section 105C(g) of the 1949 Act provides that the Secretary may, for the 1989 crop of feed grains, make payments available to producers who: (1) Agree to forgo obtaining a loan or purchase agreement; (2) agree to forgo receiving deficiency payments; and (3) do not plant feed grains for harvest in excess of the CAB reduced by one-half of any acreage required to be diverted from production under the announced ARP. Such payments shall be made in the form of feed grains owned by CCC. Payments under this program shall be determined in the same manner as established with respect to the marketing loan program.

Accordingly, the implementation of this program is considered to be dependent on whether a marketing loan program is also instituted. Comments are requested on whether an IRP should be implemented for the 1989 crop of feed grains if marketing loans are also implemented.

f. *Inclusion of Corn Silage Grain Equivalent in Loans and Purchases Program:* Section 403 of the Food Security Act of 1985 provides that the Secretary may make available loans and purchases to producers on a farm who: (1) For silage, cut corn (including mutilated corn) that the producers have produced in a crop year or purchase or exchange corn (including multilated corn) that has been produced in such crop year by another producer and (2) participate in an acreage reduction or set-aside program established for such crop year.

Such loans and purchases may be made on the quantity of corn of the same crop, other than the corn cut for silage, which is acquired by the producer and which is equal to the number of acres cut for silage multiplied by the lower of the farm program yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which silage was obtained. Corn which is to be

substituted for corn cut for silage could either be purchased in the market or be produced by the producer on a non-complying farm.

In 1987, 5.9 million acres of corn was cut for silage, with about 60 percent of silage production occurring in ten States: Wisconsin, New York, Pennsylvania, Minnesota, Michigan, South Dakota, North Dakota, California, Virginia, and Nebraska. These States also represent major areas of livestock production, especially dairy production.

Comments are requested whether loans and purchases should be available for corn silage grain equivalent in accordance with the 1989 feed grain program.

g. *Farmer-owned Reserve (FOR) Program:* Section 110 of the 1949 Act provides that the Secretary shall formulate and administer a program under which producers will be able to store wheat or feed grains when in abundant supply, extend the time period for its orderly marketing, and provide for adequate, but not excessive, carryover stocks in order to ensure a reliable supply. The Secretary is required to establish safeguards to assure that wheat or feed grains held under the program shall not be utilized in any manner to unduly depress, manipulate, or curtail the free market.

Wheat and feed grains are required to be permitated entry into the FOR whenever the total quantity entered under such program is less than 300 million bushels of wheat or 450 million bushels of feed grains and the market price of the respective commodity, as determined by the Secretary, does not exceed 140 percent of the nonrecourse loan rate for the respective commodity. In establishing such a program, original or extended price support loans for wheat or feed grains are to be made available under terms and conditions designed to encourage participation by producers. Loans made in accordance with this program shall be made at such level of support as the Secretary determines appropriate, but not less than the then current level of support available under the wheat or feed grains program. The program may provide for: (1) Repayment of such loans in not less than three years, with extensions as warranted by market conditions; (2) payments to producers for storage in such amounts and under such conditions as the Secretary determines appropriate to encourage producers to participate in the program; (3) a rate of interest not less than the rate charged CCC by the United States Treasury, except the Secretary may waive or adjust such interest as the Secretary deems appropriate to effectuate the purposes of section 110; (4) recovery of amounts paid for storage and for the payment of additional interest or other charges if such loans are repaid by producers when the total amount of wheat or feed grains in storage under this program is below the maximum limits for such storage and the market price for wheat or feed grains is below the higher of: (i) 140 percent of the nonrecourse loan rate for wheat or feed grains or (ii) the established "target" price; and (5) conditions designed to induce producers to redeem and market the wheat or feed grains securing such loans without regard to the maturity dates thereof whenever the Secretary determines that the market price for the commodity has attained the higher of: (i) 140 percent of the nonrecourse loan rate for the commodity or (ii) the established price for such commodity.

The rate of interest applicable to loans made under this program shall be not less than the rate of interest charged CCC by the United States Treasury. However, the Secretary may: (1) Waive or adjust the rate of interest to effectuate the purpose of the program and (2) increase the applicable rate of interest as determined appropriate to encourage the orderly marketing of wheat or feed grains securing such loans if the market price for wheat or feed grains exceeds the higher of 140 percent of the nonrecourse loan rate or the established "target" price.

The Secretary may require producers to repay the principal amount of loans obtained under this program, plus accrued interest and other related charges, prior to the maturity date of such loans, if the Secretary: (1) Determines that emergency conditions exist which require that wheat or feed grains be made available to meet urgent domestic or international needs and (2) reports such determination to the President, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives at least fourteen days before taking such action.

Announcement of the terms and conditions of the program are to be made as far in advance of making loans as practicable and shall specify the quantity of wheat or feed grains to be stored under the program which is determined appropriate to promote the orderly marketing of wheat or feed grains. Prior to the harvest of each crop of wheat or feed grains upper limits on the total of wheat (feed grains) that may be stored under such program during the marketing year for such crop are to be established. The upper limit for wheat (feed grains) shall not exceed 30 (17) percent of the estimated total domestic and export usage during the marketing year for such crop. Such upper limit may be increased, but not in excess of 110 percent, if the Secretary determines that the higher limits are necessary to achieve the purposes of the program.

The following table sets forth information relevant for making determinations with respect to entry of 1988 crops of wheat and feed grains into the FOR (in million bushels).

[Bushels in millions]

Commodity	Estimated total domestic and export use for 1988/89	Statutory maximum FOR quantity	Statutory minimum FOR quantity	FOR commodities as of May 11, 1988
Wheat	2,620	786	300	483
Corn	8,060	1,370	450	1,295

Based upon FOR contract maturities, it is estimated that the FOR quantity on hand during the 1988/89 marketing year will be between the statutory minimum and maximum levels. Accordingly, the Secretary proposes not to permit entry of maturing 1988 crop wheat or feed grains price support loans into the FOR if during the 1988/89 marketing year, the quantities of the commodity in the FOR are: (1) Above the respective statutory minimum; or (2) are below the statutory minimum and the market price of the respective commodity, as determined by the Secretary, exceeds 140 percent of the nonrecourse loan rate for the respective commodity.

Comments on proposed determinations with respect to the entry of 1988 crop wheat and feed grains regular CCC price support loans into the FOR are requested.

h. *Other Related Provisions:* A number of other determinations must be made in order to carry out the feed grain loan and purchase programs such as: (1) Commodity eligibility; (2) premiums and discounts for grades, classes, and other qualities; and (3) such other provisions as may be necessary to carry out the programs.

Consideration will be given to any data, views and recommendations that may be received relating to these issues.

Authority: Secs. 105C, 107E, 107F, and 110 of the Agricultural Act of 1949, as amended 99 Stat. 1445, 1395, as amended, 1448, 91 Stat. 951, (7 U.S.C. 1444e, 1445b–4, 1445b–5 and 1445e); Sec. 403 of the Food Security Act of 1985, as amended, 99 Stat. 1406 (7 U.S.C. 1444e–1).

Signed at Washington, DC on July 1, 1988.

Milton Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 88-15226 Filed 7-1-88; 2:22 pm]

BILLING CODE 3410-05-M

Forest Service

Skewed Bidding Policy

AGENCY: Forest Service, USDA.

ACTION: Notice; adoption of final policy.

SUMMARY: The Forest Service hereby gives notice of adoption of a final skewed bidding policy that establishes minimum procedures and restrictions to limit skewed bidding on Forest Service timber sales. The policy provides Regional Foresters flexibility to establish alternative approaches as long as they are no less restrictive than the minimum standards. The intended effect is to provide both the purchaser and the government from the adverse effects of the speculative practice of skewed bidding.

EFFECTIVE DATE: This policy will become effective August 1, 1988. This date allows adequate time for issuance of instructions to Forest Service personnel through appropriate sections of the Forest Service Manual and the Timber Sale Preparation Handbook.

FOR FURTHER INFORMATION CONTACT: Address questions about this policy to Milo Larson, Timber Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090, (202) 475-3754.

SUPPLEMENTARY INFORMATION: Timber is sold from the National Forest System to private purchasers through competitive bidding. Timber sales often include more than one species. In a sale species are sometimes combined into groups of similar value. In these sales, prospective purchasers offer bids by species or species group. The high bid for a sale is determined by adding the totals for the price bids for each species (group) multiplied by the estimated timber volume of that species. The sale is awarded to the qualified bidder whose cumulative bid has the highest total value.

Skewed bidding occurs when an unusually high bid is placed on a timber species that represents a minor proportion of the total sale volume, thus, allowing the bidder to offer lower bid rates on high volume timber species. Usually high bids on low volume or low value species are speculative in nature and can be harmful to either the purchaser or the government.

The volume estimates by the Forest Service are only estimates and are subject to verification by the timber purchaser. The estimates for individual species have less statistical reliability than do the volume estimates for the total sale. The reliability is usually poorest for those species in a timber sale representing the lowest volumes or highest incidence of defect. Even small inaccuracies can have major financial impact when the bid is skewed. If more than the estimated volume of a skewed bid species is present, the purchaser must pay disproportionately more. If less than the estimated volume is present, the government receives much less than it should, because the purchaser is paying lower rates on the remaining high volume species.

Also, an unsuccessful bidder who submits an unskewed bid may actually offer the highest bid based on the actual timber volume which is often measured after it is sold and cut. When such a bid is compared to a skewed bid, the unsuccessful bidder was, in effect unfairly denied the sale, and the Government does not receive the highest value for the sale.

Skewed bidding on National Forest timber sales has been the subject of a General Accounting Office Review (GAO/RCED-83-87). In partial response to the recommendations of that review, the Forest Service published a proposed policy to control skewed bidding on National Forest System timber sales January 30, 1987, at 52 FR 3027. On May 15, 1987, at 52 FR 18399 that policy was withdrawn. After consideration of comments received on the previous proposal, the Forest Service published another proposal on November 6, 1987, at 52 FR 42701. This latter proposal recognized the need for timber purchasers to pay different rates for timber species in accordance with their individual manufacturing or marketing capabilities. However, it limited the bid increase on any species or species group to twice the average bid increase for the timber sale.

Public Comment on the Proposed Policy

In response to the notice of November 6, 1987, the Forest Service received 17 written comments. These came from individuals (4), timber processing firms (6), associations representing the interests of timber oriented firms (6), and one logging company.

The comments were about equally divided in support of and in opposition to the proposal. Twelve of the respondents recognized the need for some form of control of skewed bidding, with eight favoring the proposed policy in existing or modified form. Of those in opposition, three wished to retain the ability to bid without limitation as a means to obtain a competitive advantage over other bidders or the government. The agency disagrees with this argument since the policy is designed specifically to limit the unfair advantages that can be achieved through speculative skewed bidding.

Five respondents indicated it should be the Forest Service responsibility to estimate the standing timber to a higher level of accuracy, thus, removing any advantage skewed bidding may provide. The agency recognizes the necessity to estimate timber to specified levels of accuracy, but it rejects this argument as a means of eliminating the need for control of skewed bidding.

To estimate the volume of timber on a given area according to species, size, quality, or other characteristics trained Forest Service personnel, designated as certified cruisers, cruise the timber. The cruise is an on-the-ground sampling of selected trees or plots, an estimate of gross volume on those plots, estimates of defect and of breakage, and the extension of sample results to the whole sale. If cruise sampling was increased enough to avoid skewed bidding, timber could then be paid for on the cruise estimates rather than the scaling of logs after timber is cut. This would increase the expense of cruising but expenses incurred of scaling would then be unnecessary. However, it is unlikely that the agency could institute such a change. Although accepted in eastern areas of the country, cruising as a basis for payment for timber has been consistently opposed by the majority of timber purchasers in the west, where the skewed bidding policy is most likely to be invoked.

Several respondents on both sides of the issue recommended that Regional Foresters be granted the authority to consult with industry to arrive at a policy suited to local conditions that would be applied in place of the proposal, with one suggesting the final policy would apply only if agreement could not be reached. The agency accepts this suggestion and the final policy provides for regionally developed alternatives, if they provide at least the same degree of control of skewed bidding as this policy.

Final Policy

Based on the need identified for a skewed bidding policy and consideration and analysis of the comments received, the Forest Service is adopting the final policy as proposed on November 6, except for the change previously noted, allowing Regional

Foresters to establish alternate procedures. The policy will be incorporated in Chapter 2430 of the Forest Service Manual, and the Sale Preparation Handbook, FSH 2409.18, as direction to Forest Service line officers and timber sale contracting personnel as follows:

Regional Foresters shall take prompt action to limit skewed bidding on advertised timber sales on those National Forests, or specific market areas where the Regional has occurred or, because of species mix, intensively competitive bidding, highly variable defect, unusal difficulty of accurate volume measurement, or other factors, is likely to occur. In such cases, apply the minimum standards of this section to advertised timber sales in the affected area or alternatively establish other standards tailored to local circumstances. Incorporate appropriate language in the standard timber sale prospectus for use on any timber sale where skewed bidding limitations would apply. In establishing alternative standards, the Regional Forester shall consult with respresentatives of the timber industry in the affected area and must ensure any alternative approaches provide at least the same or greater degree of control of skewed bidding as the minimum standards.

Minimum Standards for Limiting Skewed Bidding

The bid premium (the amount bid above the advertised rates set by the Forest Service for a timber sale) shall be bid for the estimated volume of the timber sale as a whole. A purchaser can elect to assign the bid premium by species or species groups after successfully bidding for the sale but must do so prior to contract execution.

Contracting Officers shall only accept purchaser assignments of bid premium that meet the following standards:

1. The rate for a species or species groups cannot be less than the advertised rate.

2. The assigned bid premium for a species or species group cannot be more than twice the average bid premium for the sale as a whole.

3. The average of the bid premiums assigned, weighted by the volume of species or groups, must total to within $0.01 of the average bid premium for the sale.

If the purchaser does not elect to assign the bid premium to species or groups prior to contract execution, the Contracting Officer shall assign the average bid premium to each species or group.

The following exhibit illustrates how these standards would apply to a representative sale.

EXHIBIT 1

	Species			Total
	Douglas-fir	White pine	White fir and other	
Volume	5MMBF	4MMBF	1MMBF	10MMBF
Advertised rate	$20/MBF	$80/MBF	$10MBF	$430,000
Bid for sale	XXXX	XXXX	XXXX	530,000
Total bid premium	XXXX	XXXX	XXXX	100,000
Average bid premium ($100,000/10MMBF = $10.00/MBF)	XXXX	XXXX	XXXX	10.00/MBF
Maximum rate (Includes $20.00 ($10.00 × 2) maximum assignable bid premium)	40/MBF	100/MBF	30/MBF	XXXX

ALTERNATIVE ASSIGNMENT OF BID RATES FOR THE EXAMPLE SALE

	Rates	Rates	Rates	Total bid premium
Purchaser is Douglas-fir Mill	$40/MBF	$80/MBF	$10/MBF	$100,000
Purchaser is White Pine Mill	20/MBF	100/MBF	30/MBF	100,000
Purchaser defers to contracting officer	30/MBF	90/MBF	20/MBF	100,000

Calculations:

Douglas-fir Mill—$20.00 max. assignable bid premium assigned to D.fir adv. rate of $20.00=$20/mbf rate. $20.00×5mmbf D.fir volume=$100,000 total bid premium. $100,000 divided by 10mmbf sale volume=$10.00/mbf average bid premium.

White Pine Mill—$20.00 max assigned to W.pine=$100/m rate ($20.00×4mmbf white pine volume=$80,000) and $20.00 max assigned to W.fir=$30/mbf ($20.00×1mmbf=$20,000). $80,000+$20,000=$100,000 divided by 10mmbf sale volume=$10.00/mbf average bid premium.

Contracting Officer—Assign average bid premium to each species ($10.00×5mmbf+$10.00×4mmbf+$10.00×1mmbf=$100,000, divided by 10mmbf=$10.00 average bid premium.

Impacts

This policy has been reviewed under Executive Order 12291 and Departmental policies and it has been determined that this policy is not a major rule. The policy will not have an annual effect on the economy of $100 million or more; will not result in major increases in costs for consumers, individual industries, Federal, State or local Government agencies or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, and the ability of United States-based industries to compete with foreign-based enterprises in domestic or export markets. To the contrary this policy will protect both the United States and timber sale purchasers from adverse effects of the speculative practice if skewed bidding.

The Chief of the Forest Service has determined that this policy will not have significant economic impacts on a substantial number of small entities. The policy should help small and large entities by making the bid process fair to both.

Based on both experience and environmental analysis, this proposed policy will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from documentation in an environmental

assessment or an environmental impact statement (40 CFR 1508.4).

This policy will not require any public reporting or record keeping as defined in 5 CFR Part 1320.

Date: June 10, 1988.

George M. Leonard,

Associate Chief.

[FR Doc. 88-15206 Filed 7-6-88; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Amended Notice of Hearing on Indian Civil Rights Issues; Postponement

Notice is hereby given pursuant to the provisions of the United States Commission on 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 postponed. The rescheduled hearing will be held on July 20, 1988, and continue on such succeeding days as may be deemed appropriate at the discretion of the Chairman of the Subcommittee.

The purpose, time and location of the hearing remain as previously published in 53 FR 20881 (June 7, 1988).

Dated at Washington, DC, July 5, 1988.

Murray Friedman,

Vice Chairman.

[FR Doc. 88-15409 Filed 7-6-88; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Post Enumeration Survey—Follow-up Questionnaire—1988 Census.

Form Numbers: Agency—DX-1301; OMB—NA.

Type of Request: New collection.

Burden: 3,350 respondents; 670 reporting hours.

Average Time Per Response: 12 minutes.

Needs and Uses: This survey is a follow-up to the 1988 Post Enumeration Survey (PES). The PES is a study designed to measure the completeness of the 1988 Census of households. The 1988 PES will also be used to rehearse the PES activities for the 1990 Census. This follow-up survey is needed to determine if persons were counted in both the Post Enumeration Survey and in the Census. This will be done by conducting interviews with persons that are not matched on both surveys, or that may be a possible match.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208 New Executive Office Building, Washington, DC 20503.

Dated: June 29, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-15259 Filed 7-6-88; 8:45 am]

BILLING CODE 3510-07-M

Minority Business Development Agency

Business Development Center Applications: Phoenix, AZ

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is $184,260 in Federal funds and a minimum of $32,516 in non-Federal contributions for the budget period December 1, 1988 to November 30, 1989. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combination thereof. The MBDC will operate in the Phoenix, Arizona geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (30 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost of firms with gross sales of $500,000 or less and 35% of the total cost for firms with gosss sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date, quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds Agency priorities.

Closing Date: The closing date for applications is August 12, 1988. Applications must be postmarked on or before August 12, 1988.

ADDRESS: San Francisco Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, Room 1280, San Francisco, California 94105, 415/974-9597.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Xavier Mena,

Regional Director, San Francisco Regional Office.

July 1, 1988.

[FR Doc. 88-15227 Filed 7-6-88; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council will convene a public meeting, July 13, 1988, at 8 a.m., at The Philadelphia Hershey Hotel, Broad and Lucas Streets, Philadelphia, PA (telephone: 215-893-1600), to adopt Amendment #8 to the Surf Clam and Ocean Quahog Fishery Management Plan (FMP) for public hearing, discuss the 600, etc. guidelines/regulations, FMP priorities, and other fishery management and administrative matters. The public meeting will adjourn on the afternoon of July 14 but may be lengthened or shortened depending upon progress of the agenda. The Council may convene a closed session (not open to the public) to discuss personnel and/or national security matters.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Room 2115, Federal Building, Dover, DE 19901-6790; telephone (302) 674-2331.

Date: June 30, 1988.

Richard H. Schaefer,

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

[FR Doc. 88-15219 Filed 7-6-88; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will convene a public meeting of its Red Drum Plan Development Team at the Council's office (address below). The Team will convene July 26, 1988, at 1 p.m., to continue development of a fisheries profile for Atlantic Coat Red Drum, and adjourn at 5 p.m. The public meeting will reconvene on July 27 at 8 a.m., and will adjourn at 12:30 p.m. A detailed agenda will be available to the public on or about July 15, 1988.

FOR FURTHER INFORMATION CONTACT: Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571-4366.

Date: June 30, 1988.

Richard H. Schaefer,

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

[FR Doc. 88-15220, Filed 7-6-88; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Proposed Permit Modification: Dr. Steven L. Swartz and Dr. Randall S. Wells (P146A)

Notice is hereby given that Dr. Steven L. Swartz, Cetacean Research Associates, P.O. Box 7990, San Diego, California 92107, and Dr. Randall S. Wells, Institute of Marine Sciences, Long Marine Laboratory, University of California, 100 Shaffer Road, Santa Cruz, California 95060, have requestd a modification of Permit No. 609 issued on September 5, 1987 (52 FR 34267), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

The Permit Holders are authorized to radio tag humpback whales (*Megaptera novaeangliae*), blue whales (*Balaenoptera musculus*), and fin whales (*Balaenoptera physalus*). The Permit Holders are requesting authorization to increase the number of blue whales to be tagged from two (2) to five (5) and the number of humpback whales to be tagged from three (3) to five (5).

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this proposed modification should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular Modification would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

Documents submitted in connection with the above modification are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC; and Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415.

Date: June 30, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 88-15190 Filed 7-6-88; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Negotiated Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

June 30, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing an amending limits.

EFFECTIVE DATE: July 8, 1988.

AUTHORITY: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on

embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION: During consultations held between the Governments of the United States and the People's Republic of China, agreement was reached to amend further the current Bilateral Textile Agreement. As a result, the limit for Category 611, which is currently filled, will re-open.

A copy of the bilateral agreement, as amended, is available from the Textiles Division, Economic Bureau, U.S. Department of State, (202) 647–1998.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see 52 FR 34269, published on September 10, 1987; and 53 FR 55, published on January 4, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 30, 1988.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directive issued to you on September 4, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain man-made fiber products in Category 611, produced or manufactured in the People's Republic of China and exported during the period which began on July 24, 1987 and extends through July 23, 1988.

Also, this directive amends, but does not cancel, the directive of December 30, 1987 concerning cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1988 and extends through December 31, 1988.

Effective on July 8, 1988 the directive of December 30, 1987 is amended to include the following new and amended limits:

Category	New and amended 12-month limit [1] (square yards)
611	5,100,000
615	22,900,000

[1] The limits have not been adjusted to account for any imports exported after December 31, 1987.

Textile products in Category 611 which have been exported to the United States prior to January 1, 1988 shall not be subject to this directive.

For the import period January 1, 1988 through March 31, 1988, there are no import charges to be made to Category 611.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88–15197 Filed 7–6–88; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Socialist Republic of Romania

June 30, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending limits.

EFFECTIVE DATE: June 30, 1988.

AUTHORITY: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6497. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION: The Governments of the United States and the Socialist Republic of Romania, in consultations on the Interim Category System, determined that the previous adjustments made to Categories 435 and 444 did not adequately reflect current trade patterns. Therefore, the current limit for Category 444 is being further increased and the current limit for Category 435 is being further decreased.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see 53 FR 7783, published on March 10, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 30, 1988.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on March 7, 1988, concerning imports into the United States of certain wool and man-made fiber textile products, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1988 and extends through December 31, 1988.

Effective on June 30, 1988, the directive of March 7, 1988 is further amended to include the following amendments to the previously established limits for Categories 435 and 444:

Category	Amended 12-month limit [1]
434 (dozen)	2,372
444 (numbers)	73,044

[1] The limits have not been adjusted to account for any imports exported after December 31, 1987.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88–15198 Filed 7–6–88; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

June 30, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for a new agreement year.

EFFECTIVE DATE: July 8, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6582. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION: During consultations held recently, agreement was reached between the Governments of the United States and the Republic of Turkey on a new bilateral agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 30, 1988

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Memorandum of Understanding of June 21, 1988 between the Governments of the United States and the Republic of Turkey; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 8, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories produced or manufactured in Turkey and exported during the twelve-month period which begins on July 1, 1988 and extends through June 30, 1989, in excess of the following levels of retraint:

Category	12-month restraint limit
Fabric group:	
219, 313, 314, 315, 317, 326, 617, 625, 626, 627, and 628.	97,000,000 square yards of which not more than 22,500,000 syds shall be in 219, 27,500,000 syds shall be in 313, 16,000,000 syds shall be in 314, 21,500,000 syds shall be in 315, 22,500,000 syds shall be in 317, 2,500,000 syds shall be in 326, 15,000,000 syds shall be in 617, 2,500,000 syds shall be in 625, 2,500,000 syds shall be in 626, 2,500,000 syds shall be in 627, 2,500,000 syds shall be in 628.
Limits not in a group:	
200	1,500,000 pounds.
300/301	7,303,400 pounds.
335	93,000 dozen.
337/637	125,000 dozen.
338/339	1,300,000 dozen of which not more than 910,000 dozen shall be in other than T-shirts and tank tops in Categories 338-S/339-S.[1]
340/640	540,000 dozen of which not more than 216,000 dozen shall be in shirts made from fabric of two or more colors in the warp and/or the filling in Categories 340-Y/640-Y.[2]
341	325,000 dozen of which not more than 183,750 dozen shall be in blouses made from fabric of two or more colors in the warp and/or the filling in Categories 341-Y.[3]
342/642	280,900 dozen.
47/348	1,325,000 dozen of which not more than 662,500 dozen shall be in trousers in Categories 347-T/348-T.[4]
350	139,000 dozen.
361	500,000 numbers.
369-S[5]	1,630,000 pounds.
604	1,573,195 pounds.

[1] In Categories 338-S/339-S, only TSUSA nubmers 381.0240, 381.0425, 381.3516, 381.4020, 381.4130, 381.4337, 381.6610, 381.8506, 381.9924, 384.0216, 384.0223, 384.0229, 384.0232, 384.2818, 384.2930, 384.2970, and 384.3437 in Category 338; and 384.0213, 384.0214, 384.0217, 384.0225, 384.0227, 384.0230, 384.0231, 384.0233, 384.0235, 384.0330, 384.0461, 384.2704, 384.2815, 384.2816, 384.2821, 384.2934, 384.2935, 384.2950, 384.2960, 384.2980, 384.3439, 384.3441, 384.3462, 384.5404, 384.7704 and 384.9517 in Category 339.

[2] In Categories 340-Y/640-Y, only TSUSA numbers 381.0522, 381.5500, 381.5610, 381.5625, 381.5637 and 381.5660 in Category 340; and 381.3132, 381.3142, 381.3152, 381.9535, 381.9547, 381.9550 and 384.2306 in Category 640.

[3] In Category 341-Y, only TSUSA numbers 384.0505, 384.0511, 384.0512, 384.4606, 384.4610, 384.4612 and 384.4788.

[4] In Category 347-T/348-T, only TSUSA numbers 376.5435, 381.0005, 381.0252, 381.0254, 381.0429, 381.0540, 381.0542, 381.0546, 381.0832, 381.3509, 381.3930, 381.3940, 381.4343, 381.6005, 381.6220, 381.6230, 381.6240, 381.6250, 381.6260, 381.6270, 381.6611, 381.6924, 381.8510, 381.8634, 381.9930, 384.0262, 384.0266, 384.0614, 384.0726, 384.0734, 384.3026, 384.3042, 384.4648, 384.4740, 384.4755, 384.4770, and 791.7418 in Category 347; and 376.5440, 384.0015, 384.0263, 384.0265, 384.0267, 384.0269, 384.0350, 384.0608, 384.0612, 384.0618, 384.0711, 384.0712, 384.0722, 384.0724, 384.0729, 384.0731, 384.0733, 384.0736, 384.0965, 384.2706, 384.2751, 384.3027, 384.3029, 384.3035, 384.3038, 384.3044, 384.3466, 384.4520, 384.4647, 384.4651, 384.4652, 384.4735, 384.4746, 384.4747, 384.4750, 384.4763, 384.4764, 384.4765, 384.4774, 384.4776, 384.5275, 384.5422, 384.5526, 384.7716, 384.7815, 384.9527, and 791.7420 in Category 348.

[5] In Category 369-S, only TSUSA number 366.2840.

Imports charged to these category limits, except for Categories 314, 315, 338, 617, 625, 626, 627, 628 and 637, for the periods January 1, 1987 through December 31, 1987, July 1, 1987 through December 31, 1987 and January 1, 1988 through June 30, 1988 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumptions into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-15199 Filed 7-6-88; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Proposed Amendments Relating to the Implementation of the Globex Trading System

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Mercantile Exchange ("CME") has submitted to the Commodity Futures Trading Commission ("Commission") for Commission approval amendments to CME rules and other materials which would permit CME to implement the Globex trading system. The proposal would allow CME's members to trade before and after regular trading hours by means of an automated trading system. The Commission has determined that this proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Commodity Exchange Act ("Act").

DATE: Comments must be submitted by September 6, 1988.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-6314.

FOR FURTHER INFORMATION CONTACT: Lystra G. Blake, Attorney Advisor, or David P. Van Wagner, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Description of Proposal

A. Introduction.

By letter dated May 11, 1988, the CME submitted for Commission approval proposed rule amendments which would establish post (pre) market trading ("PMT") pursuant to Section 5a(12) of the Act and Commission Regulation 1.41(b). On June 20, 1988, the Exchange changed the name of the system from PMT to Globex. The proposed amendments would create an automated system for trading CME futures and options contracts before and after CME's regular pit trading hours. Globex is being developed pursuant to an agreement between the CME and Reuters Limited ("Reuters"). Under the proposed agreement, Reuters will provide the technology for the computerized system to be used in connection with trading CME contracts. CME and Reuters have indicated that they intend to open the system to other vendors and exchanges on mutually agreeable terms. Reuters will make other services such as news and cash market quotations available via Globex terminals to users who wish to subscribe. Reuters also will allow other vendors to provide terminals capable of interfacing with the system.

CME intends to use its clearing facilities, auditing, compliance, market surveillance and information dissemination systems in connection with Globex. CME rules also will apply to Globex. CME has stated that all existing and subsequent CME futures and options contracts eventually will be eligible for trading through the Globex system. Initially, however, Globex trading will be limited to certain currency, interest rate, and precious metal contracts.

Salient features of the Globex trading system are set forth below. CME and Reuters, of course, are continuing development of the system and will be submitting additional details in the future.

B. Access to System

At the commencement of Globex, only CME clearing members, their parents and affiliates, and individual members authorized by a clearing member will be eligible to have Globex terminals. Additionally, only clearing members will be able to act as agents for customers in entering orders through the Globex terminals. Non-clearing CME members with Globex terminals will be able to enter only proprietary orders. Under amended CME Rule 901.M., each clearing member will "assume responsibility for all trading through its Globex terminals and for the proper use of those Globex terminals that it provides to others." The Exchange has not determined whether to establish special standards for customer use of Globex.

The CME will assign each user an identification number and password which must be entered before accessing the system. Only those authorized by a clearing member will be eligible to receive an identification number and password. In addition, all terminals will have dedicated lines into the system. There will be no unauthorized access to the system from outside telephone lines.

C. Trading Day

Each trading day on the Exchange will have two trading sessions. One trading session will consist of the hours designated for Globex trading and the other will consist of the hours designated for regular trading. Each trading day will begin with the Globex session and end with the regular trading session. The CME anticipates that the Globex session will run from approximately 5:00 p.m. to approximately 6:00 a.m.

D. Order Entry and Execution

Prior to Globex hours, an estimated opening price will be calculated and displayed on Globex terminal screens based on the orders which have been entered for execution on the open. Globex orders may be keyed into the system during the time between the end of the regular session and the beginning of Globex hours. Proposed CME Rule 571, sets forth the information which must be entered into the system with the order. Only limit orders may be entered. Upon entry of an order, the system will verify that the order was received by transmitting such verification to the printer associated with the entry terminal. The screen will display the price and quantity of the best bid and best offer currently in the system showing the total quantity bid or offered at those levels. The screen also will display the price and quantity of the last sale. (The CME has indicated, however, that at a later date it may expand the display to include bids and offers behind the best ones.)

Orders will be executed automatically by the Globex system based first on the price and, for equal prices, on the time of entry. Globex is structured so that there cannot be a tie between orders as to entry time. For purposes of execution, the system will not distinguish between customer and proprietary orders. Upon execution of an order, the Globex system immediately will generate a confirmation to the printer associated with the entry terminal. The time of order entry and order execution will be recorded automatically by the system. Hard copy and machine readable records of each transaction will be generated by the system. The CME states that the system will provide an audit trail timed to the second for each transaction. Office order tickets for customer orders will be prepared in the

same way as they are for regular trading.

E. Financial Safeguards

Each clearing member wil receive immediate notification of all trades executed on its terminals. In order to prevent misuse of terminals or undue financial exposure to clearing members, proposed Rule 511B provides that a clearing member may terminate without notice a member's ability to place orders through one of its teminals. As an additional safeguard, the CME anticipates that approximately six months after trading starts, the system will have the capability of putting numerical position limits on each teminal. Approximately one year after trading starts, this capability will be upgraded to a risk-based position limit system. In addition, at least at the outset, the Exchange does not plan to require any special or additional financial security for Globex trading, regardless of where such trading originates.

F. Clearing of Globex Transactions

CME intends to usae its current clearing facilities in connection with Globex transactions. Reuters will submit all matched trade data to the CME on a periodic basis throughout the trading session. Prior to the beginning of regular trading hours, all Globex trade data from the immediately preceding Globex session will be entered into the CME's clearing system. Original margin for all matched Globex trades will be collected at the same time each morning as the original margin for trades done during the regular trading hours immediately following the Globex trading session. Currently, the CME has a regular settlement variation collection and disbursement in the morning and an intra-day settlement variation collection and disbursement in the afternoon. The morning variation margin collection will not include Globex transactions from the immediately preceding Globex trading session. However, such transactions will be included in the afternoon settlement variation collections.

G. Self-Regulatory Functions

CME will use its auditing, compliance and market surveillance systems in connection with Globex trading. CME's Audit Department will include auditing of Globex transactions in its regulatory scheduled audits; CME's Compliance Department will perform a daily analysis of Globex transactions along with its daily analysis of transactions executed during regular trading hours; and CME's Market Surveillance Department will expand its surveillance activities to include Globex transactions. CME intends to provide staff during Globex hours to monitor trading activity through terminals located on CME's premises which will receive information regarding all executed transactions on a real time basis.

H. Dissemination of Market Information

CME will utilize its current quotation vendors to transmit Globex quotation information. Reuters will transmit to the CME information from Globex transactions for distribution to CME's quotation vendors, and CME will use its quotation vendors to retransmit this information. CME will also transmit necessary price information to Reuters for dissemination through the Globex system.

I. Backup Systems

At the commencement of trading, Reuters will have backup communication lines in place connecting administrative terminals to the system. Backup lines for individual terminals will be at the option of the user. Reuters also plans to have a backup computer containing all data running during Globex hours. In the event of a systems failure during the first year of operation, it would be necessary for the system to shut down for approximately one minute before a backup system could begin to operate. The orders in the system at the time of such a failure would be retained, but would be treated as if they had been entered prior to the commencement of a Globex trading session. Globex would find a single equilibrium price that affords execution of the maximum number of bids and offers previously entered.

J. Location of Terminals Overseas

The Exchange intends to permit Globex terminals to be located overseas. Such terminals would function in the same manner and subject to the same restrictions as terminals located in the United States. The Exchange expects that there will be terminals overseas for both proprietary trading by institutional accounts and for the use of foreign branch offices of clearing members. The Exchange has not made a determination yet whether it would be necessary or appropriate to enter into any agreements with foreign regulators. The Exchange currently takes the position that United States law is controlling as to the regulation of the Exchange's markets, including Globex. The Commission's Division of Trading and Markets has asked the Exchange to provide its legal analysis in support thereof.

II. Request for Comments

The Commission requests comments on any aspect of the proposal that members of the public believe may raise issues under the Commodity Exchange Act or the Commission's regulations. In particular, the Commission has identified the following matters for which comment may be appropriate:

1. Whether trading under the proposal would be open and competitive within the meaning of Commission Regulation 1.38, 17 CFR 1.38 and otherwise consistent with the requirements of section 4b of the Act, 7 U.S.C. 6b,

2. Whether special or additional financial, trade practice, or customer safeguards are necessary or appropriate for trading under the proposal;

3. Whether special regulatory or self-regulatory oversight procedures or safeguards should be implemented in connection with the proposal; and

4. Whether location of terminals overseas raises any statutory or regulatory issues.

Copies of the proposed rule amendments and other information relevant to Globex will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 except to the extent that the submission may be entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. The CME has requested confidential treatment of Exhibit I of its submission describing the operation of the system pursuant to Regulation 145.9(d)(1)(ii). Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254–6314. Requests for copies of materials subject to petitions for confidentiality must be made pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed rule amendments, or with respect to other materials submitted by the CME in support of its submission, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on July 1, 1988.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88-15264 Filed 7-6-88; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Availability of Change 1 to DoD 5025.1-I, "DoD Directives System Annual Index"

ACTION: Notice.

SUMMARY: This notice is to inform the public and U.S. Government Agencies other than the Department of Defense of the availability of Change 1 to DoD 5025.1-I, January 1988 edition. The Change may be purchased from the following organizations:

National Technical Information (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, Telephone number (703) 487-4600

or

U.S. Naval Publications and Forms Center (NPFC), 5801 Tabor Avenue, Attention: Code 1062, Philadelphia, Pennsylvania 19120-5099, Telephone number (215) 697-3321.

The NTIS accession number for Change 1 is PB88 219712; NPFC identifies it as Change 1 to DoD 5025.1-I.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Bynum, Correspondence and Directives Directorate, Directives Division, Room 2A286, the Pentagon, Washington, DC 20301-1155, telephone number (202) 697-4111.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 1, 1988.

[FR Doc. 88-15214 Filed 7-6-88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Close Out of the Public Comment Period for the Draft Environmental Impact Statement, Proposed Biological Aerosol Test Facility, Dugway Proving Ground, UT

AGENCY: Department of the Army, DOD.

ACTION: Notice to announce the close out of the public comment period for the proposed biological aerosol test facility, Dugway Proving Ground, Utah.

1. **SUMMARY:** The Department of the Army, as Executive Agency for the Department of Defense (DOD), published a Draft Environmental Impact Statement (DEIS), for the Biological Aerosol Test Facility, Dugway Proving Ground, Utah, in February 1988. The public comment period was originally scheduled to end on March 28, 1988. The Commander, Dugway Proving Ground, extended the public comment period to April 14, 1988. In April, the Army decided to extend the public comment period beyond 14 April. The Army now announces the closing date for public comments to be received. All comments should be received by 1 August 1988.

2. The Draft EIS for the Biological Aerosol Test Facility may be obtained by contracting Ms. Kathy Whitaker at commercial telephone (801) 831-2116, or by writing to the following address: Commander, U.S. Army Dugway Proving Ground, STEDP-PA, Dugway Utah 84022-5000. Written comments should be submitted to the same address.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA (I&L).

[FR Doc. 88-15234 Filed 7-6-88; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Naval Research Advisory Committee; Meeting

Notice was published June 9, 1988 at 53 FR 21723 that the Naval Research Advisory Committee Panel on the Role of Unmanned Vehicles in Support of Naval Warfare will meet on June 30 through July 1, 1988. The meeting has been canceled. In accordance with 5 U.S.C. 552b(e)(2), the cancelation of this meeting is publicly announced at the earliest practical time.

Date: June 29, 1988.

Jane M. Virga,

Lieutenant, JAGC, U.S. Navy Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 88-15202 Filed 7-6-88; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Executive Committee Meeting

AGENCY: Education Department.

ACTION: Notice of Executive Committee Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming Executive Committee meeting of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2. This document is intended to notify the general public of their opportunity to attend.

DATES: July 21, 1988, 1:00 p.m. until conclusion of business and July 22, 1988, 8:30 a.m. until conclusion of business.

ADDRESS: Oneida Rodeway Inn, 2040 Airport Drive, Green Bay, Wisconsin 54303 (414) 494-7300.

FOR FURTHER INFORMATION CONTACT: Gloria Duus, Acting Executive Director, National Advisory Council on Indian Education, 330 C Street, SW., Room 4072, Switzer Building, Washington, DC 20202 (202/732-1353).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to, among other things, assist the Secretary of Education in carrying out responsibilities under the Indian Education Act (Title IV of Pub. L. 92-318), and to advise Congress, and the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to education programs benefiting Indian children and adults.

The meeting will be open to the public. The proposed agenda includes:

(1) Public Testimony,

(2) Executive Director Vacancy,

(3) Other Council Business.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 330 C Street, SW., Room 4072, Switzer Bldg., Mail Stop 2419, Washington, DC 20202 (202) 732-1353.

Date: July 5, 1988. Signed at Washington, DC.

Gloria Duus,

Acting Executive Director, National Advisory Council on Indian Education.

[FR Doc. 88-15374 Filed 7-5-88; 3:38 pm]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

U.S. Fossil Fuel Technologies for Developing Countries; Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Department of Energy's Office of Fossil Energy (DOE/FE) is announcing a public meeting to explore the possibility for enhancing the

competitiveness of U.S. fossil energy technologies in developing countries.

DOE/FE has organized an initiative to identify, evaluate, analyze, and recommend market opportunities to improve the U.S. trade balance and energy security through increased exports of coal and coal technology. Fossil Energy has been screening world energy markets to identify opportunities for using the technical innovations we are promoting domestically as the basis for encouraging foreign countries to look to U.S. coal and coal technologies to meet their energy needs in the future. Converting these opportunities to concrete realities requires that DOE accomplish the following: (1) An accurate screening of opportunities; (2) a correct focus on the most attractive possibilities; (3) provide U.S. industry with sufficient information to permit following up on opportunities; and (4) provide potential foreign project participants with an accurate picture of U.S. coal and technology capabilities.

The objective of this meeting is to provide industry with a readout on our progress to date and to get industry reaction to our efforts in order to steer our activities in the most productive directions possible.

The meeting is planned to consist of (1) a morning plenary session at which DOE will provide industry with a background of the initiative and present its preliminary findings, (2) an afternoon breakdown into small working groups for interactive discussion of private sector viewpoints regarding all issues involved in proceeding with this initiative, followed by (3) a closing summary session at which working group leaders will report the results of their individual sessions.

A no-host luncheon will be offered to participants at a cost of $30.00 per person. A speaker will be provided who will focus on Private Sector Financial Support for Project Implementation. An expression of interest in attending this luncheon, along with payment of fee, must be received no later than July 12, 1988, at the address below. Make checks payable to Sheladia Associates, Inc.

Addressee: Sheladia Associates, Inc., 15825 Shady Grove Road, Suite 100, Rockville, MD 20850, ATTN: Judith Kimel.

In addition, any questions or comments may be submitted to the following address:

Addressee: Peter J. Cover, Office of Business Operations, U.S. Department of Energy, FE–13, B–110, Washington, DC 20545, (301) 353–2137.

The public meeting will be held July 21, 1988, at: The Ritz-Carlton Hotel, 2100 Massachusetts Avenue, NW., Washington, DC 20008, (202) 293–2100.

A subsequent meeting is planned to be held in the Fall of 1988, hopefully in conjunction with a major international industrial/technical meeting scheduled within the same time frame. At this meeting, emphasis will be placed on coal combustion technologies and equipment for use in small combustor markets, work being done on coal-water mixtures at the DOE Pittsburgh Energy Technology Center, and barriers to commercialization and international competitiveness for U.S. Clean Coal Technologies. The date, location and further information for this meeting will be announced in a later notice.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 88–15279 Filed 7–6–88; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Proposed Modification of Rate Schedule SL–87 and Opportunity for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice and Request for Comments. *BPA File No:* SL–87. BPA requests that all comments and documents submitted with respect to the modification of the SL–87 rate contain the file number designation SL–87.

SUMMARY: BPA proposes to reopen and supplement the Official Record in the 1987 Wholesale Power and Transmission Rate Proceeding in order to modify the Long-Term Surplus Firm Power rate (SL–87). This rate is available for long-term sales of surplus firm power. Modification of the rate has been suggested by the Federal Energy Regulatory Commission in an April 6, 1988, order and by certain intervenors in the SL–87 rate proceeding.

Responsible Official: Shirley Melton, Division Director, Division of Contracts and Rates, is the official responsible for the development of the SL–87 modified rate.

DATES: BPA proposes the following schedule for the modification of the SL–87 rate schedule.

July 7, 1988—Proposed Modified Schedule SL–87 and documentation and analyses available at BPA's Public Information Center, 905 NE. 11th, 1st Floor, Portland, Oregon.

July 11, 1988—Informal question and answer meeting

July 19, 1988—Formal meeting for oral comment

August 5, 1988—Final Modified Schedule SL–87 and Record of Decision

For the specific time and place of the meetings, please contact the Public Involvement Office at the phone numbers listed below. Any interested person may submit written comments to BPA no later than 5 p.m., P.D.T., Tuesday, July 19, 1988, at the address listed below.

ADDRESSES: Written comments should be submitted to Ms. Jo Ann C. Scott, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Wayne Sugai, Public Involvement office, at the address listed above, 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 243, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59807, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98807, 509–662–4377, extension 379.

Mr. Terence G. Esvelt, Puget Sound Area Manager, 201 Queen Anne Ave., Suite 400, Seattle, Washington 98109–1030, 206–442–4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–522–6225.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Thomas H. Blankenship, Boise District Manager, Room 376, 550 West Fort Street, Boise, Idaho 83724, 208–334–9137.

SUPPLEMENTARY INFORMATION:

I. Background

The SL–87 rate was originally developed pursuant to section 7(i) of the Pacific Northwest Power Act. 16 U.S.C. 839(e)(i). This process began when BPA published its notice of intent to revise its wholesale power and transmission

rates. 51 FR 40,484 (November 7, 1986). Forty-five parties, consisting of publicly-owned and investor-owned utility customers, direct service industrial customers, State Agencies, Federal agencies and public interest groups, intervened in this proceeding. The SL–87 rate was subject to discovery and cross-examination by the parties.

After consideration and review of all comments received during the course of the proceeding, the Administrator adopted the SL–87 rate. The Administrator's final rate determinations are contained in the *Administrator's Record of Decision, 1987 Final Rate Proposal,* WP–87–A–02 (July 31, 1987). Although the SL–87 rate was developed during BPA's 1987 general rate proceeding, BPA filed SL–87 for confirmation and approval by the Federal Energy Regulatory Commission (FERC) under a separate subdocket to facilitate FERC's review of the SL–87 rate on an expeditious basis. Docket No. EF87–2011–001. Initially, fourteen parties filed motions to intervene in the SL–87 proceedings before FERC.

On September 29, 1987, FERC granted interim approval of the SL–87 rate stating that more information would be needed before it could make a final determination. *United States Dep't of Energy—Bonneville Power Administration,* 40 FERC ¶ 61,350 (1937). In the same order, FERC granted the intervening parties additonal opportunities to file comments and cross comments on the final confirmation and approval of BPA's SL–87 rate. *Id.* at 62,055. By October 29, 1987, six intervenors filed comments with FERC. BPA's answer to these comments was filed on November 24, 1987. No intervenor filed across comments to the comments filed by other intervenors.

By letter dated September 28, 1987, FERC staff posed questions to BPA regarding the SL–87 rate filing. FERC staff requested responses from BPA within 45 days. BPA responded to FERC's questions on November 11, 1987. Three intervenors filed cross comments on BPA's responses to the FERC staff questions. BPA submitted an answer to these cross comments on December 16, 1987.

On April 6, 1988, FERC issued an order disapproving the SL–87 rate as too vague. *United States Dep't of Energy—Bonneville Power Administration,* 43 FERC ¶ 61,032, 61,086 (1988). That order provided guidance to BPA as to what modifications of the rate would be acceptable to FERC and would address its concerns regarding the adequacy of the overall long-term revenues projected for the SL–87 rate. Section 300.21(f) of FERC's regulations, 18 CFR 300.21(f), provides that when FERC disapproves a rate, the Administrator will be provided a 120-day period to prepare rates which address FERC's concerns.

FERC suggested that the rate schedule provide that no individual contract allow a purchaser to terminate the long-term sale early without imposing additional obligations on the purchaser. In addition, FERC suggested that if the rate schedule included a provision assuring that each contract contain a provision which would allow adjustments to the price or a firm price escalator, FERC would more likely find that the rate schedule meets the applicable cost recovery standards. 43 FERC at 61,088.

II. The SL–87 Rate Schedule

The SL–87 rate schedule allows BPA to sell a portion of its firm surplus power under long-term contracts to purchasers inside and outside the Pacific Northwest. The rate schedule is not available for contracts which obligate BPA to acquire additional energy resources to support the sale; thus the sale tracks the availability of BPA's firm surplus.

The SL–87 rate affords flexibility to negotiate mutually agreeable rates that fit each individual sale within predetermined rate parameters. These parameters, defined by a floor and ceiling, create a rate zone within which the negotiated rate must fall. All negotiated rates under the SL rate are subject to a revenue test to assure that the negotiated rate fits within the rate zone. The revenue test requires that the negotiated rate result in greater revenues, on a present value basis, over the term of the contract than the forecasted present value revenues from the floor, but no greater revenues than the forecasted present value revenues from the ceiling. Both the floor and ceiling are based on BPA's costs.

The floor for a power sale consists of the higher of BPA's projected PF rate or opportunity cost for surplus power. The ceiling is based on the projected total cost of BPA's highest cost resource. For capacity sales, the floor is the projected PF demand rate, and the ceiling is equal to the project capacity cost of BPA's highest cost resource. The floor and ceiling projections for each year over a 21-year period are redetermined annually.

III. Reasons For Modifying SL–87

The reasons for modifying the SL–87 rate to gain final approval by FERC are the same reasons that led BPA to seek earlier approval. BPA currently expects the Federal Columbia River Power System to have up to 600 average MW of surplus firm power available to support long-term sales into the next century. BPA projects substantial Federal long-term surplus capacity, at least 2,600 MW, to be available through the year 2007. BPA still seeks to create a diversified portfolio for its sales of surplus firm power, selling some on a short-term basis and some under longer term arrangements, in order to strengthen BPA's repayment position and minimize the exposure to risks associated with complete reliance on either market.

Revenues from sales of surplus firm power on a short-term basis are subject to the vagaries of the market. Historically, BPA has been unable to recover its fully-allocated cost of surplus firm power through short-term sales. In contrast, sales of surplus firm power on a long-term basis command a higher price as purchasers defer or avoid resource development to meet future load. In exchange for a long-term purchase commitment some purchasers require assurance of rate stability over time. A rate for long-term sales is necessary to address both the purchasers need for long-term rate stability and BPA's goal of recovering as much of its cost of surplus firm power as possible.

BPA proposes to reopen and supplement the 1987 Official Record for the limited purpose of modifying the SL–87 rate to address FERC's concerns and concerns raised by parties intervening at FERC. BPA proposes to adopt FERC's suggestions that SL–87 contracts contain termination provisions in the event of early termination by the purchaser of the contract and a firm price escalator. Because of the uncertainties raised by FERC's April 6 order regarding BPA sales of surplus firm power outside the Pacific Northwest, BPA also is modifying the availability of the rate schedule to allow sales only to Pacific Northwest purchasers. BPA intends to revisit the issue of availability of SL–87 for sales outside the Pacific Northwest after FERC or the courts address the uncertainties raised by the April 6 order. The proposed modifications also incorporate the suggestions made by intervenors that BPA reduce the amount of surplus firm energy sold and reduce to two years the amount of time available for execution of contracts using the SL–87 rate.

IV. Modified SL–87 Rate Schedule and Related General Rate Schedule Provisions

The following rate schedule shows the modifications to the SL–87 rate schedule

proposed by BPA. Additions are italicized; deletions are bracketed.

Modified Schedule SL–87—Long-Term Surplus Firm Power Rate

Section I. Availability

This rate schedule is *effective October 1, 1988,* and is available for the long-term purchases of Surplus Firm Power [and Firm Displacement Power] *for use within the Pacific Northwest Region* under BPA contracts *executed on or before October 1, 1990.* This rate schedule shall be offered for an amount of purchases not to exceed [1350 MW peak and 725 MW average] *2,228 MW peak and 572 MW average,* less *long-term* purchases [under the SC–86 rate schedule] *of Surplus Firm Power sold under other rate schedules pursuant to contracts executed after July 1, 1988.* This rate schedule shall not be available for contracts that obligate BPA to acquire energy resources to support the sale. *Sales of surplus firm energy under this rate schedule will not be included as a firm load in BPA's long-term resource planning. For contracts executed on or before October 1, 1990, this rate schedule shall continue in effect for 20 years from the date of execution of such contract, but in no event later than September 30, 2010. This rate schedule shall not be available for contracts executed after October 1, 1990.* Schedule SL–87 supersedes schedule FD–85 and associated GRSPs [except in the case of contracts for sales under FD–85 that become effective on or before September 30, 1987]. Sales under this schedule are made subject to BPA's General Rate Schedule Provisions.

Section II. Rates

The rate for the long-term purchase of Surplus Firm Power [and Firm Displacement Power] shall be mutually agreed *to* by *BPA and the purchaser,* [the parties,] provided that the present value of the forecasted revenue under the contract rate, as projected for the contract term at the date of contract execution, shall be equal to or greater than the forecasted revenue under the Floor projection, specified in subsection A below, and less than or equal to the forecasted revenue under the Ceiling projection, specified in subsection B below.

A. Floor Projection

1. [For] Firm Power Sale[s]

The Floor projection shall be the greater of BPA's average Priority Firm rate or BPA's opportunity cost of surplus firm power, as projected for each year of the contract term in accordance with section IV.D. of the GRSP's. The average PF rate or successor rate(s) shall be calculated at the load factor of the proposed sale and assume [a] uniform demand *and energy charges* in all months. If there is more than one PF rate, the average shall be determined by a weighting based on forecasted sales in the relevant rate case.

2. [For] *Firm Capacity Sale*[s.]

The Floor projection shall be the Priority Firm demand charge, as projected for each year of the contract term in accordance with section IV.D. of the GRSP's.

3. Combination Firm Power and Firm Capacity Sale

The floor projection shall be the sum of:

a. the floor in section A.1. for each year in which the purchase is a firm power sale; and

b. the floor in section A.2. for each year in which the purchase is a firm capacity sale.

B. Ceiling Projection

1. Firm Power Sale

The ceiling projection [for firm power sales] shall be the fully-allocated cost of BPA's highest cost resource including transmission costs, as projected for each year of the contract term in accordance with section IV.D. of the GRSP's.

2. [For] *Firm Capacity Sale*[s.]

The ceiling projection shall be the demand component of BPA's highest cost resource including transmission costs, as projected *for each year of the contract term in accordance with section IV.D of the GRSP's.*

3. Combination Firm Power and Firm Capacity Sale

The ceiling projection shall be the sum of:

a. the ceiling in section B.1. for each year in which the purchase is a firm power sale; and

b. the ceiling in section B.2. for each year in which the purchase is a firm capacity sale.

Section III. Billing Factors

The billing factors shall be the Contract Demand and Measured Energy, unless otherwise specified in the contract.

Section IV. Adjustments and Special Provisions

A. Escalation Requirement

Adjustments to the contract rate shall occur on the dates specified in the contract but the intervals between adjustment dates shall not exceed five years. Each contract shall include an escalation provision specifying the method for adjusting the rate over the contract term and shall specify a minimum escalator based on either changes in BPA's Priority Firm Power rate or changes in BPA's Average System Cost over the term of the contract. For the first five years, the minimum escalator may be based on the forecasted changes in BPA's Priority Firm Power rate or changes in BPA's Average System Cost at the date of contract execution. For every rate adjustment date after year five, the minimum escalator shall be based on actual changes determined in accordance with either subsection 1. or 2. below. The specific formula and index for escalating the contract rate will be mutually agreed to by the parties.

1. Escalation Based on BPA's Priority Firm Power Rate

To determine the change in BPA's Priority Firm Power rate the average Priority Firm Power rate or successors rate(s) in mills per kilowatthour in effect on the rate adjustment date specified in the contract shall be divided by average Priority Firm Power rate or successors rate(s) in mills per kilowatthour in effect on the date contract purchases began under this rate schedule. The average Priority Firm Power rate shall be calculated in the same manner described in section III.A. of this rate schedule.

2. Escalation Based on BPA's Average System Cost

Changes in BPA's Average System Cost shall be calculated by dividing BPA's Average System Cost in effect on the rate adjustment date specified in the contract by BPA's Average System Cost in effect on the date contract purchases began under this rate schedule. For purposes of this rate schedule, BPA's Average System Cost shall be determined by dividing BPA's total system costs by BPA's total system sales. BPA's total system costs and total system sales are defined in section IV.E. of the GRSP's.

B. Early Termination Charge

If BPA and a purchaser agree to a rate where in each year of the contract the cumulative present value of the projected contract revenues through that year is not equal to or greater than the cumulative present value revenues at the floor projection as specified in section II.A. and the purchaser has an option to terminate the sale, the purchaser shall be subject to an early

termination charge. Such a charge shall be greater than or equal to the difference between the floor revenues projected for that sale at the time the contract was executed and the contract revenues in each year over the period beginning from the date purchases began through the termination date with interest compounded quarterly, as determined by BPA's Office of Financial Management. The termination charge shall be payable in a lump sum within 30 days after the date the sale terminates unless an alternative payment schedule is otherwise mutually agreed to by BPA and the purchaser.

C. Power Factor Adjustment

The adjustment for power factor for BPA customers that are billed for the long-term purchase of Surplus Firm Power [and Firm Displacement Power] on metered amounts, when specified in this rate schedule or in the contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the General Rate Schedule Provisions (GRSPs). The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent.

To make the power factor adjustment, BPA shall increase the billing demand or energy by one percentage point for each percentage point or major fraction thereof (0.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

Section V. Resource Cost Contribution

BPA has made the following determinations:

A. The approximate cost contribution of different resource categories to the SL–87 rate is 99.3 percent Exchange and 0.7 percent New Resources.

B. The forecasted average cost of resources available to BPA under average water conditions is 17.7 mills per kilowatthour.

C. The forecasted cost of resources to meet load growth is 28.7 mills per kilowatthour.

Applicable Sections of the GRSPS

Section II. Types of BPA Service

G. *Surplus Firm Power*

Surplus Firm Power is *firm energy,* firm power *(firm energy with capacity),* [(capacity, energy, or capacity and energy)] *and firm capacity (capacity with energy return requirements)* in excess of the amount required to meet BPA's existing contractual obligations to provide firm service. Surplus Firm Power may be used either for resale or direct consumption by purchasers both inside and outside the United States. Such power, however, may be restricted pursuant to the Restriction of Deliveries section of these GRSPs (section V.E).

[J. *Firm Displacement Power*

Firm Displacement Power is firm power (capacity, energy, or capacity and energy) that BPA makes available to Pacific Northwest utilities for use within the Pacific Northwest. The purchased power will replace the generation from resources that is exported from the Pacific Northwest on a firm basis for a period of at least 3 years. Such power may be restricted pursuant to the Restriction of Deliveries section of the GRSPs (section V.E).]

Section IV. Other Definitions

D. *Determination of SL Floor Projection and Ceiling Projection*

By October 1 of each year, BPA shall determine the present value of the forecasted Priority Firm rate or successor rate(s), BPA's oportunity cost of surplus power, and the cost of BPA's highest cost resource for each fiscal year of the succeeding 21-year period. This determination shall be used to calculate the Floor projection and Ceiling projection for any contract using the SL–87 rate schedule executed during the succeeding 12 months. The Floor projection and Ceiling projection shall be calculated as stated in Section II.A. and II.B. of Rate Schedule SL–87.

An initial determination of the present value of the Priority Firm rate, BPA's opportunity cost, and the cost of BPA's highest cost resource shall be published on or about August 1 of each year. Within 14 days of the date of BPA's notice, any interested parties shall notify BPA's Office of Public Involvement in writing that they request to be placed on a list of interested parties. The request shall state the name and address of the person, and shall designate no more than two persons on whom service shall be made. Thereafter, communications by and between BPA and interested parties will be limited to those parties appearing on the interested parties list.

Following BPA's notice of its initial determination, BPA shall afford interested parties the opportunity to:

(1) Obtain or be provided reasonable access to nonproprietary and nonprivileged BPA financial data and support relevant to BPA's determination.

(2) Submit written comments to BPA by September 15 regarding the determination. Interested parties shall mail copies of their comments to all parties appearing on the list of interested parties compiled by BPA.

Consideration of comments and more current information may result in a different calculation from that initially proposed. The final determination shall be published on October 1.

E. Determination of BPA's average system cost

For purposes of determining BPA's average system cost (BASC), the following definition shall apply:

a. BPA's total system costs shall be the sum of all BPA's costs forecasted in each general rate case for the applicable rate period, including total transmission costs, Federal base system costs, new resource costs, exchange resource costs, and other costs not specifically allocated to a rate pool, such as section 7(g) costs.

b. BPA's total annual system sales shall be the sum of all BPA's system firm and nonfirm sales forecasted in each general rate case for the applicable test period.

BACS shall be redetermined in each subsequent general rate case according to the above formula and will be in effect for the entire rate period over which the rates are in effect.

V. Rate Modification Process

FERC regulations provide that when FERC disapproves a BPA rate, the Administrator will be provided a 120-day period to prepare rates that resolve FERC's concerns. 18 CFR 300.21(f). Because the SL–87 rate was disapproved on April 6, 1988, BPA has until August 8, 1988, to submit the modified SL–87 rate schedule to FERC for approval.

On or about July 7, 1988, BPA will make available to its customers, parties to BPA's 1987 rate proceeding, intervenors before FERC in the SL–87 Docket No. EF87–2011–001, and other interested persons the proposed Modified Schedule SL–87, together with documentation and analyses related to the modification. All parties to BPA's 1987 rate proceeding and all parties to FERC docket EF87–2011–001, unless they notify BPA in writing otherwise by July 19, 1988, will automatically become parties to this reopened proceeding. BPA will conduct an informal question and answer meeting on July 11, 1988, in the BPA Headquarters Building in Portland, Oregon, to clarify any aspect of the modified rate. On July 19, 1988, BPA will conduct a formal meeting for the purpose of obtaining any oral comment on the proposed modification. July 19, 1988, will also be the close of both oral

and written comment. BPA will submit the final proposal regarding Modified Schedule SL–87 with an Administrator's Record of Decision to FERC on or about August 5, 1988.

VI. Statement of Issues

The scope of this SL–87 rate modification process is limited to only the SL–87 Long-Term Surplus Firm Power rate schedule. No other 1987 wholesale power or transmission rate is subject to modification, and comment will not be accepted on any other rate contained in the 1987 Official Record.

Issued in Portland, Oregon, on June 28, 1988.

Walter E. Pollock,

Acting Administrator.

[FR Doc. 88–15280 Filed 7–6–88; 8:45 am]

BILLING CODE 6450–01–M

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Petition for Waiver of Furnace Test Procedures From Rheem Manufacturing Co. (F–016)

AGENCY: Conservation and Renewable Energy Office, DOE.

SUMMARY: Today's notice publishes a "Petition for Waiver" from the Rheem Manufacturing Company (Rheem), Fort Smith, Arkansas, requesting a waiver from the existing Department of Energy (DOE) test procedure for furnaces. In addition, today's notice publishes the granting of Rheem's application for an Interim Waiver. Rheem manufactures residential heating appliances. The petition requests DOE to grant relief from the DOE test procedure relating to the blower time delay specification for Rheem's condensing furnaces (–) GEB up-flow models and (–) GKA down-flow models. Rheem seeks to test using a blower delay time of 30 seconds instead of the specified 1.5 minute delay between burner on-time and blower on-time. DOE is soliciting comments, data and information respecting the petition.

DATE: DOE will accept comments, data and information not later than (30 days from publication).

ADDRESS: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F–016, Mail Stop CE–132, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Esher R. Kweller, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE–132, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–12, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507.

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, 92 Stat. 3266, and the National Appliance Energy Conservation Act of 1987 (NAECA), Pub. L. 100–12, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process, 45 FR 64108. DOE further amended the Department's appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986. The waiver process allows the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of a waiver.

The interim waiver provisions, added by the 1986 amendment, allow the Assistant Secretary to grant an interim waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the petition for waiver will be granted and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver.

Rheem's petition seeks a waiver from the DOE test provisions that require a 1.5 minute time delay between the ignition of the burner and the starting of the circulating air blower. Instead, Rheem requests the allowance to test using a 30 second blower time delay when testing its condensing furnaces models (–) GEB and (–) GKA. Rheem states that the 30 second delay is indicative of how these condensing furnaces actually operate. Such a delay results in an energy savings of approximately 1.8 percent. Since current DOE test procedures do not address this variable blower time delay, Rheem asks that the waiver be granted.

The Department finds that it would be desirable to public policy reasons to grant Rheem's Application for Interim Waiver. Specifically, in those instances where DOE has granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis. Previous waivers for this type of timed blower delay control have been granted to the Coleman Company, and to the Magic Chef Company. 50 FR, 2710, January 18, 1985, 50 FR 41553, October 11, 1985, respectively.

Therefore, Rheem's Application for an Interim Waiver requesting relief from the DOE test procedures for its condensing furnace models (–) GEB and (–) GKA is granted.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

In addition, pursuant to paragraph (e) of § 430.27 of the Code of Federal Regulations, the following letter granting the Application for Interim Waiver was issued to the Rheem Manufacturing Company.

Issued in Washington, DC, June 17, 1988.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

June 29, 1988.

Mr. Daniel J. Canclini,

Vice President, Product Development and Research Engineering, Rheem Manufacturing Company, P.O. Box 6444, Fort Smith, AR 72906–0444

Dear Mr. Canclini: This is in response to your March 11 and April 8, 1988, Application for Interim Waiver, from the Department of Energy (DOE) test procedures for furnaces when testing Rheem's gas-fueled forced-air condensing furnace identified as (–) GKA and (–) GEB series.

Pursuant to the Energy Policy and Conservation Act, as amended, the Department has prescribed test procedures to measure the energy consumption of certain major household appliances, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchase decisions. These test procedures appear in the Code of Federal Regulations at 10 CFR Part 430, Subpart B.

DOE amended the test procedure regulations on September 26, 1980 [45 FR 64108] and November 26, 1986 [51 FR 42823]. These provisions allow the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing of the basic model according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inadequate comparative data. The 1986 amendments provide that an interim waiver from test procedure requirements will be granted by the Assistant Secretary for Conservation and Renewable Energy if it is determined that the applicant will experience economic hardship if the application for interim waiver is denied, if it appears likely that the petition for waiver will be granted, and the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. Paragraph 430.27.

The Department finds that it would be desirable for public policy reasons to grant Rheem's Application for Interim Waiver. Specifically, in those instances where DOE has granted a waiver for a similar product design, it is in the public's interest to have similar products tested and rated for energy consumption on a comparable basis.

Previous waivers for this type of timed blower delay control have been granted to the Coleman Company and to Magic Chef Company, 50 FR 2710, January 18, 1985, and 50 FR 41553, October 11, 1985, respectively.

Therefore, Rheem's Application for an Interim Waiver requesting relief from the DOE test procedures for its (–) GKA series and (–) GEB series of condensing furnaces is granted.

Rheem shall be permitted to test its (–) GKA series and (–) GEB series of condensing furnaces on the basis of the test procedures specified in 10 CFR Part 430, with the modification set forth below.

(i) Section 9.3.1 of ANSI/ASHRAE Standard 103–1982 is deleted and replaced with the following paragraph:

Gas- and Oil-Fueled Central Furnaces. After equilbrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t–), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower, or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t–), using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe with ± 0.01 inch of water gauge of the manufacturer's recommended on-period draft.

This interim waiver shall remain in effect for 180 days from the date of issuance or until the Department of Energy issues a determination on Rheem's Petition for Waiver, whichever occurs first.

This interim waiver is based upon the prescribed validity of statements and allegations submitted by the applicant. This interim waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

Yours truly,

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

March 11, 1988.

Assistant Secretary, Conservation and Renewable Energy,

United States Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

Gentlemen: This is a petition for waiver and petition for interim waiver submitted pursuant to Title 10 CFR Part 430.27. Waiver is requested from the condensing furnace test procedure found at Appendix N to Subpart B of Part 430. This test procedure requires a 1.5 minute delay between burner on and blower on. Rheem is requesting authorization to use a 30 second delay instead of 1.5 minutes. Rheem will be manufacturing a series of condensing furnaces which include the (–)GEB upflow models and (–)GKA downflow models. Maximum energy efficiency is achieved by fixed timing controls installed in these models that activate the circulating air blower 30 seconds after the burner is on. Under the Appendix N procedures, the stack temperature is allowed to climb higher than its equilibrium temperature allowing a substantial amount of energy to be lost out the vent system. This waste of energy would not occur in actual operation. If this petition is granted, the true blower on time delay would be used in the calculations. Proposed ASHRAE Standard 103–1982R of 9/25/87 paragraph 9.5.1.2.2 specifically addresses the use of time blower operation.

The current test procedures do not give Rheem credit for the energy savings which averages approximately 1.8%. This improvement is an average reduction of 20% of the energy loss. Rheem is of the opinion that a 20% reduction is a significant energy savings.

Current prescribed test procedures prohibit Rheem from taking credit for the saved energy, thus providing inaccurate comparative data.

Confidential comparative test data is available to you upon your request, confirming the above energy savings.

Sincerely,

Daniel J. Canclini,

Vice President, Product Development & Research Engineering.

April 8, 1988

Assistant Secretary Conservation and Renewable Energy,

United States Department of Energy, 1000 Independence Avenue, SW., Washington, DC. 20585

Subject: Addenda to Petition for Interim Waiver, March 11, 1988

Gentlemen: In order to further satisfy the requirements for Interim Waiver, Rheem will be producing it new (–)GKA series and (–)GEB series that last part of April 1988. Since the Secretary has granted similar waivers to Coleman and Magic Chef, Rheem believes the waiver should be granted.

If the waiver would not be granted, Rheem would suffer an economic hardship since the efficiency ratings would be less than what the furnaces actually deliver. Manufacturers that domestically market similar products have received the March 11 letter and will be receiving a copy of this Addenda.

Sincerely,

Daniel J. Canclini,

Vice President—Product Development & Research Engineering.

[FR Doc. 88–15281 Filed 7–6–88 8:45 am]

BILLING CODE 6450–1–M

Economic Regulatory Administration

[ERA Docket No. 88–12–NG]

Standard Gas Marketing Co.; Order Granting Blanket Authorization to Export Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to export natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Standard Gas Marketing Company (Standard) blanket authorization to export natural gas to Canada. The order issued in ERA Docket No. 88–12–NG authorizes Standard to export up to 75 Bcf of

natural gas over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 29, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs Economic Regulatory Administration.

[FR Doc. 88–15282 Filed 7–6–88; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3410–3]

Fuels and Fuel Additives; E.I. DuPont de Nemours and Co., Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On February 1, 1988, the Environmental Protection Agency (EPA) conditionally granted a waiver requested by the Texas Methanol Corporation (Texas Methanol) for a gasoline-alcohol fuel, pursuant to section 211(f) of the Clean Air Act (53 FR 3636, February 8, 1988). A minor correction was made on May 12, 1988 (53 FR 17977, May 19, 1988). On April 25, 1988, E.I. DuPont de Nemours and Company, Inc. (DuPont) submitted a request to modify this waiver. The new request seeks approval of an alternative corrosion inhibitor, DMA–67, to be used in Texas Methanol's gasoline-alcohol fuel. EPA considers this to be a request for modification of the waiver under section 211(f) of the Clean Air Act (Act).

DATE: Comments should be submitted on or before August 8, 1988.

ADDRESS: Copies of the information relative to this request are available for inspection in public docket EN–87–06 at the Central Docket Section (LE–131A) of the EPA, South Conference Center, Room 4, 401 M Street, SW., Washington, DC, (202) 382–7548, between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying service. Any comments from interested parties should be addressed to this docket with a copy forwarded to Richard G. Kozlowski, Director, Field Operations and Support Division (EN–397F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Sylvia I. Correa, Attorney-Advisor, Field Operations and Support Division (EN–397F), U.S. E.P.A., 401 M Street, SW., Washington, DC 20460, (202) 382–2635.

SUPPLEMENTARY INFORMATION:

I. Background

The Texas Methanol Corporation received a waiver for a gasoline-alcohol fuel blend, known as OCTAMIX, providing that the resultant fuel is composed of a maximum of 3.7 percent by weight fuel oxygen, a maximum of 5 percent by volume methanol, a minimum of 2.5 percent by volume cosolvents and 42.7 milligrams/liter (mg/1) of Petrolite TOLAD MFA–10 corrosion inhibitor. As was the case with a previous waiver granted by EPA, the Agency invited other corrosion inhibitor manufacturers to submit test data to establish, on a case-by-case basis, whether their formulations are acceptable as alternatives to TOLAD MFA–10.

II. Today's Announcement

On April 25, 1988 DuPont requested that EPA allow the use of an alternative its corrosion inhibitor, DMA–67, in the gasoline-alcohol fuel blend, OCTAMIX, which otherwise would not be allowed under the waiver. DMA–67 is a formulation consisting of a corrosion inhibitor and a carburetor detergent, much like Petrolite's TOLAD MFA–10. EPA considers DuPont's request to be a request for modification of the Octamix waiver.

Section 211(f)(1) of the Act, 42 U.S.C. 7545(f)(1), states that effective upon March 31, 1977, it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce or to increase the concentration of any fuel or fuel additive for general use in light-duty motor vehicles manufactured after model year 1974, which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act.

Section 211(f)(4) of the Act, 42 U.S.C. 7545(f)(4), provides that the Administrator may waive the prohibitions of section 211(f)(1) if the applicant has established that the fuel or fuel additive will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emissions standards to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act within 180 days of receipt of the application, the waiver shall be treated as granted.

Pursuant to section 211(f)(4), therefore, EPA will examine the data submitted by DuPont, along with all comments received from interested parties, to determine whether this corrosion inhibitor formulation, DMA–67, if used in place of TOLAD MFA–10, would cause or contribute to such failures by vehicles using OCTAMIX. If use of DMA–67 does not cause or contribute to such failures, EPA will modify the Octamix waiver to allow the use of DMA–67 as an alternative to TOLAD MFA–10.

Dated: June 30, 1988.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 88–15228 Filed 7–6–88; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3410–4]

Municipal Settlement Discussion Group

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The Agency is developing a Municipal Settlement Policy to address issues related to notifying and bringing municipalities that are responsible parties into the Superfund settlement process. In order to provide a public forum for interested parties to provide input into how municipalities should fit in the settlement process, the Agency has formed a Municipal Settlement Discussion Group. The discussion group is not designed to promote consensus on the Municipal Settlement Policy, nor to advise the Agency on policy directions. The group consists of approximately 20 members representing EPA, States, local governments, industry, business, and environmental concerns. The group's first meeting was held on June 7, 1988 in Washington, DC. Copies of the minutes from that meeting are available upon request.

FOR FURTHER INFORMATION CONTACT: Mary Kay Voytilla of the Environmental Protection Agency, Office of Waste Programs Enforcement (WH–527), Washington, DC 20460; telephone 202/475–6367.

Lloyd S. Guierci,

Director, CERCLA Enforcement Division.

[FR Doc. 88–15229 Filed 7–6–88; 8:45 am]

BILLING CODE 6560–50–M

[FRL-3410-2]

Southern Hills Regional Aquifer System in Southeast Louisiana and Southwest Mississippi; Sole Source Aquifer; Final Determination

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that pursuant to section 1424(e) of the Safe Drinking Water Act, the Regional Administrator, Region VI of the U.S. Environmental Protection Agency (EPA), has determined that the Southern Hills regional aquifer system is the sole or principal source of drinking water for an area comprising 10 parishes in southeast Louisiana and all or parts of 14 counties in southwest Mississippi, and that this aquifer, if contaminated would create a significant hazard to public health. As a result of this action, Federal financially assisted projects constructed in the designated area will be subject to EPA review to ensure that these projects are designed and constructed so that they do not create a significant hazard to public health.

DATES: This determination shall be promulgated for purposes of judicial review at 1:00 p.m. Eastern time, two weeks after the date of **Federal Register** publication.

ADDRESSES: The data on which these findings are based are available to the public and may be inspected during normal business hours at the library of the U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202, or at the U.S. Environmental Protection Agency, Region IV, Groundwater Protection Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Clay Chesney, Office of Groundwater, U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202 (214–655–6446) or Bernie Hayes, Groundwater Protection Branch, U.S. Environmental Protection Agency Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365 (404–347–3866).

SUPPLEMENTARY INFORMATION:

I. Background

Section 1424(e) of the Safe Drinking Water Act states:

(e) If the Administrator determines on his own initiative or upon petition that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the *Federal Register*. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On May 19, 1980, the Capital Area Ground Water Conservation Commission of Louisiana petitioned EPA to designate the aquifer system in southeast Louisiana and southwest Mississippi as a sole or principal source of drinking water. On September 10, 1981, EPA published a notice in the **Federal Register** announcing receipt of the petition and requesting public comment. Subsequently, two technical reports on the aquifer system were funded by EPA and completed by 1986. Public hearings were held in Baton Rouge, Louisiana, on June 3, 1987, and McComb, Mississippi, on June 4, 1987. The public was invited to submit comments and information on the petition until June 17, 1987.

After review of available information, EPA determined that the aquifer system and its recharge zone occupies a ten parish area in Louisiana (consisting of all of E. Baton Rouge, E. Feliciana, Livingston, Pointe Coupee, St. Helena, St. Tammany, Tangipahoa, Washington, W. Baton Rouge, and W. Feliciana) and all or parts of fourteen counties in Mississippi (Adams, Amite, Claiborne, Copiah, Frnaklin, Hinds, Jefferson, Lawrence, Lincoln, Marion, Pike, Walthall, Warren, and Wilkinson).

II. Basis for Determination

Among the factors to be considered by the Region VI Administrator in connection with the designation of an area under Section 1424(e) are: (1) Whether the Southern Hills regional aquifer system is the area's sole or principal source of drinking water; and (2) whether contamination of the aquifer would create a significant hazard to public health. On the basis of technical information available to this Agency, the Region VI Administrator has made the following findings, which are the bases for the determination noted above:

1. The Southern Hills regional aquifer system supplies approximately 86% of the public and domestic water consumed in the aquifer area.

2. There is no existing alternative drinking water source or combination of sources which provides fifty percent or more of the drinking water to the designated area, nor is there any available cost effective future source capable of supplying the drinking water demands for the designated area.

3. The Southern Hills regional aquifer system consists predominantly of a series of sands interbedded with discontinuous clay layers. Where these sands are exposed at the surface in the recharge area, they are vulnerable to contamination from a number of sources including, but not limited to, chemical spills, highway and urban runoff, septic systems, leaking storage tanks and landfill leachate. Public and domestic wells which withdraw water from shallow aquifers under water table conditions in the recharge area are most susceptible to contamination. Since groundwater contamination can be difficult or sometimes impossible to reverse and since most of the drinking water in the designated area is provided by the Southern Hills regional aquifer system, contamination of the aquifer system would pose a significant public health hazard.

III. Description of the Southern Hills Regional Aquifer System and its Recharge Zone

The designated area of the Southern Hills regional aquifer system occupies a portion of southeast Louisiana consisting of the ten parishes named in the petition, and an area in Mississippi bordered on he east by the Pearl River, on the west by the Mississippi River and on the north by the northernmost contiguous outcrop of the Catahoula formation. The recharge zone covers all of this area with the possible exception of a small portion near the southern border. From its northern boundary, the aquifer system thickens progressively toward the south, attaining a thickness greater than 3,000 feet at the southern edge of the designated area where a natural increase in the salinity of the groundwater renders it nonportable for local use.

The aquifer system may contain a dozen or more fresh-water bearing sands at a single locality but many of these sands have not been reliably traced over long distances. The sands are recharged where they crop out in the recharge zone or by infiltration from the overlying Citronelle formation which occurs as a blanket deposit over a sizable portion of the area. The area in which Federal financially assisted projects will be subject to review is the designated area described above. The streamflow source zone is not included in the project review area; only a small part of the northern portion of the recharge zone is traversed by a stream (the Big Black River) which originates

outside the designated area, and under the existing climatic conditions flow of groundwater into streams strongly predominates over flow from streams into the groundwater.

IV. Information Utilized in Determination

The information utilized in this determination includes the petition, written and verbal comments submitted by the public, and various technical publications. The above data are available to the public and may be inspected during normal business hours at the library of the U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202, or at the U.S. Environmental Agency, Region IV, Groundwater Branch, 345 Courtland Street, Atlanta, Georgia 30365.

V. Project Review

EPA Regions IV and VI will work with Federal agencies that in the future may provide financial assistance to the projects in the area of concern. Interagency procedures will be developed in which EPA will be notified of proposed commitments by Federal agencies for projects which could contaminate the aquifer. EPA will evaluate such projects and where necessary, conduct an in-depth review, including solicitation of public comments where appropriate. Should the Regional Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment may be entered into for Federal financial assistance. However, a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into a plan or design the project to assure that it will not so contaminate the aquifer. Although the project review process cannot be delegated, the U.S. Environmental Protection Agency will rely to the maximum extent possible, on any existing or future State and local control mechanisms in protecting the groundwater quality of the aquifer.

Included in the review of any Federal financially assisted project, will be coordination, as needed, with the State and local agencies. Their comments will be given full consideration, and the Federal review process will attempt to complement and support State and local groundwater protection mechanisms.

VI. Summary of Public Comments

The great majority of public comments from Louisiana were in favor of designation but an equally great majority of the public comments from Mississippi were opposed to designation. Many commenters from Mississippi were concerned that designation would have serious adverse economic impacts. EPA responded that the economic impact resulting from the project reviews under the program would be minimal because relatively few projects are reviewed under the program and most reviews will be conducted within the time frames normally used for review by the lending agencies.

Another frequent comment was the belief that designation would benefit Louisiana at the expense of Mississippi. EPA responded that the benefits of designation will be shared equally across the designated area and that designation will not confer any special privilege or right of control to the Louisiana portion of the designated area. Project reviews will be conducted in both states and will be of most benefit to wells which withdraw water from shallow unconfined aquifers. Such wells are found throughout the designated area.

Some commenters questioned whether there was adequate technical information available to determine that the individual sands of the system do not act as separate aquifers and to show that the sands in Louisiana are actually recharged in Mississippi. EPA responded that the sands can be inferred to be interconnected on a regional scale because of the variable number of sands from one locality to another, suggesting merging of some sands, and because of the local disappearance of confining layers. The relatively continuous section of fresh water of good quality from the northern portion of the aquifer into Louisiana suggests an aquifer system with continuous recharge and flow toward the south where potentiometric levels are lower.

One commenter maintained that recharge for the aquifer system at Baton Rouge was derived from the Mississippi River after passing through overlying sediments. EPA responded that the occurrence of local recharge areas caused by overpumping does not disqualify the area for designation but may influence the recharge area boundaries. Because the recharge area in question was already included in the area proposed for designation, EPA did not find it necessary to alter any proposed boundaries.

EPA has prepared a Responsiveness Summary which addresses the comments received at the public hearings and during the comment periods.

Since the designation affects more than one EPA region, this designation has the prior concurrences of the Regional Administrator of Region IV and the Acting Assistant Administrator for Water.

Date: June 10, 1988.

Robert E. Layton, Jr.,

Regional Administrator, Region VI.

[FR Doc. 88-15231 Filed 7-6-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. 88-537]

FSLIC Insurance Premium

Date: June 29, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Federal Home Loan Bank Board ("Bank Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), has adopted a resolution pursuant to which the Corporation orders the assessment against each insured institution of an additional premium for FSLIC insurance in an amount equal to one quarter of one-eighth of one percent (one thirty-second of one percent) of the total amount of the accounts of the insured members of each insured institution determined as of March 31, 1988.

EFFECTIVE DATE: July 7, 1988.

FOR FURTHER INFORMATION CONTACT: Mary A. Creedon, Deputy Director of Operations, FSLIC, (202) 254-2029; or Deborah Siegel, Attorney, Office of General Counsel (202) 377-6848, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

WHEREAS, The Federal Home Loan Bank Board ("Bank Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation" or "FSLIC"), may authorize the Corporation, pursuant to section 404(c) of the National Housing Act, as amended ("NHA"), 12 U.S.C. 1727(c) (1982), to assess against each institution the accounts of which are insured by the Corporation pursuant to section 403 of the NHA, 12 U.S.C. 1726 (1982) ("insured institution"), additional premiums for such insurance until the amount of such premiums equals the amount of all losses and expenses of the Corporation, *Provided* that the total amount so assessed in any one year against any insured institution shall not exceed one-eighth of one per centum of the total amount of the accounts of the

insured members of such institution and *provided further* that the amount of the additional premium for the calendar year 1988 may not exceed one-twelfth of one percentum of the total amount of the accounts of the insured members of such institution unless the Bank Board determines that severe pressures on the Corporation exist which necessitate an infusion of additional funds; and

Whereas, The Bank Board, as operating head of the Corporation, by Resolution No. 85–142, dated February 22, 1985, by Resolution No. 85–437, dated June 5, 1985, by Resolution No. 85–770, dated August 28, 1985, by Resolution No. 85–1142, dated December 9, 1985, by Resolution No. 86–213, dated March 6, 1986, by Resolution No. 86–582, dated June 10, 1986, by Resolution No. 86–941, dated September 2, 1986, by Resolution No. 86–1253, dated December 15, 1986, by Resolution No. 87–281 dated March 16, 1987, by Resolution No. 87–610 dated May 27, 1987, by Resolution No. 87–950 dated September 9, 1987, by Resolution No. 87–1254 dated December 14, 1987, and by Resolution No. 88–256 dated April 7, 1988, ordered assessments against each insured institution of an additional premium for insurance in an amount equal to one thirty-second of one per centum of the total amount of the accounts of the insured members of each insured institution determined as of December 31, 1984, for the first assessment, as of March 31, 1985, for the second, as of June 30, 1985, for the third, as of September 30, 1985, for the fourth, as of December 31, 1985, for the fifth as of March 31, 1986, for the sixth, as of June 30, 1986, for the seventh, as of September 30, 1986, for the eighth as of December 31, 1986, for the ninth, as of March 31, 1987, for the tenth, as of June 30, 1987, for the eleventh, as of September 30, 1987 for the twelfth, and as of December 31, 1987 for the thirteenth; and

Whereas, The Bank Board has considered memoranda of the Corporate Accounting Branch and the Chief Financial and Administrative Officer, Office of the FSLIC, (a copy of which memoranda are in the Minute Exhibit file), describing the impact of the collection of the additional premiums for insurance assessed pursuant to Resolution No. 85–142, dated February 22, 1985, Resolution No. 85–437, dated June 5, 1985, Resolution No. 85–770, dated August 28, 1985, Resolution No. 85–1142, dated December 9, 1985, Resolution No. 86–213, dated March 6, 1986, Resolution No. 86–582, dated June 10, 1986, Resolution No. 86–941, dated September 2, 1986, Resolution No. 86–1253, dated December 15, 1986, Resolution No. 87–281, dated March 16, 1987, Resolution No. 87–610, dated May 27, 1987, Resolution No. 87–950, dated September 9, 1987, Resolution No. 87–1254, dated December 14, 1987, and Resolution No. 88–256, dated April 7, 1988, upon the Corporation's insurance reserves:

Now, therefore, it is resolved, That on the basis of the administrative record, the Bank Board finds and determines that the Corporation has incurred substantial losses during calendar years 1981 through the first quarter of 1988; and

Resolved further, That the Bank Board finds and determines that:

1. Losses and expenses incurred by the Corporation, as defined in Resolution No. 85–142, require the assessment of additional insurance premiums pursuant to section 404(c) of the NHA in addition to the additional insurance premiums assessed pursuant to Resolutions No. 85–142, No. 85–437, No. 85–770, No. 85–1142, No. 86–213, No. 86–582, No. 86–941, No. 86–1253, No. 87–281, No. 87–610, No. 87–950, No. 87–1254, and No. 88–256, in order to maintain the insurance reserves of the Corporation at a level adequate to meet in part the Corporation's losses and expenses and to protect the insured members of insured institutions;

2. Severe pressures on the Corporation exist which necessitate an infusion of additional funds;

3. Postponement of a reduction in the assessment of an additional premium, as provided in section 404(c)(2) of the NHA, will improve the financing environment for selling obligations of the Financing Corporation organized pursuant to the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987;

4. It is appropriate, therefore, to provide for the assessment of an additional insurance premium at this time, pursuant to section 404(a)(2) and 404(c)(1) of the NHA, by order of the Corporation; and

Resolved further, That the Corporation hereby orders the assessment against each insured institution of an additional premium for insurance for the second quarter of 1988, in an amount equal to one thirty-second of one per centum of the total amount of the accounts of the insured members of such insured institution determined as of March 31, 1988; and

Resolved further, That the additional insurance premium assessed pursuant to this Resolution shall be payable on or about July 20, 1988; and

Resolved further, That the Executive Director or a Deputy Director of the FSLIC, or a designee of either of them, ("Director"), shall determine the amount of the additional premium due, including an offset of one quarter of twenty percent (five percent) of each insured institution's pro rata share of the statutorily prescribed amount as provided in section 404(e)(2) of the NHA, to be paid on July 20, 1988, by each insured institution, and shall notify each insured institution of such amount at least fifteen (15) days prior to the date such amount is due; and

Resolved further, That the Director, on behalf of the Corporation, is hereby authorized to take all other actions necessary or appropriate to determine and collect the additional insurance premium authorized and ordered by this Resolution; and

Resolved further, That the Secretary shall forward this Resolution for publication in the **Federal Register**.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88–15286 Filed 7–6–88; 8:45 am]

BILLING CODE 6720–01–M

[No. 88–540]

Approval of Applications for Unlisted Trading Privileges; Cincinnati Stock Exchange

Date: June 29, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Cincinnati Stock Exchange filed with the Federal Home Loan Bank ("Board") an application ("Application"), pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f–1 (17 CFR 240.12f–1) thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchange: Northeast Savings, F.A., Hartford, Connecticut (FHLBB No. 3231), Common Stock, $.01 Par Value.

Notice of the Application and opportunity for hearing was published in the **Federal Register** on April 11, 1988, and interested persons were invited to submit written data, views and arguments within 15 days. See Board Resolution No. 88–239, dated April 6, 1988 (53 FR 11908, April 11, 1988). The Board received no comments with respect to the Application. Notice is hereby given that the Office of General Counsel of the Board, acting pursuant to the authority delegated to the General

Counsel or his designee, approved the Application for unlisted trading privileges in these securities on June 21, 1988.

SUPPLEMENTARY INFORMATION: The Board finds that the approval of the Application for unlisted trading privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities exchange registered with the Securities and Exchange Commission ("Commission") pursuant to section 6 of the Act, the Cincinnati Stock Exchange is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system contemplated by Rule 11Aa3–1 under the Act (17 CFR 240.11Aa3–1). The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Cincinnati Stock Exchange are executed at prices which are reasonable related to those occurring in other markets. Further, the approval of the Application will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Board received no comments indicating that the granting of the Application would not be consistent with the maintenance of fair and orderly markets and the protection of investors.

It is noted that the Cincinnati Stock Exchange withdrew, on May 2, 1988, its application for unlisted trading privileges for the common stock of American Savings and Loan Association, Miami, Florida.

Accordingly, pursuant to section 12(f)(1)(B) of the Act, the Office of General Counsel for the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Application for unlisted trading privileges in the above named securities on June 21, 1988.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88–15287 Filed 7–6–88; 8:45 am]

BILLING CODE 6720–01–M

[No. 88–541]

Approval of Applications for Unlisted Trading Privileges; Midwest Stock Exchange, Inc.

Date: June 29, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Midwest Stock Exchange, Inc. filed with the Federal Home Loan Bank ("Board") applications ("Applications"), pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f–1 (17 CFR 240.12f–1) thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchange;

Crossland Savings Bank, FSB, Brooklyn, New York (FHLBB No. 7812), Common Stock, $1.00 Par Value

Centrust Savings Bank, Miami, Florida (FHLBB No. 2745), Common Stock, $.01 Par Value

Empire of America, FSB, Buffalo, New York (FHLBB No. 5160), Common Stock, $1.00 Par Value

Comfed Savings Bank, Lowell, Massachusetts (FHLBB No. 3483), Common Stock, $.01 Par Value.

Notice of the Applications and opportunity for hearing was published in the **Federal Register** on April 11, 1988, and interested persons were invited to submit written data, views and arguments within 15 days. See Board Resolution No. 88–240 dated April 6, 1988 (53 FR 11909, April 11, 1988). The Board received no comments with respect to the Applications. Notice is hereby given that the Office of General Counsel of the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Applications for unlisted trading privileges in these securities on June 21, 1988.

SUPPLEMENTARY INFORMATION: The Board finds that the approval of the Applications for unlisted trading privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities exchange registered with the Securities and Exchange Commission ("Commission") pursuant to section 6 of the Act, the Midwest Stock Exchange, Inc. is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system contemplated by Rule 11Aa3–1 under the Act (17 CFR 240.11Aa3–1). The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Midwest Stock Exchange, Inc. are executed at prices which are reasonably related to those occurring in other markets. Further, the approval of the Applications will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Board received no comments indicating that the granting of the Applications would not be consistent with the maintenance of fair and orderly markets and the protection of investors.

Accordingly, pursuant to section 12(f)(1)(B) of the Act, the Office of General Counsel for the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Applications for unlisted trading privileges in the above named securities on June 21, 1988.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88–15288 Filed 7–6–88; 8:45 am]

BILLING CODE 6720–01–M

[No. 88–539]

Applications for Unlisted Trading Privileges and Opportunity for Hearing Philadelphia Stock Exchange

Date: June 29, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Philadelphia Stock Exchange has filed, pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, applications ("Applications") with the Federal Home Loan Bank Board ("Board") for unlisted trading privileges in the following securities.

Downey Savings and Loan Association, Costa Mesa, California (FHLBB No. 6189), Common Stock, No Par Value

Mercury Savings and Loan Association, Huntington Beach, California (FHLBB No. 6649), Common Stock, $1.00 Par Value

These securities are listed and registered on one or more other national securities exchanges and are reported in

the consolidated transaction reporting system.

Comments: Any interested person may inspect the Applications at the Board, and, within 15 days of publication of this notice in the **Federal Register**, submit to the Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW. Washington, DC 20552, written data, views and arguments bearing upon whether the extension of unlisted trading privileges pursuant to the Applications is consistent with the maintenance of fair and orderly markets and the protection of investors. Following this opportunity for hearing, the Board will approve the Applications after the date mentioned above if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to the Applications is consistent with the maintenance of fair and orderly markets and the protection of investors.

FOR FURTHER INFORMATION CONTACT: John P. Harootunian, Assistant General Counsel for Securities Policy, Corporate and Securities Division, Office of General Counsel, at (202) 377–6415 or at the above address.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88–15289 Filed 7–6–88; 8:45 am]

BILLING CODE 6720–01–M

[No. 88–542]

Approval of Applications for Unlisted Trading Privileges; Philadelphia Stock Exchange

Date: June 29, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Philadelphia Stock Exchange filed with the Federal Home Loan Bank ("Board") applications ("Applications"), pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f–1 (17 CFR 240.12f–1) thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchange:

Standard Federal Bank, Troy, Michigan (FHLBB No. 0161), Common Stock, $1.00 Par Value

Coast Savings and Loan Association, Los Angeles, California (FHLBB No. 7046), Common Stock, No Par Value

Notice of the Applications and opportunity for hearing was published in the **Federal Register** on April 11, 1988, and interested persons were invited to submit written data, views and arguments within 15 days. See Board Resolution No. 88–241, dated April 6, 1988 (53 FR 11909, April 11, 1988). The Board received no comments with respect to the Applications. Notice is hereby given that the Office of General Counsel of the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Applications for unlisted trading privileges in these securities on June 21, 1988.

SUPPLEMENTARY INFORMATION: The Board finds that the approval of the Applications for unlisted trading privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities exchange registered with the Securities and Exchange Commission ("Commission") pursuant to Section 6 of the Act, the Philadelphia Stock Exchange is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system contemplated by Rule 11Aa3–1 under the Act (17 CFR 240.11Aa3–1). The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Philadelphia Stock Exchange are executed at prices which are reasonably related to those occurring in other markets. Further, the approval of the Applications will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Board received no comments indicating that the granting of the Applications would not be consistent with the maintenance of fair and orderly markets and the protection of investors.

Accordingly, pursuant to section 12(f)(1)(B) of the Act, the Office of General Counsel for the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Applications for unlisted trading privileges in the above named securities on June 21, 1988.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88–15290 Filed 7–6–88; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200135.

Title: City of Los Angeles Terminal Agreement.

Parties:

City of Los Angeles

American President Lines, Ltd. (APL)

Synopsis: The agreement provides for the City's assignment of four container handling cranes to APL for APL's preferential though non-exclusive use.

Agreement No.: 224–011031–001.

Title: Los Angeles Terminal Agreement.

Parties:

City of Los Angeles

American President Lines, Ltd. (APL)

Synopsis: The agreement amendment effects the APL sale and transfer of cranes and a crane construction contract to the City of Los Angeles on July 1, 1988.

Agreement No.: 224–200134.

Title: Delaware Operating Company Assignment Agreement.

Parties:

Philadelphia Port Corporation (PPC)

Delaware Operating Company (DOC)

Delaware River Stevedore, Inc. (DRS)

Synopsis: The agreement provides that DOC, with PPC's consent, assigns to DRS all of its rights and interests as lessee and marine terminal operator under various agreements that DOC has with PPC for certain Packer Avenue

marine terminal facilities at the Port of Philadelphia.

Agreement No.: 224–010774–001.

Title: Georgia Ports Authority Terminal Lease Agreement.

Parties:

Georgia Ports Authority
Evergreen Marine Corporation (Taiwan), Ltd.
Costa Container Lines SPS (Costa)

Synopsis: The agreement amends the terms of the basic lease to include Costa as being entitled to all rights and privileges under the lease pertaining to Evergreen and to be bound by all obligations therein.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: July 1, 1988.

[FR Doc. 88–15258 Filed 7–6–88; 8:45 am]

BILLING CODE 6730–01–M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Activities Under OMB Review

GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expired report 3090–0014, Transfer Order Surplus Personal Property/Continuation Sheet (SF 123), which is used by nonprofit agencies to request donations of surplus property.

AGENCY: Property Management Division, GSA.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Audrey L. Harris, 703–557–1234.

Annual Reporting Burden: Agency requests, 50,000; one request per agency; average time to complete form, 20 minutes; burden hours, 15,000.

Copy of Proposal: Readers may obtain a copy of the proposal by writing the Information Collection Management Branch (CAIR), Room 3016, GS Bldg., Washington, DC 20405 or by telephoning 202–566–1659.

Dated: June 29, 1988.

Mary L. Cunningham,

Acting Director, Information Management Division (CAI).

[FR Doc. 88–15187 Filed 7–6–88; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Management and Budget; Statement of Organization, Functions and Delegations of Authority

Part A (Office of the Secretary) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) is amended to reflect the transfer of the OS Office of Equal Employment Opportunity function from the Immediate Office of the Assistant Secretary for Management and Budget to the Office of the Deputy Assistant Secretary for Administrative and Management Services. Specifically, Chapter AM, HEW Management and Budet Office, as last published at 44 FR 28729 (May 16, 1979); and Chapter AMS, Office of Administrative and Management Services, as last published at 53 FR 18609 (May 24, 1988) is revised as follows:

1. In Chapter AM, Section AM.10 Organizations, paragraph 2, line 4, delete OS Equal Employment Opportunity Office (AM–2).

2. In Chapter AM, Section AM.20 Functions, A., delete paragraph 2, in its entirety.

3. In Chapter AMS, Section AMS.00 Mission, line 9 after the word "responsibilities." delete remainder of the paragraph and replace with the following:

Provides administrative services, and facilities management services to all HHS components in the Southwest Washington, DC area complex. Plans and administers telecommunications responsibilities and carries out equal employment activities within the Office of Secretary.

4. In Chapter AMS, Section AMS.10 Organization, add as the last office under line 14, OS Office of Equal Employment Opportunity.

5. In Chapter AMS, Section AMS.20 Functions, at the end of paragraph F., add new paragraph G., to read as follows:

G. OS Office of Equal Employment Opportunity. The OS Office of Equal Employment Opportunity receives program direction from the Assistant Secretary for Management and Budget (ASMB), and supervision and administrative support from the Office of the Deputy Assistant Secretary for Administrative and Management Services (OAMS). The OS Office of Equal Employment Opportunity assists the ASMB in carrying out the delegated authority to establish and maintain equal employment opportunity programs within the Office of the Secretary. The Office is responsible for ensuring that all OS employment policies and actions are based on merit, without regard to race, color, religion, national origin, sex, age, or physical/mental handicap. Major functions include: (1) Pre-complaint counseling, (2) formal complaint processing, (3) affirmative employment planning and implementation, and (4) technical guidance and policy development. The functions of the office also include program efforts which focus on the Federal Women's Program, the Hispanic Employment Program, and the Handicapped Employment Program.

June 29, 1988.

S. Anthony McCann,

Assistant Secretary for Management and Budget.

[FR Doc. 88–15211 Filed 7–6–88; 8:45 am]

BILLING CODE 4150–04–M

Assistant Secretary for Personnel Administration; Statement of Organization, Functions and Delegations of Authority

Notice is hereby given that on June 16, 1988, to be effective October 1, 1988, the Secretary of Health and Human Services delegated to the Chair and members of the Departmental Grant Appeals Board his authority to make final determinations with respect to the imposition of civil remedies, including exclusions and civil monetary penalties and assessments, on review of, or by declining to review, initial decisions of Administrative Law Judges as provided in the regulations implementing sections 1128, 1128A, 1833(l), 1842(b), (j), (k), (l)(3), and (m), and 1866(g) of the Social Security Act; and sections 421(c) and 427(b)(2) of the Health Care Quality Improvement Act of 1986 (Title IV of Pub. L. 99–660) (42 U.S.C. 1320a–7; 1320a–7a; 1395l; 1395u(b), (j), (k), (l)(3), and (m); 1395cc(g); 11131; and 11137. The delegation does not include decisions under sections 1128(b)(6)(B), (C), and (D), 1128A(b) and 1156 of the Social Security Act (42 U.S.C. 1320a–7(b)(6)(B), (C), and (D), 1320a–7a(b), and 1320c–5). The delegation with regard to section 1842(l) of the Social Security Act (42 U.S.C. 1395u(l)) does not apply to

hearings or decisions concerning a physician's obligation to make a refund pursuant to section 1842(l) of the Social Security Act; it is limited to decisions by Administrative Law Judges concerning the imposition of a civil monetary penalty for failure to make a required refund [section 1842(l)(3) of the Social Security Act [42 U.S.C. 1395u(l)(3)].

The delegation rescinds the earlier delegation of authority to the Under Secretary and Principal Deputy Under Secretary, dated April 16, 1986, to review Administrative Law Judge decisions under section 1128A and (then) 1128(c) of the Social Security Act. The rescission is effective October 1, 1988; however, the delegation of April 16, 1986 remains in effect with respect to any case for which a party has filed timely exceptions pursuant to 42 CFR 1003.125(d) prior to October 1, 1988. The Under Secretary or his or her delegatee, however, may transfer on or after October 1, 1988 any such case to the Departmental Grant Appeals Board.

Also included in the delegation to the Departmental Grant Appeals Board is authority to review Administrative Law Judge decisions under the Program Fraud Civil Remedies Act (section 6103 of Pub. L. 99–509 (31 U.S.C. 3803)). Final regulations implementing the Program Fraud Civil Remedies Act in the Department of Health and Human Services designated the Departmental Grant Appeals Board as the authority head to hear appeals from initial decisions by Administrative Law Judges in cases arising under that Act. (53 FR 11656 (April 8, 1988).)

Dated: June 29, 1988.

S. Anthony McCann,

Assistant Secretary for Management and Budget.

[FR Doc. 88–15212 Filed 7–6–88; 8:45 am]

BILLING CODE 4150–04–M

Assistant Secretary for Personnel Administration; State of Organization, Functions and Delegations of Authority

Notice is hereby given that on June 16, 1988, the Secretary of Health and Human Services delegated to any and all Administrative Law Judges in, assigned to, or detailed to, the Departmental Grant Appeals Board the authority to conduct hearings and render decisions with respect to the imposition of civil remedies, including exclusions and monetary penalties and assessments, under sections 1128, 1128A, 1833(*l*), 1842(b), (j), (k), (*l*)(3), and (m), and 1866(g) of the Social Security Act; and sections 421(c) and 427(b)(2) of the Health Care Quality Improvement Act of 1986 (Title IV of Pub. L. 99–660); and the Program Fraud Civil Remedies Act (section 6103 of Pub. L. 99–509) (42 U.S.C. 1320a–7; 1320–7a; 1395*l*; 1395u(b), (j), (k), (*l*)(3), and (m); 1395cc(g); 11131; and 11137; and 31 U.S.C. 3803). The delegation does not include sections 1128(b)(6)(B), (C), and (D), 1128A(b), and 1156 of the Social Security Act (42 U.S.C. 1320a–7(b)(6)(B), (C), and (D), 1320a–7a(b), and 1320c–5). The delegation with regard to section 1842(*l*) of the Social Security Act (42 U.S.C. 1395u(*l*)) does not apply to hearings or decisions concerning a physician's obligation to make a refund pursuant to section 1842(*l*) of the Social Security Act; it is limited to hearings and decisions concerning the imposition of a civil monetary penalty for failure to make a required refund (section 1842(*l*)(3) of the Social Security Act/42 U.S.C. 1395u(*l*)(3)).

The delegation includes, but is not limited to, the authority to administer oaths and affirmations, to subpoena witnesses and documents, to examine witnesses, to exclude or receive and give appropriate weight to materials and testimony offered as evidence, to make findings of fact and conclusions of law, and to determine the civil remedies to be imposed. The determination by the Administrative Law Judge is final unless reviewed by a member or members of the Departmental Grant Appeals Board in accordance with regulations.

The delegation was effective on signing.

Dated: June 29, 1988.

S. Anthony McCann,

Assistant Secretary for Management and Budget.

[FR Doc. 88–15213 Filed 7–6–88; 8:45 am]

BILLING CODE 4150–04–M

Office of Human Development Services

Administration for Children, Youth and Families; Statement of Organization, Functions, and Delegations of Authority

This notice amends Part D of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Office of Human Development Services as follows: Chapter D, Office of Human Development Services (45 FR 64254) as last amended, September 29, 1980; and Chapter DC, Administration for Children, Youth and Families (ACYF) (49 FR 17593), as last amended April 24, 1984. This reorganization would consolidate the major operational functions of the Title IV–E program, i.e. Foster Care and Adoption Assistance program under the Children's Bureau, ACYF.

1. Amend Chapter D, Office of Human Development Services, D.20, paragraph "F. The Administration for Children, Youth and Familes (ACYF)" by deleting the last sentence of the paragraph and adding the following:

Develops strategies of programmatic reviews of State Plans for programs for children, youth and families funded by HDS. Participates with the Office of Regional Operations and Regional Offices in the development of strategies for joint financial reviews of the Title IV–E program.

2. Amend Chapter DC, as follows:

a. Paragraph "DC.10 Organization. The Administration for Children, Youth and Families" by deleting lines 11–13 and replacing them with the following:

Children's Bureau: National Center on Child Abuse and Neglect and Office of Discretionary Grants: National Center on Child Abuse and Neglect Division, Program Support Division; Office of Child Welfare State Grants: Program Operations Divisons, Formula Grants Division, Finanical Operations Review Division;

b. Under DC.20 Functions:

(1) Delete paragraph B. "2 Management Support Division" in its entirety and replace with the following:

2. Management Support Division provides or coordinates all headquarters' management support services including personnel, contracts and grants, budget formulation and executive secretariat, and administrative services.

In conjunction with HDS/Office of Management Services, is responsible for budget formulation and execution. Manages the annual ACYF budget formulation and presentation process for program funds and salary and expense resources; coordinates development of necessary budget documents, exhibits, and support materials.

For ACYF programs in the regions and in headquarters, recommends allowances; develops apportionment materials; maintains commitment registers; and reconciles monthly accounting reports from the DHHS accounting system. Develops the annual plan for obligation of grant and contract funds; monitors funding units for compliance with those plans. Manages the central office salaries and expenses budget. Assists regional offices and the Head Start Bureau in the appeals and hearings process related to suspension or termination of Head Start grants.

Provides Executive Secretariat services to ACYF; receives, assigns and tracks all controlled mail; and assures

timely and accurate responses. Serves as the primary ACYF liaison with HDS offices in administrative areas of personnel, payroll, training, word/data processing systems, and equal opportunity and civil rights. Manages the Merit Pay and Employee Performance Management System process in ACYF headquarters.

Develops and manages management information systems and other data analysis systems handling data which report on or affect ACYF programs; analyzes data from these systems and other sources; and provides assistance and services on data systems to ACYF units. Serves as the ACYF/OMB Forms Clearance Officer.

Delete paragraph "D. Children's Bureau" in its entirety and replace with the following:

D. Children's Bureau advises the Commissioner in child welfare, foster care, and adoption matters. Recommends legislative and budgetary proposals, operational planning system objectives and initiatives, and projects and issue areas for evaluation, research and demonstration activities. Represents ACYF in initiating and implementing inter-agency activities and projects affecting children. Provides leadership and coordination for the programs, activities, and subordinate units of the Bureau.

D. 1. National Center on Child Abuse and Neglect and Office of Discretionary Grant Programs manages and provides direction and leadership to the National Center on Child Abuse and Neglect and directs and coordinates the administration of discretionary grants under section 426 of the Social Security Act and under the Adoption Opportunities Act. Advises the Associate Commissioner and the Commissioner in matters related to child abuse and neglect and the development and operation of the discretionary grant program. Provides advice and guidance to the Regions in these areas of responsibility.

D.1.a. National Center on Child Abuse and Neglect Division develops policies and plans on programs relating to the prevention, identification, and treatment of child abuse and neglect. Proposes budgetary and legislative initiatives. Develops regulations, guidelines and instructions to assist State grant programs on child abuse and neglect. Develops and implements, through grants and contracts, approved research and demonstration programs and plans to prevent, identify and treat child abuse and neglect. Plans and implements training and technical assistance activities by directly managing grants and contracts. Manages the Child Abuse and Neglect State Grant Program.

Develops, maintains, and updates the information clearinghouse on child abuse and neglect research programs and other related activities. Through surveys and other information collection activities, provides information on research programs directed at preventing, identifying and treating child abuse and neglect. Compiles, analyzes, and disseminates publications and other materials on child abuse and neglect. Provides assistance to government agencies, public and private service organizations, and the general public concerning information on child abuse and neglect. Studies the trends of incidence of child abuse and neglect and assists in the development of central registries and forms for reporting child abuse and neglect. Provides staff support to the Advisory Board on Child Abuse and Neglect in developing and updating Federal standards, preparing special reports, coordinating Federally funded programs, and other activities of the Board.

(1) Program Policy and Planning Branch

In coordination with the ACYF Division of Planning, Research, and Evaluation, establishes objectives, determines priorities, develops and implements research and demonstration programs, and plans to prevent, identify and treat child abuse and neglect. Recommends evaluation activities to be performed.

With the Regional Offices, verifies eligibility and allocates funds to States found to be in compliance with the requirements of the Child Abuse Prevention and Treatment Act, and monitors State programs funded under the Act.

Plans and implements training and technical assistance activities by directly managing grants and contracts.

Provides staff support to the Advisory Board on Child Abuse and Neglect in the development and updating of Federal Standards, the preparation of special reports, the coordination of Federally funded programs, and other activities of the Board.

(2) Clearinghouse Branch

Develops, maintains, and updates the Information Clearinghouse on Child Abuse and Neglect on research and demonstration projects, operating programs and other activities. Through surveys and other information collection activities provides information on a continuing basis on research and demonstration projects and operating programs, directed at preventing, identifying and treating child abuse and neglect.

Complies, analyzes, prepares and disseminates information, publications and other materials on child abuse and neglect.

Provides assistance to other government agencies, public and private service organizations and the general public concerning the availability and use of information on child abuse and neglect.

Studies the incidence of child abuse and neglect to show severity and trends and assists in the development of central registries and forms for reporting child abuse and neglect.

D.1.b. Program Support Division manages the Title IV–B Child Welfare Training Program and the Adoption Opportunities Program. Provides technical expertise in specific, substantive program areas for developing programmatic policies, standards, model laws, regulations and guidelines for child welfare services. Provides expert advice and assistance to a broad array of public and private agencies in these areas. Develops areas for research, demonstration, and evaluation activities to investigate the current status of child welfare practices and to improve the quality and levels of service provided to children. Manages discretionary projects assigned to the Bureau which are related to child welfare services and related areas. Reviews current practices and problems; recommends action to meet special needs of children at risk; and promotes successful models.

Develops and implements training and technical assistance plans. Analyzes regional Children's Bureau training and technical assistance reports and provides technical guidance to the regional offices. Develops model curricula and other materials for training persons engaged in child welfare programs.

(1) Assistance Branch

Acts as the principal focus within the Program Support Division for developing and implementing policies, advice and plans on identifying and diagnosing children and families who need child welfare assistance including improving and upgrading services to children and families in their own homes; services for children and families in need of emergency care; services to children in need of substitute care (with foster families or in institutions or group homes); and services relating to restoration of children with their families and permanency planning.

(2) Adoption Opportunities Branch

Acts as the principal focus within the Division for development of policies, advice and plans on programs relating to the improvement of adoption services, especially those for children with special needs. Provides technical expertise in developing programmatic policies, standards, model laws, regulatory material and guidelines for improving adoption services. Provides expert knowledge, training and technical assistance to a broad array of public and private social service agencies in improvement of adoption services.

Develops and manages the Adoption Opportunities Program (Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act) to facilitate the elimination of barriers to adoption and to provide permanent homes for children who would benefit by adoption. Develops model adoption legislation and procedures and provides training and technical assistance in their use by States; develops and manages a national adoption information exchange system, including the operation of a national adoption exchange; develops, manages and monitors a training and technical assistance program to promote quality standards and services in the adoption of children with special needs.

Develops training and technical assistance objectives and program guidance for the Regional Offices in the improvement of adoption services. Identifies, develops, demonstrates and disseminates training curricula and technical assistance materials for persons providing adoption services. Recommends areas for research, demonstration and evaluation activities. Manages assigned discretionary projects.

D.2. Office of Child Welfare State Grants manages, corrdinates and provides direction and leadership in the program operation, policy development and fiscal operations and review activities included under titles IV–B and IV–E of the Social Security Act. Advises the Associate Commissioner and the Commissioner in child welfare, foster care, adoption assistance and independent living matters. Provides advice and guidance to Regions on the implementation, operation and review of child welfare, foster care, adoption assistance and independent living programs under titles IV–B and IV–E.

D.2.a. Program Operations Division generates policies and procedures for developing State child welfare program plans authorized under titles IV–B and IV–E of the Social Security Act including child welfare services, foster care and adoption assistance; develops and interprets regulations, guidelines, and instructions. Coordinates child welfare services with other Federal agencies and non-Federal groups.

Provides technical direction on administration of state grant programs. Advises Regional Offices on recommendation for disapproval of State plans or amendments.

(1) Implementation Branch

Performs reviews for eligibility of funds under Section 427, Pub. L. 96–272 and program reviews when required; develops compliance review procedures and reviews compliance of State plans and expenditures with the requirements and makes recommendations to the Associate Commissioner; prepares appropriate orientation materials for regional offices and States; assists or prepares regional orientation plans; analyzes and, in conjunction with regional offices, collects child welfare services program data; formulates and implements the Division's planning strategy including the development of the annual operational plan; and engages in joint program planning with States.

(2) Policy Branch

Develops policies and procedures for developing State plans for title IV–E and the Child Welfare Program authorized under title IV–B of the Social Security Act; develops and interprets regulations, guidelines and instructions under title IV–B and IV–E of that Act and Pub. L. 96–272; interprets questions of State implementation; assists regional office technical assistance activities to meet requirements for State grants; coordinates child welfare services with other Federal agencies and non-Federal groups; analyzes regional offices monitoring and training and technical assistance reports; and provides program technical direction to regional offices.

D.2.b. Formula Grants Division develops and interprets program-specific fiscal regulations, guidelines and instructions for the management of formula grant and entitlement programs including Child Welfare Services, Foster Care, and Adoption Assistance. Provides technical guidance to the regional offices in all fiscal aspects of these programs and develops procedures for the regional offices to use in acting on requests for funds.

Develops the annual funding allocations and quarterly financial plans, reviews all States estimates of need. Prepares quarterly State grants for award, makes adjustments to State funding plans as required.

Makes financial adjustments associated with deferral and disallowance actions. Provides technical expertise to the regional offices in the development of these actions. Processes all these actions in concert with the Office of Management Services/Division of Grants and Contracts Management.

Manages technical and procedural activities incident to audit questions and appeals. Provides technical assistance to the HHS/Inspector General in developing comprehensive audit techniques for these programs, including sampling and review methodology. Takes part in audits of State programs. Designs audit plans to meet special circumstances.

Provides technical advice on regulations, guidelines, and fiscal practices to Office of General Counsel in all related audit appeals being heard by the DHHS Grants Appeals Board. Provides technical assistance on issues affecting ACYF formual and entitlement programs to staff of the Assistant Secretary for Legislation and for Management and Budget.

D.2.c. Financial Operations Review Division arranges for and participates in financial reviews of State Child Welfare Services, Foster Care and Adoption Assistance grant operations. This requires coordination with Regional Administrators, and includes developing and refining procedures, establishing standards and criteria, and training Regional and Central Office Staff in conducting regular on-site financial reviews.

Coordinates and consults as appropriate and necessary, with the Commissioner, ACYF, Staff Office Directors, and Regional Administrators in organizing, assigning staff, conducting the reviews, and analyzing review findings.

Analyze and review results for consistency in application and operation, and make recommendations to the Commissioner, ACYF, on policies and procedural improvements.

Assists OGC with cases appealed to the Departmental Grant Appeals Board as a result of the financial reviews.

3. For this realignment, there will be no change in the functional statement for the Office of Management Services. The current functional statement is generically stated and does not mention IV–E as part of its function.

Otis R. Bowen,

Secretary

[FR Doc. 88–15216 Filed 7–6–88; 8:45 am]

BILLING CODE 4130–01–M

Centers for Disease Control

Vital and Health Statistics National Committee; Meeting

ACTION: Notice of meeting.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics Subcommittee on Long-Term Care Statistics established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, announces the following Subcommittee meeting.

Name: National Committee on Vital and Health Statistics Subcommittee on Long-Term Care Statistics.

Time and Date: 10:00 am–5:00 pm—July 19, 1988; 8:30 am–3:30 pm—July 20, 1988.

Place: Hubert H. Humphrey Building, Room 337A, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the Subcommittee to consider a draft of the DHHS Long-Term Care Facilities Minimum Data Set, status reports on the Client Minimum Data Set and board and care homes and modifications of the Subcommittee charge.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Richard J. Havlik, M.D., Staff, National Committee on Vital and Health Statistics, Room 2–12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: July 1, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88–15357 Filed 7–6–88; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 80P–0157 et al.]

Approved Variances for Laser Light Shows; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for 16 organizations that manufacture and produce laser light shows, light show projectors, or both. The projectors provide a laser light display to produce a variety of special lighting effects. The principal use of the products is to provide entertainment to general audiences.

DATES: The effective dates and termination dates of the variances are listed in the table below under "Supplementary Information.".

ADDRESS: The applications and all correspondence on the applications have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sally Friedman, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: Under 21 CFR 1010.4 of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), FDA has granted each of the 16 organizations listed in the table below a variance from the requirements of 21 CFR 1040.11(c) of the performance standard for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product assembled and produced by the manufacturer which is its particular variety of laser light show, laser light show projector, or both. Each laser product involves levels of accessible laser radiation in excess of Class II levels but not exceeding those required to perform the intended function of the product.

CDRH has determined that suitable means of radiation safety and protection are provided by constraints on the physical and optical designs and by warnings in the user manuals and on the products. Therefore, on the effective dates specified in the table below, FDA approved the request variances by a letter to each manufacturer from the Deputy Director of CDRH.

So that each product may show evidence of the variance approved for the manufacturer of the product, each product shall bear on the certification label required by 21 CFR 1010.2(a) a vaiance number, which is the FDA docket number, and the effective date of the variance as specified in the table below.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date/ termination date
80P–0157 (amendment)	Image Engineering Corporation, 10 Beacon Street, Somerville, Massachusetts 02143.	Laser light shows and for the Model Series 300 laser projectors manufactured, assembled, and produced by Image Engineering Corporation. The laser projectors may contain Class IIIb or IV argon, kypton, helium-neon, helium-cadmium, or dye lasers.	Mar. 2, 1988 Dec. 11, 1988.
80P–0495 (renewal)	Showlasers, Incorporated, P.O. Box 561206, Dallas, Texas 75356–1206.	Class IV Showlasers Model LPI Laser Effects Projector containing argon, krypton, or dye lasers and for laser light shows assembled and produced by Showlasers, Incorporated.	Feb. 25, 1988 Feb. 26, 1990.
82P–0118 (renewal)	Falk Special Effects, Incorporated, 186 Paul Court, Hillsdale, New Jersey 07642.	Groundstar Series laser projectors, laser light sculpture projectors, and laser light shows manufactured, assembled, and produced by J. Douglas Falk Engineering. The projectors may contain Class IIIb HeNe or HeCd lasers and up to Class IV Ar, Kr, Ar/Kr, or copper vapor lasers.	Mar. 31, 1988 Apr 30, 1990.
83P–0071 (renewal)	Busch Entertainment Corporation, dba Busch Gardens, P.O. Drawer FO, Williamsburg, Virginia 23187	Laser light shows produced and assembled by Busch Entertainment Corporation dba Busch Gardens at Hastings Theater incorporating a Laser Media LMS Series laser projection system.	Mar 22, 1988 Mar 15, 1990.
83V–0175 (renewal)	Laser Rays Art Productions, Incorporated, 67 E. Evelyn Avenue, Suite 10, Mountain View, California 94041	Laser light shows assembled and produced by Laser Rays Art Productions, Incorporated incorporating the firm's own Class IV ion laser projection systems.	Mar 2, 1988 Mar 13, 1990.
83V–0383 (renewal)	Rochester Museum and Science Center, Strasenburgh Planetarium, 657 East Avenue, Box 1480, Rochester, New York 14603.	Laser light shows assembled and produced by the Rochester Museum and Science Center incorporating the firm's laser light show projector containing a Class IV ion laser	Mar 28, 1988 May 16, 1990.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date/ termination date
84V-0033 (renewal)	Lone Star Laser Shows, Incorporated, 8285 El Rio, Suite 180, Houston, Texas 77054.	Lone Star Laser Shows, Incorporated, Model 2020 laser projector and shows incorporating the Lone Star 2020 projector and Laser Media Series Projectors.	Mar 2, 1988 Feb. 22, 1990
86V-0050 (renewal)	Tau Beta Pi Association, California Epsilon Chapter, 4800 Boelter Hall, UCLA Campus, Los Angeles, California 90024.	Tau Beta Pi Association, California Epsilon Chapter, Laserama laser light show incorporating the argon and helium-neon Class IIIb Laserama laser projector	Mar 28, 1988 May 7, 1989.
87V-0234 (amendment)	Florida Cypress Gardens, P.O. Box 1 Cypress Gardens, Winter Haven, Florida 33884.	Florida Cypress Gardens laser light shows such as "Laser Magic," incorporating Starlasers Starlight Series 1-FC and Sea World Model SW-1 Class IV ion laser projectors.	Mar 11, 1988 Aug. 18, 1989
87V-0396	Laser Mirage, Incorporated, 13363 42nd Drive, Yuma, Arizona 85365.	Laser Mirage, Incorporated laser light shows incorporating the Precision Projection Systems, Incorporated, Model TL24D laser projector.	Mar 2, 1988 Mar 2, 1990
87V-0420	University of Illinois at Chicago, The Interactive Image, Electrical Engineering & Computer Science Department, Box 4348, Chicago, Illinois 60680.	Laser light display, "The Interactive Image," produced by the University of Illinois at Chicago, Electrical Engineering and Computer Science Departments, incorporating Laser Fantasy's Rainbow 2000 Series laser projector	Feb. 25, 1988 Feb. 25, 1990
88V-0012	Stars Entertainment Corporation, dba Stars, 4645B West Market Street, Greensboro, North Carolina 27409.	Stars Entertainment Corporation "Stars" laser light show incorporating the Science Faction Corporation Laser-Chaser 2 laser projector with the Ion Laser Technology 5490A-01 ion laser.	Mar 9, 1988 Mar 9, 1990.
88V-0016	Yeshiva University Museum, 2520 Amsterdam Avenue, New York, New York 10033.	Yeshiva University Museum laser light shows using the Yeshiva University Museum Laser Projection System.	Mar 24, 1988 Mar 24, 1990
88V-0022	Hi-Tech Laser Productions, 1666 New York Avenue, Huntington, New York 11748.	Hi-Tech Laser Productions laser light shows incorporating the Laser Media LM laser projector	Feb. 24, 1988 Feb. 24, 1990
88V-0032	East Coast Leisure Properties, Incorporated, dba The Palace, 1500 Broadway, Saugas, Massachusetts 01906.	East Coast Leisure Properties, Incorporated, dba The Palace, laser light shows incorporating the Laser Media Model LMS 10 laser projection system.	Feb. 25, 1988 Feb. 25, 1990
88V-0041	United States Naval Academy, Annapolis, Maryland 21402.	United States Naval Academy laser light show incorporating the Image Engineering Model 355 ACC laser projector	Feb. 24, 1988 Feb. 24, 1990

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: June 28, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88-15191 Filed 7-6-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-88-1823]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has 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 proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. 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, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, 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 including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or 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.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: June 30, 1988.

David S. Cristy,

Deputy Director, Information Policy and Management Division.

Proposal: Public Housing Child Care Demonstration Program (FR-2467).

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: The Public Housing Child Care Demonstration Program will provide grants to nonprofit organizations to assist them in establishing child care facilities in lower-income housing projects. The grants will also be used to renovate the child care facility and to cover certain operating expenses.

Form Number: None.

Respondents: State or Local Governments, Non-Profit Institutions, and Small Businesses or Organizations.

Frequency of Submission: Recordkeeping and On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Child care expenditures	200		1		1		200
Participant's application	300		1		1		300
Reports to HUD	300		1		1		300
Child care facility application	300		1		16		4,800
Annual performance report	300		1		4		1,200
Recordkeeping (PHAs)	200		1		1		200
Recordkeeping (grantees)	300		2		1		600

Total Estimated Burden Hours: 7,600.

Status: New.

Contact: Robert M. Hundley, HUD, (202) 755–8072, John Allison, OMB, (202) 395–6880.

Date: June 30, 1988.

[FR Doc. 88–15254 Filed 7–6–88; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-921-08-4121-10]

Fort Union Regional Coal Team; Availability of Proposed Data Adequacy Standards for the Fort Union Coal Region; Montana

SUMMARY: Proposed Data Adequacy Standards for the Fort Union Region are available upon request beginning July 7, 1988. The public is invited to comment on these standards.

DATE: Public comments on the Proposed Data Adequacy Standards are requested by August 22, 1988. Comments should be sent to William Krech at the address shown below.

ADDRESS: Copies of the Proposed Data Adequacy Standards may be obtained upon request from either William Krech, Bureau of Land Management District Manager, Dickinson District, 204 Sims, P.O. Box 1299, Dickinson, North Dakota 58602, phone (701) 225–9148, or James Luptak, Director, Energy Impact Office, State of North Dakota, Capitol Building, Bismark, North Dakota 58505, phone (701) 224–3188, or Bill Frey, Coal Coordinator, Bureau of Land Management State Office, 222 North 32nd Street, P.O. Box 36800, Billings Montana 59107, phone (406) 657–6841.

FOR FURTHER INFORMATION CONTACT: William Krech of the above address or telephone number.

SUPPLEMENTARY INFORMATION: The Proposed Data Adequacy Standards contain recommended levels of data to be acquired prior to the leasing of delineated federal coal tracts. Data adequacy standards are proposed for geology, paleontology, soils, hydrology, wildlife, air, cultural resources, economics, and social and land-use disciplines within the Fort Union Region. The standards are being prepared by a multidisciplinary task force composed of federal and state resource specialists. The task force was appointed and guided by the Fort Union Regional Coal Team. The data adequacy standards are being prepared, with public input, at the direction of the Department of the Interior as an outcome of the supplemental EIS to the Federal Coal Management Program.

The Regional Coal Team welcomes comments on any aspect of these standards.

Dated: June 21, 1988.

Robert A. Teegarden,

Acting State Director.

[FR Doc. 88–14982 Filed 7–6–88; 8:45 am]

BILLING CODE 4310-DN-M

[ID-040-4322-08]

Salmon District, Availability of the Rangeland Program Summary (RPS) Update on the Big Lost-Mackay Grazing Environmental Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of Interior has prepared an update of the Rangeland Program Summary (RPS) on the Big-Lost Mackay Environmental Statement.

The Rangeland Program Summary (RPS) summarizes the progress made toward implementation of the program set forth in the original RPS document and discusses the future management direction that will be taken by the Bureau of Land Management in this portion of the Salmon District. The RPS also summarizes the future rangeland monitoring and evaluation efforts that will be conducted.

Copies of the Rangeland Program Summary are available for review at the following location.

FOR FURTHER INFORMATION CONTACT: Robert H. Hale, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467, telephone (208) 756–5400.

Dated: June 27, 1988.

Robert W. Heidemann,

Associate District Manager.

[FR Doc. 88–15188 Filed 7–6–88; 8:45 am]

BILLING CODE 4310-GG-M

[MT-070-08-4050-91]

Butte District Grazing Advisory Board, Montana; Meeting

AGENCY: Bureau of Land Management, Butte District Office, Interior.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Butte District Grazing Advisory Board will be held Wednesday, August 10 in the conference room of the Dillon Resource Area Office, Ibey Building, Dillon. The meeting will begin at 9:00 a.m. The agenda will include (1) an overview of range improvement projects projected for FY 89; (2) the Bureau's wild horse and burro adoption program; (3) riparian management efforts in the district; and (4) a discussion of prescribed burning as a tool for vegetable manipulation.

The meeting is open to the public. Interested persons may make oral statements to the board or file written statements for the board's consideration. Anyone wishing to make oral statements should make prior arrangements with the district manager. Summary minutes of the meeting will be maintained in the district office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: James A. Moorhouse, District Manager, Butte District, Bureau of Land

Management, Box 3388, Butte, Montana 59702.

June 27, 1988.

Gerald L. Quinn,

Acting District Manager.

[FR Doc. 88-15260 Filed 7-6-88; 8:45 am]

BILLING CODE 4310-DN-M

[MT-030-08-4410-02]

Dickinson District Advisory Council Field Trip; North Dakota

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Field Trip.

SUMMARY: The District Advisory Council for the Bureau of Land Management's Dickinson District will meet July 28, 1988, in Belfield, North Dakota, for a field trip in the western part of the District.

Major objectives of the trip will be to view and discuss: (1) Parcels involved in recent land exchanges in Bowman County, and (2) oil and gas development adjacent to Theodore Roosevelt National Park near Medora.

The public is invited to participate in this field trip but must provide their own transportation.

Location, Date, and Time: July 28, 1988, from 7:00 a.m. to approximately 4:30 p.m. Mountain Daylight Time. Participants will meet at Trapper's Kettle restaurant, Belfield, North Dakota.

FOR FURTHER INFORMATION CONTACT: William F. Krech, District Manager, P.O. Box 1229, Dickinson, North Dakota, 58602; Telephone (701) 225-9148.

William F. Krech,

District Manger.

Dated: June 29, 1988.

[FR Doc. 88-15261 Filed 7-6-88; 8:45 am]

BILLING CODE 4310-DN-M

[NM-940-08-4111-13; NM NM 70410]

Proposed Reinstatement of Termination Oil and Gas Lease by Conoco, Inc.; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of 43 CFR 3108.2-3, Conoco, Inc., petitioned for reinstatement of oil and gas lease NM NM 70410 covering the following described lands located in Chaves County, New Mexico:

T 12 S., R. 30 E., NMPM,
Sec. 13: SW¼NE¼, N½SE¼;
Sec. 15: All.
Containing 760.00 acres.

It has been shown to my satisfaction that failure to make timely payments of rental was due to inadvertance.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, November 1, 1987.

Dated: June 22, 1988.

Thomas D. Golden,

Acting Chief, Adjudication Section.

[FR Doc. 88-15262 Filed 7-6-88; 8:45 am]

BILLING CODE 4310-FB-M

[NM-940-08-4111-13; NM NM 44311]

Proposed Reinstatement of Termination Oil and Gas Lease by Conoco, Inc.; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of 43 CFR 3108.2-3, Conoco, Inc., petitioned for reinstatement of oil and gas lease NM NM 44311 covering the following described lands located in Chaves County, New Mexico:

T.12 S., R. 30 E., NMPM,
Sec. 14: All.
Containing 640.00 acres.

It has been shown to my satisfaction that failure to make timely payments of rental was due to inadvertance.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, November 1, 1987.

Date: June 22, 1988.

Thomas D. Golden,

Acting Chief, Adjudication Section.

[FR Doc. 88-15263 Filed 7-6-88; 8:45 am]

BILLING CODE 4310-FB-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-293, -294, and -295 (Preliminary) and 731-TA-412 Through -419 (Preliminary)]

Industrial Belts From Israel, Italy, Japan, Singapore, South Korea, Taiwan, the United Kingdom, and West Germany

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of the following preliminary countervailing duty investigations under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of industrial belts [1] that are alleged to be subsidized by the Governments of, and imported from—

Israel (investigation No. 701-TA-293 (Preliminary)),
Singapore (investigation No. 701-TA-294 (Preliminary)), and
South Korea (investigation No. 701-TA-295 (Preliminary)).

The Commission hereby also gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of industrial belts that are alleged to be sold in the United States at less than fair value, that are imported from—

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[1] For the purposes of these investigations, the term "industrial belts" includes belting and belts for machinery, in part or wholly of rubber or plastics, provided for in items 358.02, 358.06, 358.08, 358.09, 358.11, 358.14, 358.16, 657.25, and 773.35 of the Tariff Schedules of the United States. Specifically excluded from the scope of these investigations are imports of conveyor belts and imports of automotive belts. (Automotive belts include belts for such motor vehicles as cars, buses, on-the-road trucks, etc., and also the front-end engine drive belts for industrial vehicles such as road graders and cranes; automotive belts do not include any belts for agricultural equipment).

Israel (investigation No. 731–TA–412 (Preliminary)),
Italy (investigation No. 731–TA–413 (Preliminary)),
Japan (investigation No. 731–TA–414 (Preliminary)),
Singapore (investigation No. 731–TA–415 (Preliminary)),
South Korea (investigation No. 731–TA–416 (Preliminary)),
Taiwan (investigation No. 731–TA–417 (Preliminary)),
The United Kingdom (investigation No. 731–TA–418 (Preliminary)), and
West Germany (investigation No. 731–TA–419 (Preliminary)).

As provided in sections 703(a) and 733(a), respectively, the Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by August 15, 1988.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: June 30, 1988.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202–252–1183), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission s TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on June 30, 1988, by The Gates Rubber Co., Denver, CO.

Participation in the Investigations

Persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on July 22, 1988, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Bonnie Noreen (202–252–1183) not later than July 19, 1988, to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission by or before 12:00 noon on July 26, 1988, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 1, 1988.

[FR Doc. 88–15233 Filed 7–6–88; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–167 (Sub-No. 1088X)]

Consolidated Rail Corp.—Exemption—Abandonment of the Weirton Secondary Track in Harrison and Tuscarawas Counties, OH

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 23.95-mile line of railroad between milepost 66.05 at Cadiz Junction, Harrison County, OH, and milepost 90.0 in Dennison, Tuscarawas County, OH.

Applicant has certified that (1) no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective August 6, 1988, unless stayed pending reconsideration. Petitions to stay

regarding matters that do not involve environmental issues [1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by July 17, 1988 and petitions for reconsideration,[3] including environmental, energy, and public use concerns, must be filed by July 27, 1988 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles E. Mechem, Consolidated Rail Corporation, Room 1138, Six Penn Center Plaza, Philadelphia, PA 19103-2959.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will serve the EA on all parties by July 12, 1988. Other interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275-7316.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: June 28, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 88-18159 Filed 7-6-88; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See* Ex Parte No. 274 (Sub-No. 8), *Exemption of Out-of-Service Rail Lines* (not printed), served March 8, 1988.

[2] *See Exemption of Rail Line Abandonments or Discontinuance—Offers of Financial Assistance*, 4 I.C.C. 2d 164, served December 21, 1987, and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

[3] Several comments opposed to the proposed abandonment already have been filed. They and any other comments and petitions for reconsideration or stay filed by the July 17, 1988 and July 27, 1988 due dates will be addressed by the Commission in a subsequent decision(s).

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303(a).

DATE: Requests for copies must be received in writing on or before August 22, 1988. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending:

1. Department of the Air Force (N1-AFU-87-24). Expense and Performance Reports from the Air Force medical program.

2. Department of the Air Force (N1-AFU-87-34). Records relating to air terminal configurations, procedures, and obstacles (records are used as input to permanent publications).

3. Department of the Air Force (N1-AFU-88-36). Records relating to the administration of postal accounts.

4. Department of the Air Force (N1-AFU-88-37 and N1-AFU-88-38). Records relating to the proper handling of classified information.

5. Department of the Air Force (N1-AFU-88-40). Health, outpatient, and psychiatric clinic index cards.

6. Department of the Army, Environmental Support Group (N1-AU-88-4). Output data and reports produced from automated Battalion Tracking and Vietnam Experience files (both automated files are permanent).

7. Department of Defense, Office of the Secretary (N1-330-88-3). Uniformed Services University of the Health Sciences student record files.

8. Defense Intelligence Agency (N1-373-88-4). Routine logistics and engineering files relating to the Defense Intelligence Analysis Center.

9. Department of the Navy (N1-NU-86-4). A comprehensive schedule of all aspects of Navy and Marine Corps logistical operations. Included are 40 permanent items.

10. Bureau of Alcohol, Tobacco and Firearms, Office of Law Enforcement

(N1–436–88–2). Agent cashier fund and informant contracts, electronic surveillance reports and recordings.

11. Department of Commerce, International Trade Administration (N1–151–88–9). Temporary photographic material removed during archival processing from permanent photographic records relating to trade fairs.

12. Department of Commerce, International Trade Administration (N1–151–88–11). Records of the Information Resources Policy and Planning Division.

13. Office of the Comptroller of the Currency (N1–101–88–4). Annual oaths of national bank directors.

14. Federal Emergency Management Agency (N1–311–88–1). Computerized Activities Results Lists submitted by the states.

15. Federal Energy Regulatory Commission (N1–138–88–2). Comprehensive records disposition schedule.

16. Department of Health and Human Services, Family Support Administration, Office of Community Services, Federal Task Force on the Homeless (N1–292–88–1). Routine administrative records.

17. Department of Justice, Drug Enforcement Administration (N1–170–88–1). Special agent career management files.

18. National Archives and Records Administration (N1–64–87–2). Working papers and other documentation of the FBI Appraisal Project Task Force, 1981–87. (The Final Report and other selected records are designated for permanent retention.)

19. National Security Agency (N1–457–88–5). NSA schedules are classified in the interest of national security pursuant to Executive Order 12356 and are further exempt from public disclosure pursuant to the National Security Act of 1947, 50 U.S.C. 403(d)[3], and Pub. L. 86–36.

20. Panama Canal Commission (N1–185–88–4). Routine administrative correspondence of the Washington Office, 1950–74.

21. Small Business Administration (N1–309–87–2). Comprehensive schedule covering all electronic information systems.

22. Department of State, Bureau for Management, Office of Management Operations (N1–59–88–21). Manpower utilization progress reports.

23. Department of the Treasury, Office of the Secretary (N1–56–86–6). Exchange Stabilization Fund operations and administrative files.

24. Department of the Treasury, Internal Revenue Service (N1–58–88–2). Revisions to RCS 102, Assistant Commissioner (Examination—National Office).

Dated: June 30, 1988.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 88–15224 Filed 7–6–88; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Maui, Hawaii Aircraft Accident

In connection with its investigation of the accident involving Aloha Airlines Flight 243, N73711, on April 28, 1988, the National Transportation Safety Board will convene a public hearing at 9:00 a.m. (local time), on July 12, 1988, in the Grand Ballroom III of the Westin Hotel, 1900 5th Avenue, Seattle, Washington. For more information contact Mike Benson, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, DC 20594, telephone (202) 382–6607.

Bea Hardesty,

Federal Register Liaison Officer.

July 1, 1988.

[FR Doc. 88–15283 Filed 7–6–88; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light Co. et al., and Robinson Steam Electric Plant, Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption from the requirements of 10 CFR 20.103(c)(2), regarding the administration of physical examinations for users of respiratory equipment, to the Carolina Power & Light Company (CP&L or the licensee), for the Robinson Steam Electric Plant, Unit No. 2, located in Darlington County, South Carolina.

Environmental Assessment

Identification of Proposed Action

The proposed exemption would permit the licensee to administer physical examinations for users of respiratory equipment at an interval of every 9 to 15 months, as opposed to the 12-month interval required by 10 CFR 20.103(c)(2). These examinations verify the physical capability of individuals to use respiratory protective equipment in an environment containing airborne radioactive material.

The Need for the Proposed Action

Currently, the licensee schedules physical examinations every 8 to 12 months to assure compliance with the 12-month requirement. Consequently, there are calendar years in which two examinations are scheduled. Because of the number of licensee employees requiring examinations, a two-month period (e.g. June 1 to July 31) is set aside for the administration of all physical examinations. To assure compliance with the 12-month requirement, all examinations in the following year must be completed before June 1. Approval of this proposed exemption would provide greater flexibility in scheduling of examinations and preclude the need for administration of two examinations in the same calendar year.

Environmental Impacts of the Proposed Action

We have evaluated the environmental impacts related to granting the requested exemption. The administration of physical examinations for users of emergency respiratory equipment on the schedule proposed by the licensee will not, in any way, reduce the integrity of any safety system. Accordingly, post-accident radiological releases will not be greater than previously determined nor does the proposed schedule for physical examinations otherwise affect radiological plant effluents, and there is no significant increase in occupational exposures. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves the use of systems located entirely within the restricted area, as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Because it has been concluded that there is no measurable environmental impact associated with the proposed exemption, any alternatives to the exemption will have either no environmental impacts or greater environmental impacts.

The principal alternative to granting the exemption would be to deny the requested exemption. Such action would not reduce environmental impacts of the

Robinson Steam Electric Plant, Unit No. 2, operations and would not enhance the protection of the environment.

Alternative Use of Resources

This action would involve no use of resources not previously considered in the Final Environmental Statement (operating license) for the Robinson Steam Electric Plant, Unit No. 2.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated January 30, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29353.

Dated at Rockville, Maryland, this 29th day of June, 1988.

For The Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Director II–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–15243 Filed 7–6–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–424]

Georgia Power Co.; Environmental Assessment and Finding of No Significant Impact

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amemdment to Technical Specification (TS) 3.6.2.2, "Spray Additive System," to the Georgia Power Company, et al. (the licensee) for the Vogtle Electric Generating Plant, Unit 1 located on the licensee's site in Burke County, Georgia.

Environmental Assessment

Identification of Proposed Action

By letter dated February 4, 1988, the licensee, submitted a request for a change of TS 3.6.2.2 which defines the upper and lower volume limits of the sodium hydroxide solution in the containment spray additive tank. The proposed change alters the percentage of level span corresponding to the lower limit from 87.7 percent to 89.9 percent and that corresponding to the upper limit from 97.4 percent to 97.2 percent. Also, the bases for TS 3.6.2.2 are revised to specify the limiting volumes of sodium hydroxide delivered to the containment spray pumps in gallons rather than in the percentages of level span of the spray additive tank.

The Need for the Proposed Action

The proposed amendment is required to correct a discrepancy in the Technical Specifications.

Environmental Impacts of the Proposed Action

With respect to the amendment, the volume limits of the spray additive tank correspond to the amount of the sodium hydroxide solution required to be delivered to the containment spray pumps. Also, the specified minimum value of 8.5 pH for the post-accident containment sump water will still be met with this amendment. Accordingly, the amendment will not increase the probability or consequences of any reactor accident sequence and will not otherwise affect any other radiological impact associated with the facility. Consequently, the Commission concludes that there are no significant radiological impacts associated with the proposed amendment.

With regard to potential nonradiological impacts, the proposed amendment involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Because the staff has concluded that there is no significant environmental impact associated with the proposed amendment, any alternative to this amendment will have either no significantly different environmental impact or greater environmental impact.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts as a result of plant operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement related to the operation of the Vogtle Electric Generating Plant, Units 1 and 2" dated May 1985.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request that supports the proposed amendment. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for the amendment dated February 4, 1988, which is available for public inspection at the Commission's Document Room, 1717 H Street NW., Washington, DC, and at the Burke County Library, 412 4th Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 30th day of June 1988.

For The Nuclear Regulatory Commission.

David B. Matthews,

Director, Project Directorate II–3, Division of Reactor Project I/II, Office of the Nuclear Reactor Regulation.

[FR Doc 88–15244 Filed 7–6–88; 8:45 am]

BILLING CODE 7501–01–M

Intent To Relocate Records for the Millstone Nuclear Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to relocate the records for the Millstone Nuclear Power Station.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is moving the Local Public Document Room (LPDR) records collection for Northeast Nuclear Energy Company's Millstone Nuclear Power Station from the Waterford Public Library, Waterford, Connecticut, to an as yet undetermined location. The Board of Trustees of the Waterford Public Library has asked that the collection be relocated. The purpose of this notice is to invite public comment on possible LPDR sites.

DATE: Comment period expires August 5, 1988. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before this date.

ADDRESSES: Written comments may be submitted to Ms. Juanita Beeson, Chief,

Rules Review and Editorial Section, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Jona L. Souder, Local Public Document Room Program Director, Freedom of Information/Local Public Document Room Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–492–7536, or Toll Free 800–638–8081.

SUPPLEMENTARY INFORMATION: Since August 1971, the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut, has served as the NRC Local Public Document Room repository for records relating to the Millstone Nuclear Power Station. The document collection includes essentially all publicly-available records considered by the NRC in the licensing and regulation of the Millstone Nuclear Power Station. At the present time, the collection takes up approximately 150 linear feet of shelf space in addition to some microfiche and microfiche equipment.

Among the factors the NRC will consider in selecting a new location for the collection are the following:

(1) Whether the institution is an established document repository located within 50 miles of the nuclear facility with a history of impartially serving the public;

(2) The physical facilities available, including shelf space, patron workspace, and copying equipment;

(3) The willingness and ability of the library staff to maintain the LPDR collection and assist the public in locating records;

(4) The nature and extent of related research resources, such as government documents;

(5) The public accessibility of the library, including parking, ground transportation, and hours of operation, particularly evening and weekend hours;

(6) The proximity (within 50 miles) of the library to the Millstone Nuclear Power Station located approximately five miles southwest of New London, Connecticut; and

(7) The proximity of the library to existing user groups of the collection, if known.

Public comments are requested on libraries in the vicinity of the Millstone Nuclear Power Station that might be considered for selection as the new location for this NRC local public document room collection.

Dated at Bethesda, Maryland, this 30th day of June 1988.

For the Nuclear Regulatory Commission.

Linda Robinson,

Chief, Freedom of Information/Local Public Document Room Branch, Division of Freedom of information and Publications Services, Office of Administration and Resources Management.

[FR Doc. 88–15245 Filed 7–6–88; 8:45 am]

BILLING CODE 7590–01–M

All Chemical Isotope Enrichment, Inc.; Setting Time and Place of Special Prehearing Conference

Before Administrative Judges: Morton B. Margulies, Chairman, Dr. Emmeth A. Luebke, Dr. Oscar H. Paris.

In the matters of All Chemical Isotope Enrichment, Inc., (AlChemIE Facility–1 CPDF), Docket No. 50–603–CP/OL (ASLBP No. 88–570–01–CP/OL), and All Chemical Isotope Enrichment, Inc., (AlChemIE Facility–2 Oliver Springs), Docket No. 50–604–CP (ASLBP No. 88–571–01–CP).

The special prehearing order scheduled to begin on July 21, 1988, pursuant to 10 CFR 2.751(a), will commence at 9:30 a.m. local time on that date at the University of Tennessee, College of Law Moot Courtroom, 1505 West Cumberland Avenue, Knoxville, Tennessee. Should it be necessary, the conference will continue to the following day, at the same location.

It is so ordered.

For the Atomic Safety and Licensing Board.

Morton B. Margulies,

Chairman, Administrative Law Judge.

[FR Doc. 88–15246 Filed 7–6–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–261]

Carolina Power & Light Co.; H. B. Robinson Steam Electric Plant, Unit No. 2; Exemption

I.

The Carolina Power & Light Company (CP&L or the licensee) is the holder of Operating License No. DPR–23 that authorizes operation of the H. B. Robinson Steam Electric Plant, Unit No. 2. The license provides, among other things, that the H. B. Robinson Steam Electric Plant, Unit No. 2, is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The station is a single-unit pressurized water reactor at the licensee's site located in Darlington County, South Carolina.

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.

Section III.J, of Appendix R to 10 CFR Part 50, Emergency Lighting, requires 8–hour battery powered lighting units in areas needed for operation of safe shutdown equipment and along access and egress routes thereto.

III.

By letters dated June 29, 1984, and January 16, 1985, CP&L requested approval of 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 needed for operation of safe shutdown equipment and along access routes. The exemption request relates to the access routes to the safety injection pump room and the service water intake structure. The licensee also requested an exemption for the containment and residual heat removal (RHR) pit areas where manual, cold shutdown operations are required and/or where possible repairs may be needed. The staff's evaluation of the licensee's request is provided below.

The reason for requiring 8-hour battery powered emergency lighting is to ensure that at least minimal lighting is available for the performance of manual actions necessary for safe shutdown after a fire. Usually manual actions are required for valve alignment, repairs and pump control operations. A fire at the north end of the auxiliary building hallway on the ground level would prevent access to the SI–864 A and B valves in the safety injection pump room. Also, manual operation of service water valve V6–12D, located at the intake structure, would require emergency lighting. The licensee has stated that due to the numerous alternate access pathways, a large number of fixed emergency lighting units would have to be installed, and the routing of associated cabling to provide

the necessary electrical power for redundant lighting is not practicable.

In the areas where lighting units would not be installed, dedicated portable, hand-held lighting would be provided for the operator to perform the necessary functions. The licensee justifies this approach on the basis that the availability of dedicated portable hand-held lighting provides a level of emergency lighting equivalent to that required by section III.J for the above areas.

The technical requirements of section III.J of Appendix R are not expressly met at the intake structure and along the access route to the safety injection pump room because fixed, individual 8-hour battery powered lighting units are not provided for safe shutdown.

At the north end of the auxiliary building, the staff was concerned about the availability of a reliable means of illumination and whether the path of travel would be unobstructed and easily traversed. The alternate access route to the safety injection pump room follows the exterior of the auxiliary building along the east and north sides of the safety injection pump room exterior door. Portable hand-held lighting will be provided for operator access to the safety injection pump room. Permanent emergency lighting is provided inside the safety injection pump room to operate the required equipment. Protable lights will be provided in the control room for performing the required functions at the service water intake structure. These portable lights will provide adequate illumination for the operators to access the intake structure and operate valve V6–12D.

Since the only manual actions required inside the containment and RHR pit are for the operation of valves for cold shutdown, sufficient time is available for the licensee to take appropriate action to re-energize the normal containment lighting or assemble portable lighting units prior to containment entry.

Based on the above evaluation of alternate access routes and provision for portable, hand-held lighting, the staff concludes that adequate lighting will be available in access areas and to perform necessary safe shutdown functions. Therefore, the licensee's request for exemptions from the requirements of section III.J of Appendix R for certain paths to the safety injection pump room is acceptable and should be granted. Furthermore, the staff concludes that the installation of 8-hour battery powered emergency lighting units inside the containment would not significantly improve the level of fire protection for this fire area. The licensee has sufficient time available to take appropriate action to re-energize the normal containment lighting or to assemble portable lighting units prior to containment entry. Therefore, their omission is an acceptable exemption from section III.J of Appendix R, and application of the regulation in this particular circumstance is not necessary to achieve the underlying purpose of the rule.

IV.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), that (1) these exemptions as described in section III are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security and (2) 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 exemptions from the requirements of section III.J of Appendix R to 10 CFR Part 50:

1. Access and egress routes to the:

a. Safety injection pump room; and

b. Service water intake structure.

2. Containment and RHR pit areas where manual, cold shutdown operations are required and/or where possible repairs may be needed.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (52 FR 29103).

For further details with respect to this action, see the requests for exemption dated June 29, 1984, and January 16, 1985, and letter dated January 29, 1988 which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

This exemption is effection upon issuance.

Dated at Rockville, Maryland, this 30th day of June, 1988.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–15247 Filed 7–6–88; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review By Office of Management and Budget

Agency Clearance Office: Kenneth A. Fogash (202) 272–2142.

Upon Written Request, Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549.

EXTENSION

File No.	Form/regulation
270–51	Form 10
270–58	Form S–1
270–60	Form S–2
270–61	Form S–3
270–63	Form S–8.
270–64	Form S–11
270–137	Regulation 13D/G, Schedule 13D/ Schedule 13G.
270–68	Form 8–B.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval the following regulation/forms: Form 10 effecting 170 respondents at 113 burden hours per form; Form S–1 effecting 1442 respondents at 1284 burden hours each; Form S–2 effecting 334 respondents at 587 burden hours each; Form S–3 effecting 1730 respondents at 419 burden hours each; Form S–8 effecting 2482 respondents at 90 burden hours each; Form S–11 effecting 359 respondents at 860 burden hours per response; Forms 13D and G effecting 6536 respondents at 14.9 hours per response; and Form 8–B effecting 59 respondents at 8 hours per response. All of these forms, except Regulaton 13D/G, are registration statements for public offerings. Forms 13D and G disclose beneficial ownership of securities exceeding five percent.

The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Direct general comments to Robert Neal at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–6004, and Robert Neal, Clearance Officer, Office of Management and Budget, Room 3228

New Executive Office Building, Washington, DC 20503.

June 30, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-15266 Filed 7-6-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25873; File No. SR-Amex-88-19]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Filing of and Order Granting Accelerated Approval to Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] the American Stock Exchange, Inc. ("Amex" or "Exchange"), on June 30, 1988, submitted to the Securities and Exchange Commission ("Commission") a proposed rule change to extend until December 31, 1988 the pilot plan for equity (stock) options during emergency or unusual market conditions.

In November 1985, the Amex implemented a pilot program to be used during short periods of extremely high order flow for the execution of options orders automatically routed to the Exchange through the Amex's routing system, AUTOAMOS.[3] Under the pilot program, the implementation of emergency procedures could be authorized by the concurrence of two Floor Governors when, in their opinion, the Exchange received an extremely large influx of both system and non-system orders, such that the affected specialist(s) could not expose each AUTOAMOS order to the crowd. Under these circumstances, the specialist in the affected option was permitted to execute incoming AUTOAMOS orders either as agent against the book or as principal, without exposing them to the crowd.

In January 1987, the pilot plan for equity options was extended and enhanced by the utilization of AUTO-EX.[4] AUTO-EX is an automatic system that permits member firms to route public customer market and marketable limit orders of up to 20 contracts [5] through AUTOAMOS for automatic execution at the best bid or offer displayed at the time the order is entered into the system. If the best bid or offer is on the specialist's book, the incoming order is routed to the specialist's post, where it is executed against the book order. If the best bid or offer is not on the specialist's book, the contra side of the AUTO-EX trade is assigned to one of the Amex Registered Options Traders ("ROTs") who have signed on the system or to the specialist who participates in the rotation.

AUTO-EX is implemented when two floor officials have determined that an emergency situation involving high order flow is occurring. The AUTO-EX pilot plan for equity options has been highly successful in enhancing execution and operational efficiencies during emergency situations. The Amex believes that it is important to continue to have available the most efficient means of dealing with emergency, high volume situations. Accordingly, the Exchange proposes to extend the AUTO-EX pilot program pending Commission approval of Amex's proposal seeking permanent approval of AUTO-EX's use in all equity options,[6] so that it can continue to be activated in equity options when emergency situations occur.[7]

The Commission believes that the proposed rule change will benefit public customers, member firms, and Amex floor brokers by ensuring that orders routed to the Exchange through AUTOAMOS will be handled efficiently during periods of peak volume. By utilizing the AUTO-EX system during these periods, AMEX ROTs who elect to participate in the pilot will be able to participate more fully in trading during fast markets. In addition, the proposed procedures should allow Amex specialists more time to handle non-system orders during these periods.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [8] and the rules and regulations thereunder. The Commission believes that extending the AUTO-EX pilot plan will enhance the execution of orders during emergency situations and will facilitate transactions in securities and protect the investing public.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication in the **Federal Register**. Accelerated approval of the Exchange's rule change is necessary in order to ensure continuous operation of the pilot program, which is due to expire on June 30, 1988. In addition, the Amex has not proposed any modifications to the pilot program.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission 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 communication 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 July 28, 1988.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change is approved until December 31, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Dated: June 30, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-15267 Filed 7-6-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25869; File No. SR-DTC-88-8]

Self-Regulatory Organizations; Depository Trust Company; Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"),

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1987).

[3] This pilot was approved by the Commission in Securities Exchange Act Release No. 22447 (September 24, 1985), 50 FR 40093.

[4] *See* Securities Exchange Act Release No. 24228 (March 18, 1987), 52 FR 9601.

[5] The Amex's proposal to increase the size of eligible orders in the AUTO-EX system from 10 to 20 contracts was approved in Securities Exchange Act Release No. 24899 (September 10, 1987), 52 FR 35012.

[6] *See* Securities Exchange Act Release No. 25056 (October 23, 1987).

[7] The Commission extended the pilot program through June 30, 1988 in Securities Exchange Act Release No. 25487 (March 18, 1988).

[8] 15 U.S.C. 78f (1982).

[9] 15 U.S.C. 78s(b)(2) (1982).

[10] 17 CFR 200.30-3(a) (1987).

notice is hereby given that on June 8, 1988, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change. The proposal modifies DTC's Same-Day Funds Settlement ("SDFS") Service procedures regarding the crediting of dividend, interest and periodic principal payments to SDFS participants. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

The proposal modifies SDFS Service practices and procedures to allocate to participants all dividend, interest and periodic principal payments on SDFS securities in next-day funds on payable date. In addition, a separate monthly refund will be made to participants consisting of all investment earnings realized by DTC as a result of receiving same-day funds on payable date from paying agents for SDFS securities.

The SDFS Service currently provides for pass-through of dividends, interest and periodic principal payments to participants in same-day funds on the day received by DTC from the paying agent. However, in order to be passed along to SDFS Participants in same-day funds on the day received, these funds must be sent in a prescribed format to DTC's account at the Federal Reserve Bank of New York by 2:45 p.m. EST. This special requirement has resulted in operating difficulties for paying agents and DTC. Some paying agents have expressed to DTC concerns about exception processing. Many have indicated to DTC that DTC's requirements for the receipt of SDFS payments will be impossible to meet once higher payment volumes are reached, including the 2:45 p.m. EST cutoff time, a requirement DTC views as essential if timely settlement with its Participants is to occur in same-day funds. For reasons ranging from the timing of paying agent funding to geographic location, DTC states that its success in obtaining timely SDFS payments has been marginal.

DTC, to address these problems, has decided to process these payments in the same way they are processed in the Next-Day Funds Settlement ("NDFS") System by automatically allocating all dividend, interest and periodic principal payments on payable date in next-day funds. This arrangement will allow paying agents to make payment to DTC on payable date in same-day funds using existing NDFS arrangements. The funds will be invested by DTC until the following business day with earnings accumulated in a separate refund account to be distributed monthly to those participants that received dividend, interest and periodic principal credits in SDFS securities. Similar to DTC's NDFS refund policy, refund reductions (haircuts) will be applied to any SDFS Participant who is (or is affiliated with) a paying agent that failed to provide same-day funds to DTC on the payable date. This haircut will be equal to the interest cost incurred by DTC to fund credits to Participants for any payments due from this paying agent which were not received on the payable date.

DTC will apply the next-day funds eligibility standard for dividend, interest and periodic principal payments for same-day funds issues. This standard requires that the agent must pay DTC on payable date in same-day funds in all of the issues for which it acts if it wishes to be certain that DTC will make eligible a new issue for which the agent is to act as paying agent.

The proposal will not affect DTC's existing procedures for paying reorganization, redemption and maturity proceeds on SDFS securities. These payments will continue to be allocated to Participants in same-day funds through the SDFS settlement system when collected.

DTC states that the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended ("Act"), in that it promotes the prompt and accurate clearance and settlement of transactions in securities that settle in same-day funds. DTC states that the proposed rule change will be implemented in a manner designed to safeguard the securities and funds in DTC's custody or under its control.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of 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 Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington DC 20549. Reference should be made to File No. SR-DTC-88-8.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which 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 Room 450 Fifth Street NW., Washington, DC. Copies of the filing (SR-DTC-88-8) and of any subsequent amendments also will be available for inspection and copying at DTC's principal office.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: June 30, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-15268 Filed 7-6-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25871; File No. SR-NADS-88-12]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Government Securities Activities of Member Firms

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 Act ("Act"), 15 U.S.C. 78s(9b)(1), notice is hereby given that on April 5, 1988, the National Association of Securities Dealers, Inc. ("NASD") 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 NASD. 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 amends the NADS By-Laws and the Rules of Fair Practice to implement the provisions of the Government Securities Act of 1986 ("GAS"), and provides rules governing the government securities activities of NASD members.

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 NASD included statements concerning the purpose of, and statutory 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 NASD has prepared summaries, set forth in section (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 proposed amendments to the By-Laws and Rules of Fair Practice and new government securities rules are designed to provide the NASD with the ability to carry out its responsibilities under the Act, as amended by the GAS.

The amendments to the By-Laws incorporate into existing By-Laws provisions appropriate references to government securities brokers and dealers or to the rules promulgated by the Department of the Treasury pursuant to section 15c(b) of the Act.

Substantive changes to the By-Laws include a new section 8 to Article VII that allows the Board of Governors to adopt government securities rules subject to member vote and a new section 6 of Article XVI that applies to limitations of powers. New section 6 states that the By-Laws provisions governing qualifications of members and conferring rulemaking authority upon the NASD shall not be inconsistent with section 15A(f) of the Act. This provision is similar to an existing provision in the By-Laws relating to municipals securities brokers and dealers. The amendments also contain changes to Article II, Section 4 of the By-Laws that defines the term "disqualification" in a manner similar to the definition of "statutory disqualification" set forth in section 3(a)(39) of the Act.[1] These changes are intended to incorporate into the By-Laws language added to section 3(a)(39) of the Act by the GSA.

The proposed amendments to Schedule C to the By-Laws add a new Part X. This section defines government securities principals and representatives. It also requires registration of government securities principals and representatives and exempts from registration persons serving in an exclusively clerical or ministerial capacity. The definitions of the categories of individuals required to be registered either as principals or representatives track the provisions of § 400.3(c) of the Treasury regulations. Such registration is required to provide the NASD with the information needed to make a determination of potential statutory disqualification and identify a firm's principals for purposes of contact with and examination of the firm.

The amendment to Article I, section 5 of the Rules of Fair Practice is intended to clarify that the applicable Rules of Fair Practice do not apply to members that are registered with the SEC under section 15c as sole government securities brokers or dealers. The provisions of the Rules of Fair Practice will remain fully applicable to members registered under section 15(b) of the Act.

The remaining provisions of the proposed rule change are designated as "Government Securities Rules." These rules are substantially parallel to the NASD Rules of Fair Practice in areas in which the NASD believes that such rules are consistent with NASD obligations under the provisions of section 15A(f) of the Act.

The proposed rules include provisions relating to the maintenance of books and records, supervisory procedures, and regulation of the activities of members that are experiencing financial or operational difficulties or that are changing their exemptive status under the customer protection provisions applicable to government securities brokers and dealers. In addition, these rules contain a government securities advertising rule. The rules also provide the framework for the NASD to bring disciplinary actions pursuant to the NASD Code of Procedure.

The NASD has adopted the proposed rule change pursuant to section 15A(f)(2) of the Act. Section 15A(f)(2) provides the NASD with the authority to implement rules to: (1) Enforce compliance by registered brokers and dealers with applicable provisions of the Act; (2) provide for the disciplining of its members and persons associated with its members; (3) provide for reasonable inspection and examination of books and records of registered brokers and dealers; and (4) prohibit fraudulent, misleading, and deceptive and false advertising. The proposed rule change is designed to enable the NASD to carry out its statutory obligations in a manner consistent with the Act as amended by the GSA, and the rules and regulations promulgated thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The NASD solicited comments on the proposed rule change in Notices to Members 87–24 and 87–53. A total of six comments were received in response to Notice 87–24 and five in response to Notice 87–53. Copies of the Notices to Members and comment letters have been submitted to the Commission as Exhibit 2 to this filing. Commentators suggested a number of changes, which they believed would conform the proposed rule change to the purposes of the GSA and suggested that the number of proposed rule changes concerning advertising be reduced. The NASD Board of Governors considered the comments and made several changes to the proposals based upon such review. The NASD responded to the comments in its filing with the Commission.

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 NASD 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 submissions, 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

[1] The definition of "disqualification" encompassed in Article II, section 4 of the By-Laws does not fully conform to the definition found in section 3(a)(39) of the Act because it omits the enumerated offenses set forth in section 15(b)(4)(D) and (E) of the Act (*See* section 3(a)(39)(E)).

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 at the above address. Copies of the filings will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–88–12 and should be submitted by July 28, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: June 30, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–15269 Filed 7–6–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25872; File No. SR–NYSE–88–7]

Self-Regulatory Organizations; New York Stock Exchange; Order Approving Proposed Rule Change

On March 24, 1988, the New York Stock Exchange ("NYSE"), filed a proposed rule change (File No. SR–NYSE–88–7) under section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] The proposal would amend the NYSE's *Listed Company Manual* to clarify its practice of listing debt securities represented by a global certificate. The Commission published notice of the proposal in the **Federal Register** on May 16, 1988.[2] For the reasons discussed below, the Commission is approving the proposal.

I. Description of the Proposal

The proposed rule change clarifies the NYSE's practice of listing debt securities represented by a global certificate. The proposal amends the *Listed Company Manual* to provide that bonds using a single global certificate may be listed if: (1) The certificate is on deposit at a depository registered with the Commission under section 17A of the Act or a depository which is exempt from such registration and which has been designated by the NYSE as acceptable for this purpose, (2) interests in the certificate may be transferred by book-entry on the books of a qualified or full-interfaced clearing agency (as defined by the NYSE in its rules) and (3) exchange trades of interests in the certificate may be compared through a qualified or fully-interfaced clearing agency. Such global certificates will not be subject to the NYSE's content and engraving requirements normally required for bonds certificated in this manner.[3]

If the depository at any time is unwilling or unable to continue as depository for the certificate and a new depository is not appointed by the issuer within 90 days, the NYSE *Listed Company Manual* rules will require the issuer to issue certificates to banks and brokers with positions in that issue as well as requesting beneficial holders. Similarly, beneficial owners will be entitled to physical certificates if the issuer determines not to have the bonds represented by a global certificate.

II. NYSE's Rationale

The NYSE states that the proposed rule change is consistent with section 6(b)(5) of the Act in that the rules are designed to remove impediments to and perfect the mechanism of a free and open market. Currently, the Listed Company Manual specifications for the textual content and technical requirements of certificates neither prohibits nor provides for a global certificate book-entry system. In addition, NYSE engraving standards have been interpreted by the NYSE to apply only where the issuer intends to create individual certificates for its security holders. However, within the last year, the NYSE has listed a number of debt offerings utilizing global certificates. The NYSE has permitted these offerings to be listed by interpreting rules to encompass an issue represented by a global certificate. The proposal amends the NYSE rules specifically to provide for the listing of debt securities using a global certificate.

III. Discussion

For the reasons discussed below, the Commission is approving the proposal. The Commission believes the proposal is consistent with sections 6(b)(5) and 17A of the Act in that it is designed to remove impediments to and perfect the mechanism of a free and open market and will promote the prompt and accurate clearance and settlement of securities transactions.

The Commission believes the proposal provides encouragement for the securities industry to continue to pursue the goal of the immobilization of securities certificates. A single global certificate covering an issue avoids the need for multiple securities certificates, and immobilizing the global certificate in a depository prevents the loss, theft or counterfeiting of those securities, increases clearance and settlement efficiency, and reduces costs associated with handling securities certificates.

IV. Conclusion

For the foregoing reasons, the Commission believes that the NYSE's proposal is consistent with the Act and sections 6(b)(5) and 17A in that it is designed to remove impediments to and perfect the mechanism of a free and open market and should promote the prompt and accurate clearance and settlement of securities transactions.

It is therefore ordered, pursuant to section 19(b) of the Act, the NYSE's proposed rule change (File No. SR–NYSE–88–7) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: June 30, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–15271 Filed 7–6–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25867; File No. SR–OCC–88–2]

Self-Regulatory Organizations; Proposed Rule Change by the Options Clearing Corp. Relating to Index Participations; Amendment No. 1

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on June 3, 1988, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission an amendment to the proposed rule change described in Items I, II and III below,[1] 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.

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[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 25682 (May 9, 1988), 53 FR 17284.

[3] The proposal, however, requires issuers to make available to bond holders upon request a statement containing certain provisions normally found on the face of the certificate. The statement must include: (1) Terms of payment of principal and interest, (2) a summary of optional and sinking fund redemption provisions, including redemption prices, (3) a summary of conversion provisions, including appropriate dates, initial conversion price and references to subsequent conversion prices, and (4) a summary of the bond holder's rights with respect to registration and interdenominational exchanges.

[1] The Commission published notice of the proposed rule change in Securities Exchange Act Release No. 25529 (March 29, 1988), 53 FR 10960.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

SR–OCC–88–2 proposes Rules pursuant to which OCC would issue, clear and settle "Index Participations" or "IPs." The initial SR–OCC–88–2 filing specific a few areas in which OCC was still evaluating amendments to its Rules to accommodate IPs. Those areas include OCC's authority to make adjustments in the terms of IPs, the margin system for IPs, and the close-out rules applicable to IPs in the event that a Clearing Member with open IP positions is suspended by OCC. This amendment to SR–OCC–88–2 supplies OCC's proposed Rules with respect to those areas, and makes certain additional changes as described below.

In the initial SR–OCC–88–2 filing, IPs were referred to as "Cash Index Participations" or "CIPs," these being the names given to the product by the Philadelphia Stock Exchange, Inc. ("PHLX") in its filing, SR–PHLX–88–7. The American Stock Exchange, Inc. ("Amex") has subsequently proposed in SR–Amex–88–10 to trade "Equity Index Paticipations" pursuant to rules similar to those proposed by PHLX for CIPs. The amendments proposed by OCC to its Rules are intended to permit OCC to issue, clear and settle both CIPs and Equity Index Participations, and OCC has changed the name for the products in its Rules to one that applies to all index participation securities.

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

1. General

The purpose of this amendment to SR–OCC–88–2 is to supplement the initial SR–OCC–88–2 filing so that it provides a complete set at Rules for the issuance, clearance and settlement by OCC of IPs.

2. Adjustments

OCC has evaluated whether it should have authority to make adjustments in the terms of IPs, and has concluded that, with the one exception of a situation where an Exchange changes the index multiplier for a class of IPs, it should not have such authority. If an Exchange were to change the index multiplier for a class of IPs (as once occurred with a class of index options), OCC would need the authority to adjust the number of outstanding IPs. That authority is contained in Article XVIII, Section 6(c) of OCC's By-Laws.

Except for that one type of adjustment, there is nothing in the terms of IPs which could appropriately be adjusted by OCC (*e.g.*, IPs have no exercise price). Proposed Article XVIII, Section 6 of OCC's By-Laws therefore expressly states that OCC shall not have any other adjustment authority with respect to IPs, and that OCC shall have no responsibility for any adjustment to the terms of IPs or an underlying index group made by an Exchange, reporting authority or index proprietor.

Article VI, Section 11(k) of OCC's By-Laws is amended to make clear that OCC's Securities Committee has the authority to make the type of adjustment described in Article XVIII, section 6(c) of OCC's By-Laws.

3. Margin System for IPs

Margin for IPs would be calculated utilizing OCC's present non-equity margin system. (The non-equity margin system is described in SR–OCC–85–21.) Rule 602A is therefore amended to refer to IPs as well as non-equity options.

As a technical matter, the "series" concept is irrelevant to IPs, because an IP does not have an exercise price or an expiration date. There is therefore no differentiation among IPs based on the same underlying index, and a "class group" as defined in Rule 602A will therefore have, at most, only one class of IPs in it. Rule 602A as amended would permit the net margining of a class group containing both index options and IPs.

Rule 602A as amended also extends the "product group" concept to IPs, so that a class group consisting of a class of IPS may be margined on a combined basis with class groups of index options, where OCC has determined that their respective underlying indexes exhibit sufficient price correlation to warrant such margin treatment.

Pursuant to OCC Rule 611, the filing of an instruction to release a long options position from segregation constitutes a representation by the Clearing Member to OCC that: (1) The customer has authorized the instruction; (2) the instruction is in compliance with all applicable laws and regulations; and (3) the Clearing Member is carrying, in the same account and for the same customer, a short position for an equal number of option contracts of the same class of options and the margin required to be deposited by the customer with the Clearing Member in repect of the short position has been reduced as a result of the carrying of such long position. The third of these requirements would not apply to IPs since it is anticipated that IPs, unlike options, will have loan value for the purposes of Regulation T of the Federal Reseve Board.[2] As a result, IPs that constitute customer margin securities will be able to be pledged to secure obligations of the carrying broker to the same extent as common stock.

As with options, OCC will not have a lien on long positions carried in customers' accounts and firm non-lien accounts unless the long positions are unsegregated. As amended, OCC's Rules would provide that IP margin requirements for these accounts would be calculated in the same way that non-equity option margin requirements are calculated. In particular, segregated long IPs positions would not be offset against short positions in the same class of IPs, and would be assigned no value for margin calculation purposes. In addition, in calculating product group margin, a premium margin credit for an IP class group within the product group would be reduced to zero, and, in calculating margin for the account as a whole, margin credits for IP class groups that are not part of product groups would be reduced to zero.

4. Pledge

Rule 614 is amended to extend OCC's Pledge Program to IPs. With one exception, the Pledge Program would work for IPs exactly as it does for options, and allow Clearing Members to finance their positions by pledging long IPs as collateral to support loans from banks or other Clearing Members. The one exception is that IPs held by a Clearing Member in a customers' account that are unsegregated pursuant to Rule 611 as described above and that constitute "margin securities" other than

[2] PHLX has sought an interpretation to this effect from the Board by letter addressed to Laura Homer, Esq. dated February 3, 1988. It is OCC's understanding the PHLX does not intend to go forward with the introduction of CIPs unless the Board issues such an interpretation, and that Amex intends to seek a similar interpretation from the Board for Equity Index Participations. Without such an interpretation from the Board, representation (2) as set forth in the text above could not be made.

"excess margin securities" within the meaning of Commission Rule 15c3–3 could also be pledged by the Clearing Member.[3]

An amended form of OCC's existing Pledge Account Agreement is included with the rule filing. The only amendments to the form other than to incorporate references to IPs are to add a reference to Commission Rule 15c3–3, and to reflect OCC's recent change of address.

5. Close-Out Rules

Chapter 11 of OCC's Rules is being further amended to accommodate IPs. The proposed amendments to Rules 1103 and 1104 set forth in the initial SR–OCC–88–2 filing are deleted, because the definition of "IP" in Article I, Section 1(hhhh) of OCC's By-Laws is amended to make clear that the term "contract" refers to IPs as well as options. References to Pledged IPs are added to Rule 1105(f).

Rule 1106(a) is further amended to make language added to the Rule in SR–OCC–88–5 accommodate IPs.

Rule 1106(b) is amended to accommodate uncovered and covered short IP positions of suspended Clearing Member.[4] The amended Rule provides that uncovered short IP positions, like uncovered short option positions, are to be closed out. The treatment of covered IP short positions in the Rule is similar to that of covered short option positions, in that they are to be maintained subject to the instructions of the suspended Clearing Member or its trustee. However, because IPs by their terms never expire, Rule 1106(b) provides that OCC may close out a covered short IP position, drawing upon the escrow deposit for the funds to do so, if OCC requests instructions from the suspended Clearing Member or its representative as to the disposition of the position and does not receive such instructions within a reasonable period of time, if the escrow deposit ceases to comply with Rule 1909, if the depository defaults (*e.g.*, in the payment of a dividend equivalent), or if OCC deems it necessary for its protection to close out the position without first seeking instructions from the suspended Clearing Member or its representative.

Rule 1106(b) is also amended to provide for the treatment of any dividend equivalents that may be owed in respect of short IP positions of a suspended Clearing Member. In the case of an uncovered position, the Rule provides for withdrawal of the dividend equivalent amount from the Liquidating Settlement Account or the Market-Maker's account or specialist's account. In the case of a covered position, the Rule provides that a demand may be made on the depository for the dividend equivalent amount.

The last sentence of Rule 1106(c) (which was amended in SR–OCC–88–5) is further amended because, as noted above in the discussion of the margin rules, the series concept does not apply to IPs.

OCC's close-out authority with respect to IPs as set forth in Chapter XI of its Rules and Rule 1908 is supplemented by its authority to close out all positions in a class of IPs in extraordinary circumstances, which is set forth in Article XVIII, Section 2(c) of its By-Laws. Section 2(c) as set forth in the initial SR–OCC–88–2 filing has been revised to state more precisely the circumstances in which the authority described in the Section would be utilized, and to shorten the time to actual close-out of the class in those circumstances.

6. Other Changes

The definition of "option contract" in Article I, Section 1(n) of OCC's By-Laws is amended to specify that the term "option" as used in Market-Maker's and specialist's account agreements includes IPs. This change obviates the need to amend the account agreements themselves to incorporate references to IPs, since the account agreements contain references to "options" but in all other ways are applicable to IPs without amendment, and the account agreements state that terms used therein have the definitions found in OCC's By-Laws as the same may be amended. The definition of "premium" in section 1(aa) is amended to make clear that the term as used with respect to IPs means the trade price. The definition of "Index Participation" in section 1(hhhh) is amended to make it parallel the definition of "option contract" more closely, and to make clear that an IP is a "contract." (IPs are referred to as contracts in Rules 1103 and 1104, as noted above, and in Rules 602, 605 and 1106.) The definition of "trade price" is moved from new Article XVIII to Article I, Section 1(llll), and amended to conform to the amended definition of "premium."

The change proposed to Article V, section 1 of OCC's By-Laws in the initial SR–OCC–88–2 filing is deleted because, under Article XI, section I of OCC's By-Laws, a change to the second sentence of the Section requires the unanimous approval of the holders of all of OCC's common stock, and OCC has not yet obtained such approval. The effect of the deletion is that a Clearing Member cannot be an IP-only Clearing Member. OCC may refile this proposed change in a separate filing, after obtaining the necessary approval. The proposed amendment to Article VI, section 10(a), of OCC's By-Laws is deleted because it also may be amended only with the unanimous approval of the holders of all of OCC's common stock. A new section 10(c), to the same effect, is proposed instead.

The proposed amendments to Article VII of OCC's By-Laws are deleted because OCC now contemplates entering into a Supplemental Agreement to its Restated Participant Exchange Agreement with any Exchange that wants to trade IPs, rather than amending the Restated Participant Exchange Agreement itself. Amendment to Article VII is therefore unnecessary. OCC will file the form of the Supplemental Agreement with the Commission in the near future.

A definition of the term "minimum trading unit" is added in proposed new paragraph (n) of Article XVIII, Section 1 of OCC's By-Laws. IPs will be traded, at least initially, in minimum units of 100 on both PHLX and Amex, and all IP quantity data submitted to OCC or issued by OCC will be in terms of the number of minimum trading units, not the number of individual IPs. New Interpretations are added to Article XVIII, Section 1 to make these points explicit. Changes to reflect the minimum trading unit concept are made in several of the other proposed definitions and rule provisions applicable to IPs.

A new sentence is added to Article XVIII, Section 4 of OCC's By-Laws to state more precisely a Clearing Member's obligation with respect to a short IP position. The sentence is intended to track the last phrase of the defintion of "securities contract" in section 741(7) of the Bankruptcy Code, 11 U.S.C. 741(7), and thereby to reflect OCC's understanding that the special provisions in the Code for securities clearing agencies with respect to securities contracts are available to it with respect to IPs as well as options.

A new paragraph is added to Article XVIII, Section 5 of OCC's By-Laws to describe OCC's rights in the event that a dividend equivalent is not timely paid.

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[3] The ability to pledge customer IPs would derive from the fact that IPs, unlike options, would have loan value under Regulation T. See footnote 1 above and the text accompanying.

[4] OCC has designated new Rule 1909 as the Rule that will set out requirements for IP escrow receipts. However, these requirements are not specified in this filing. Until Rule 1909 is submitted to the Commission in a separate filing and becomes effective, there will be no "covered short IP positions," and the portions of Rule 1106(b) that address these positions will have no effect.

Article XVIII, section 7(a) of OCC's By-Laws states the provision on exercise restrictions imposed by the Exchange contained in Article VI, section17(a) in the initial SR–OCC–88–2 filing. The amendments to Article VI, section 17(b) proposed in the initial SR–OCC–88–2 are deleted because OCC does not need exercise restriction authority over IPs. OCC does need authority to suspend settlement of IP exercises when the cash-out value is unavailable to it. That authority is set forth in section 7(b) (Section 6(a) in the initial SR–OCC–88–2 filing). As revised, the Section reflects OCC's conclusion that, if the cash-out value is unavailable from the reporting authority, OCC is not going to be able to fix an aggregate cash-out value. (This is also true with respect to the current index value for index options, and OCC may in the future file a proposed rule change to conform Article XVII, section 4(a) of its By-Laws to this Section.)

New paragraphs are added to proposed Rule 1902 to make explicit that the Exchange is responsible for supplying the amount of the dividend equivalent to OCC, that OCC has no responsibilities with respect to the dividend equivalent except as stated in the Rule, and that IP positions established on the business day prior to an IP cash-out day are subject to dividend equivalent rights and obligations.

In new Rule 1903(d), late filing fees for IP exercise notices are specified. OCC has determined that these fees should parallel the fees for option exercise notices.

7. Statutory Basis for the Proposed Rule Change

The proposed changes to OCC's Rules are consistent with the purposes and requirements of section 17A of the Securities and Exchange Act of 1934, as amended (the "Act") because they provide for the prompt and accurate clearance and settlement of transctions in IPs. They do so by applying to IPs rules and procedures substantially similar to those that have been used in the clearance and settlement of transactions in index options. The proposed rule changes provide for the safeguarding of funds and securities in OCC's custody or control for which OCC is responsible, in that they would apply to IPs a system of safeguards which is substantially the same as the system OCC currently uses for options.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited by OCC with respect to the proposed rule change and none have been received by OCC.

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 approved such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the 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 July 28, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: June 29, 1988.

[FR Doc. 88–15272 Filed 7–6–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25868; File No. SR–PHLX–88–22]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of and Order Granting Accelerated Approval to Proposed Rule Change

On June 27, 1988,. the Philadelphia Stock Exchange, Inc. ("Phlx" or Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to expand and extend the Exchange's Automated Options Market ("AUTOM,") system pilot program.

AUTOM is an on-line system that allows electronic delivery of options orders from member firms directly to the appropriate specialist on the Phlx options trading floor, with electronic confirmation or order executions. Because all orders received through AUTOM are exposed to the specialist's limit order book, the trading crowd, and at least one registered options trader ("ROT"),[3] the Exchange believes best execution of AUTOM orders is assured.

All orders entered into the system are executed manually by the specialist, who, upon execution of the order, enters the relevant trade information [e/.g., the number of contracts executed, the price, and the identity of the contrabroker(s)] into the system. An execution report then is sent automatically to the firm that placed the order.

In its rule filing seeking implementation of the AUTOM system, the Phlx noted that the AUTOM system, including hardware as well as software, is completely separate from and independent of the hardware and software for Phlx's Philadelphia Stock Exchange Automated Communication and Execution ("PACE") system for routing and executing stock orders. The Exchange stated that because the

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1987).

[3] Phlx Rule 1063(a) requires an Options Floor Broker to ascertain that at least one ROT is present at the trading post prior to representing an order for execution.

systems are independent, one system cannot have an adverse impact on the other during volume surges in terms of volume handling capabilities or queuing.[4]

In Securities Exchange Act Release No. 25540 (March 31, 1988), 53 FR 11390, the Commission approved implementation of the AUTOM system on a 90-day pilot basis. The Commission approved the Exchange's request that the pilot include up to 12 equity options, up to five order entry firms, and up to six specialist units. During the pilot phase, only market orders of five or fewer contracts in the near-term expiration month were made eligible for delivery through the system for manual execution. At the same time, the Commission granted the Phlx authority to terminate the program prior to the 90th day and to extend the pilot beyond the 90th day upon notice and approval of the Commission.

The Exchange now seeks a six-month extension of the pilot period, as well as an expansion of the pilot to include an additional 25 equity options, bringing to 37 to total number of equity options eligible for execution through the AUTOM system. In all other respects, the Exchange commits to operating the pilot as represented in its original rule filing. The Phlx also requests authority to terminate the program prior to the end of the six-month pilot extension and to extend the pilot beyond this period upon due notice and approval of the Commission.

To date, contract volume executed through AUTOM has been minimal.[5] The Exchange asserts that expanding and extending the AUTOM pilot will enable it to gain additional trading experience before making a final determination as to permanent approval of the AUTOM system.

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[6] and section 11A[7] and the rules and regulations thereunder. The Commission continues to believe that the development and implementation of AUTOM will provide for more efficient handling and reporting of orders in Phlx equity options through the use of new data processing and communications techniques, thereby improving order processing and turnaround time. The Commission also believes that the AUTOM system, by offering increased order routing efficiencies, should benefit public customers and Phlx member firms and customers.

Expanding the AUTOM pilot to a total of 37 equity options and extending the pilot period for six months (*i.e.*, through December 31, 1988) should enable the Exchange to assess the effectiveness of the AUTOM system, which it was not able to do during the initial 90-day period. The Phlx believes that the AUTOM system will be able to handle the increased volume that should accompany expansion of the pilot to 37 equity options. As noted above, the AUTOM system is completely independent from the Exchange's PACE system. Therefore, neither AUTOM nor the PACE system should impact on the other during periods of high volume. Moreover, as note in the original order approving implementation of the AUTOM pilot,[8] the Phlx asserts that the AUTOM system has significant excess order handling and disc capacity.[9]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the proposal in the **Federal Register**. The Exchange has not proposed extensive modifications of its pilot program, and needs approval of the pilot period extension prior to the termination of the original 90-day period on June 30, 1988 in order to maintain continuous operation of the AUTOM system pilot.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 28, 1988.

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change is approved.[11]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Dated: June 30, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-15273 Filed 7-6-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16463; 811-4724]

National Balanced Fund; Application for Deregistration

June 30, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: National Balanced Fund ("Applicant").

Relevant 1940 Act Sections: Deregistration under section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company subject to the 1940 Act.

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[4] Letter from Michael A. Finnegan, Senior Vice President, Phlx, to Howard L. Kramer, Assistant Director, Commission, dated March 22, 1988.

[5] In this regard, the Exchange does not foresee any significant taxing of the Exchange's computer systems if the Commission approves the expansion of the pilot as proposed herein. In all other respects, the Exchange stands by its representations conveyed in letters to Howard Kramer, Assistant Director, Division of Market Regulation, Commission, from Michael A. Finnegan, Senior Vice President, Phlx, dated March 22 and 30, 1988.

[6] 15 U.S.C. 78f (1982).

[7] 15 U.S.C. 78k-1 (1982).

[8] 53 FR at 11390-91.

[9] In particular, the Phlx informed the Commission that the AUTOM system's order handling and disc capacity was five times the estimated daily order flow for the original pilot, and that the AUTOM system capacity could be increased up to five times that capacity if needed. *See* letter from Michael A. Finnegan, Senior Vice President, Phlx, to Howard L. Kramer, Assistant Director, Division of Market Regulation, Commission, dated March 30, 1988. Based on the Exchange's experience to date under the pilot program, the Commission believes that increasing the number of equity options eligible for execution through the system from 12 to 37 should not impact adversely the ability of AUTOM to handle the necessary volume levels.

[10] 15 U.S.C. 78s(b)(2) (1982).

[11] The Commission expects that at the conclusion of the additional six-month pilot period, the Phlx will be able to evaluate the pilot and submit a rule change for final approval with any appropriate modifications, or that the Phlx will submit a rule change extending the pilot beyond the six-month period. The Phlx is authorized to terminate the program prior to the end of the six-month period upon due notice and approval by the Commission.

[12] 17 CFR 200.30-3(a)(12) (1987).

Filing Date: The applicaton on Form N–8F was filed on March 10, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested persons 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 July 25, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 605 Third Avenue, New York, New York 10158.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Regina Hamilton, (202) 272–2856, or Special Counsel H.R. Hallock, Jr., (202) 272–3030 (Office of Investment Company Regulation).

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 (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant, a Massachusetts Business Trust, is registered as an open-end diversified management investment company under the 1940 Act.

2. On June 27, 1986, Applicant filed a Notification of Registration pursuant to section 8(a) of the 1940 Act on Form N–8A. On the same date, Applicant filed a registration statement under the 1940 Act on Form N–1A which was declared effective on August 29, 1986.

3. On September 10, 1987, Applicant's Board of Trustees authorized the steps necessary to effect the sale of Applicant's assets upon determining that participation in the transaction was in the best interests of the Applicant's shareholders, and that the interest of the existing shareholders would not be diluted as a result of the transaction.

4. On November 12, 1987, Applicant entered into an Agreement of Sale with National Total Income Fund, under which all Applicant's assets and liabilities were sold and transferred to National Total Income Fund, an open-end fund, in exchange for shares of that fund.

5. As of February 12, 1988, Applicant had total assets of $2,883,833.59.

6. On February 12, 1988, at a special shareholder meeting, Applicant's shareholders approved the sales of assets and transfer of liabilities to the national Total Income Fund.

7. As of the time of filling the application, Applicant had no shareholders, remaining assets, nor debts or other liabilities outstanding, was not a party to any litigation or administrative proceedings, and was not presently engaged in, nor intended to engage in, any business activities other than those necessary for the winding up of its affairs.

8. Applicant intends to file a Certificate of Dissolution as a Massachusetts Business Trust with the appropriate state authorities.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–15274 Filed 7–6–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–16462; 811–4408]

The Rokaand Fund, Inc.; Application for Deregistration

June 30, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: The Rokaand Fund, Inc. ("Applicant").

Relevant 1940 Act Sections: Deregistration under section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company subject to the 1940 Act.

Filing Date: The application on Form N–8F was filed on October 13, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested persons 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 July 25, 1988. 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 laywers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 1800 Avenue of the Stars, Suite 1425, Los Angeles, California 90067.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Regina Hamilton, (202) 272–2856, or Special Counsel H.R. Hallock, Jr., (202) 272–3030 (Office of Investment Company Regulation).

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 (800) 231–3282 (in Maryland (310) 258–4300).

Applicant's Representations

1. Applicant, a Maryland corporation and open-end diversified, management investment company filed a Notification of Registration pursuant to section 8(a) of the 1940 Act on Form N–8A, and a registration statement under the 1940 Act on Form N–1A on September 17, 1985. Its registration statement has been abandoned, and never became effective.

2. Applicant has never publicly offered any of its securities, never sold any securities of which it was the issuer, and does not propose to make a public offering or engage in business of any kind. Applicant has no shareholders, debts or liabilities as of the time of filing the application.

3. At the time of filing the application, Applicant had not transferred any assets to a separate entity within the previous 18 months, and had no assets.

4. As of the time of filing the application, Applicant was not a party to any litigation or administrative proceedings, and was not engaged in, nor intended to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–15275 Filed 7–6–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–16461; 811–4572]

Technical Price-Motion Fund; Application for Deregistration

June 30, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Technical Price-Motion Fund ("Applicant").

Relevant 1940 Act Sections: Deregistration under Section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company subject to the 1940 Act.

Filing Date: The application on Form N–8F was filed on May 27, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested persons 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 July 25, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 330 East 244th Street, Euclid, Ohio 44132.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Regina Hamilton, (202) 272–2856, or Special Counsel H.R. Hallock, Jr., (202) 272–3030 (Office of Investment Company Regulation).

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 (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is organized as an open-end diversified, management investment company under the 1940 Act.

2. On January 10, 1986, Applicant filed a Notification of Registration pursuant to section 8(a) of the 1940 Act on Form N–8A, and a registration statement pursuant to section 8(b) on Form N–8B–1. Its registration statement never became effective, and on May 18, 1988, the SEC granted Applicant's request for withdrawal of its registration.

3. Applicant has never publicly offered any of its securities, and does not propose to make a public offering or engage in business of any kind. Applicant has no shareholders, debts or liabilities as of the time of filing the application.

4. Applicant has never transferred any assets to a separate entity and has no assets.

5. As of the time of filing the application, Applicant was not a party to any litigation or administrative proceedings, and was not engaged in, nor intended to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–15276 Filed 7–6–88; 8:45 am]

BILLING CODE 8010–01–M

VETERANS ADMINISTRATION

Intent to Prepare Environmental Impact Statement

AGENCY: Veterans Administration.

ACTION: Notice of intent.

SUMMARY: The Veterans Administration (VA) intends to prepare an Environmental Impact Statement (EIS) on the proposed establishment of a new VA Medical Center (VAMC). This proposed VAMC would serve the area of East Central Florida.

ADDRESS: Individuals are invited to submit comments on this notice to: Susan Livingstone, Director of Environmental Affairs (088B4), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Jon E. Baer, Director, Landscape Architectural Service (088B4), at (202) 233–2922.

SUPPLEMENTARY INFORMATION: An EIS is required because the scope of the proposed project exceeds the VA threshold for an EIS established in 38 CFR Part 26, Environmental Effects of VA Actions. Therefore, in accordance with section 102 (2)(C) of the National Environmental Policy Act, the VA publishes this Notice of Intent pursuant to 40 CFR 1501.7.

The proposed VAMC, if ultimately approved as a project by the VA, would involve land acquisition, site preparation, building and road construction, and possibly would have traffic, economic and ecological impacts on the local area. Major environmental issues have not been identified as of the date of this notice.

Possible alternatives for the proposed VAMC have not been firmly identified but will depend upon demographic requirements, available sites, existing facilities if any, acquisition methods.

This notice is part of the process used for scoping the pertinent environmental issues for the EIS. Participation in the scoping process is invited by individuals, private organization and local, state and Federal Agencies. Comments received will be used by the VA in its efforts to further identify and clarify significant environmental issues. Scoping meetings will be announced in local area newspapers for the project.

Dated: June 29, 1988.

Thomas K. Turnage,

Administrator.

[FR Doc. 88–15252 Filed 7–6–88; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 130
Thursday, July 7, 1988

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 ELECTION COMMISSION

DATE & TIME: Tuesday, July 12, 1988, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE & TIME: Thursday, July 14, 1988, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Setting of Dates for Future Meetings.

Correction and Approval of Minutes.

Eligibility Report for Candidates to Received Presidential Primary Matching Funds.

Draft AO 1988-27: Leigh Snell on behalf of MediVision, Inc.

Draft AO 1988-29: Joseph A. Rieser, Jr. on behalf of DNC Services Corp./ Democratic National Committee ("DNC").

Status of Presidential Audits.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 88-15368 Filed 7-5-88; 2:59 pm]

BILLING CODE 6715-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, July 11, 1988.

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 1, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-15265 Filed 7-1-88; 4:51 pm]

BILLING CODE 6210-01-M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (53 FR 24399 June 28, 1988).

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, June 23, 1988.

CHANGES IN THE MEETING: July 7, 1988 open meeting:

The following items previously scheduled for Thursday, July 7, 1988, at 10:00 a.m., will be discussed at 9:30 a.m.:

1. Consideration of a two-part recommendation from its Division of Market Regulation concerning predispute arbitration clauses in broker-dealers' agreements with their customers. First, the Commission will consider a recommendation that it propose an amendment to the Securities Exchange Act of 1934 that would prohibit a broker-dealer from conditioning investor access to brokerage services on the signing of a predispute arbitration agreement. The Commission will also consider whether to send a letter to each of the securities industry's self-regulatory organizations that currently operates an arbitration system requesting that they consider using their broad rulemaking authority to take independent action to effect the same result. For further information, please contact Robert A. Love at (202) 272-3064.

2. Consideration of whether to adopt proposed Rule 19c-4 which would add to the rules of national securities exchanges and national securities associations, a prohibition on an exchange listing, or an association authorizing for quotation and/or transaction reporting on an inter-dealer quotation system, the common stock or other equity security of a domestic issuer if the issuer issues securities or takes other corporate action that would have the effect of nullifying, restricting, or disparately reducing the per share voting rights of any common stock of such issuer registered under section 12 of the Securities Exchange Act of 1934. For further information, please contact Stephen Luparello at (202) 272-2891 or Sharon Itkin at (202) 272-2451.

In addition, the following items also previously scheduled for Thursday, July 7, 1988, at 10:00 a.m., will be discussed at 2:00 p.m.

1. Consideration of whether to adopt an amendment to Rule 2(e)(7) of the Commission's Rules of Practice to provide that Rule 2(e) proceedings shall be public unless the Commission, on its own motion or after consideration of the request of a party, otherwise directs. For further information, please contact Emily P. Gordy at (202) 272-2422.

2. Consideration of whether to authorize for publication (1) a release adopting amendments to Regulation S-X that would require accountants' reports included in Commission filings to be signed by an independent accountant who within the last three years has undergone a peer review of its accounting and auditing practice, and (2) a release publishing for comment proposals to specify procedures to be used to review an accountant's audit work pending the accountant's compliance with peer review requirements when the accountant first becomes subject to the requirement due to accepting a Commission registrant as a client or a current client becoming a Commission registrant. For further information, please contact John Heyman at (202) 272-2130.

3. Consideration of whether to issue for comment proposed rules to require that registrants include a report by management in Forms 10-K and annual reports to shareholders. The management report would acknowledge management's responsibilities for the financial statements and internal

control, discuss how these responsibilities were fulfilled and provide management's assessment of the effectiveness of the registrant's internal controls. The registrant's independent accountant would be associated with management's assessment of the effectiveness of internal controls through its existing responsibilities under generally accepted auditing standards. For further information, please contact John W. Albert, Office of the Chief Accountant, at (202) 272–2130 or Howard P. Hodges, Division of Corporation Finance at (202) 272–2553.

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: Kevin Fogarty at (202) 272–3195.

Jonathan G. Katz,

Secretary.

July 1, 1988.

[FR Doc. 88–15362 Filed 7–5–88; 2:08 am]

BILLING CODE 8010–01–M

UNITED STATES INSTITUTE OF PEACE

TIME AND DATE: 9:00 a.m.–5:00 p.m., Tuesday, July 12, 1988.

PLACE: American Chemical Society, 1155 Sixteenth Street NW., Washington, DC 20036.

STATUS: Open (portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. L. 98–525).

Agenda (Tentative)

Meeting of the Board of Directors convened. Chairman's Report. President's Report. Committee Reports. Consideraton of the minutes of the twenty-fourth meeting. Consideration of grant application matters.

CONTACT: Mrs. Olympia Diniak. Telephone: (202) 457–1700.

Dated: July 5, 1988.

Charles E. Nelson,

Vice President, United States Institute of Peace.

[FR Doc. 88–15291 Filed 7–5–88; 9:50 am]

BILLING CODE 3155–01–M

Corrections

Federal Register
Vol. 53, No. 130
Thursday, July 7, 1988

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 LABOR

Mine Safety and Health Administration

30 CFR Parts 7 and 18

Underground Mining Equipment; Product Testing By Applicant or Third Party

Correction

In rule document 88-13702 beginning on page 23486 in the issue of Wednesday, June 22, 1988, make the following corrections:

1. On page 23488, in the third column, in the second line from the bottom, insert "and" after "safety".

2. On page 23490, in the third column, under the heading *Section 7.4 Product Testing.*", in the 12th line, "appropriated" should read "appropriate".

3. On page 23493, in the second column, in the first complete paragraph, in the 17th line, insert "to" after "added".

4. On page 23494, in the third column, under the heading for Subpart B, in the first paragraph, in the sixth line, "acceptable" should read "acceptance".

5. On the same page, in the same column, under the heading for Subpart B, in the second paragraph, in the second line, "ventilating" was misspelled.

6. On page 23495, in the first column, under the heading *Development of Small-Scale Test and Procedures*, in the second paragraph, in the seventh line, "Certification" was misspelled.

7. On page 23497, in the third column, in the first complete paragraph, in the 11th line, "hydrogen" was misspelled.

8. On page 23499, in the first column, in the fourth line from the bottom, "n" should read "in".

§ 7.2 [Corrected]

9. On page 23501, in the first column, in § 7.2, in the definition for *Technical requirements*", in the first line, "This" should read "The".

§ 7.4 [Corrected]

10. On page 23501, in the third column, in § 7.4(b), in the 10th line, "lease" should read "least".

§ 7.47 [Corrected]

11. On page 23505, in the second column, in § 7.47(a)(5), in the second line, "inch" should read "inches".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 7 and 25

Multiple-Shot Blasting Units

Correction

In proposed rule document 88-13703 beginning on page 23506 in the issue of Wednesday, June 22, 1988, make the following corrections:

1. On page 23507, in the first column, in the first paragraph, in the eighth line, "have" should read "having".

2. On page 23508, in the third column, in the sixth line, "The" should read "This".

3. On page 23510, in the first column, in the first complete paragraph, in the 12th line, "or" should read "on".

4. On the same page, in the same column, in the fourth line from the bottom, "blasing" should read "blasting".

5. On page 23511, in the first column, in the third complete paragraph, in the third line, "blazing" should read "blasting".

6. On page 13513, in the first column, in the second complete paragraph, in the tenth line, "adopted" should read "adapted".

7. On the same page, in the third column, in the fifth line from the bottom, "undertake nor" should read "undertaken or".

PART 7—[CORRECTED]

8. On page 23514, in the second column, in the table of contents, "7.6" should read "7.61".

BILLING CODE 1505-01-D

Federal Register

Thursday
July 7, 1988

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 15

Federal Acquisition Regulation (FAR); Review of Subcontractors' Proposed Contract Costs; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

Federal Acquisition Regulation (FAR); Review of Subcontractors' Proposed Contract Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to FAR 15.804, 15.805, and 15.806, Table 15–2, concerning subcontract pricing policies and procedures to ensure that the government pay fair and reasonable prices for its needs.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before September 6, 1988.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th and F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 88–26 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering these changes as a result of increased management concern over subcontract pricing and to ensure that the Government pays fair and reasonable prices for its needs. The purpose of the changes is to clarify the roles of the Government and the contractor in this activity, to provide guidance on certain apsects of subcontract pricing, and to consolidate the requirements for ease of use. Subcontracts often account for more than 50 percent of a prime contract price. Therefore, scrutiny of these prices is essential to the proper pricing of Government contracts.

B. Regulatory Flexibility Act

The proposed rule does not appear to have a significant impact on a substantial number of small entities because most prime contracts, as well as subcontracts, with small entities do not require the submission of cost or pricing data. Most awards to small entities at either level are on a competitive basis obviating the need for cost or pricing data. In those rare cases when a small entity does receive a noncompetitive prime contract or subcontract exceeding $100,000, the basic requirements for submitting and obtaining cost or pricing data remain essentially unchanged. As noted earlier, the proposed rule simply consolidates existing coverage and amplifies instructions on how to implement the requirements. Comments, particularly from affected small entities, are invited. Comments are also invited concerning impacts on small entities from any other provisions of Subpart 15.8 of the FAR. These latter comments should be submitted under FAR Case 88–610 for identification purposes.

C. Paperwork Reduction Act

This proposed rule, although it impacts on data submission issues, does not change existing requirements. Requirements have been reorganized in the interest of clarity. Instructions have been amplified to ensure understanding with respect to subcontractor cost or pricing data requirements. Consequently, since there are no different paperwork requirements from the existing rule, OMB approval under 44 U.S.C. 3501, et seq. is not required.

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: June 27, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 15 be amended as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

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

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 15.804–6 is amended by revising in paragraph (b)(2) the basic element of cost, "Material", in paragraph (1) of Table 15–2; by revising paragraph (g); and by removing paragraphs (h) and (i) to read as follows:

15.804–6 Procedural requirements.

* * * * *

TABLE 15–2—INSTRUCTIONS FOR SUBMISSION OF A CONTRACT PRICING PROPOSAL

* * * * *

Materials—Provide a consolidated priced summary of individual material quantities included in the various tasks, orders, or contract line items being proposed and the basis for pricing (vendor quotes, invoice prices, etc.). Include raw materials, parts, components, assemblies, and services to be produced or performed by others. For standard commercial items fabricated by the offeror that are generally stocked in inventory, provide a separate cost breakdown if priced based on cost. For all items proposed, identify the item and show the source, quantity, and price.

Competitive Methods—For those items/services priced on a competitive basis, also provide data showing degree of competition, and the basis for establishing the source and reasonableness of price. For interorganizational transfers priced at other than cost of the comparable competitive commercial work of the division, subsidiary, or affiliate of the contractor, explain the pricing method (see 31.205–26(e)).

Established Catalog or Market Prices/Prices Set by Law or Regulation—When an exemption from the requirement to submit cost or pricing data is claimed, whether the item was produced by others or by the offeror, provide justification for the exemption as required by 15.804–3(e).

Noncompetitive Methods—For those items/services priced on a noncompetitive basis, also provide data showing the basis for establishing source and reasonableness of price. For interorganizational transfers priced at cost, provide a separate breakdown of cost by elements. As required by 15.806–2(a), provide a copy of cost or pricing data submitted by the prospective source in support of each subcontract, or purchase order, or interorganizational transfer that is either: (i) $1,000,000 or more, or (ii) both more than $100,000 and more than 10 percent of the prime contractor's proposed price. The contracting officer may require submission of cost or pricing data in support of proposals in lower amounts. Submit the results of the analysis of the prospective source's proposal as required by 15.806. When the submission of a prospective source's cost or pricing data is required as described above, it shall be included as part of the offeror's initial pricing proposal, unless postponed by the contracting officer under 15.806–2(e).

* * * * *

(g) The requirements for contractors to obtain cost or pricing data from prospective subcontractors, to analyze these data and to submit the results of the analyses are prescribed in 15.806.

3. Section 15.805–5 is amended by revising paragraph (i) and by removing paragraphs (j) and (k) to read as follows:

15.805–5 Field pricing support.

* * * * *

(i) The requirements for field pricing support reports for subcontracts are prescribed in FAR 15.806.

4. Sections 15.806–1, 15.806–2, and 15.806–3 are added to read as follows:

15.806–1 General

(a)(1) The contracting officer is responsible for the determination of price reasonableness for the prime contract. In order to make this determination, it is required that an analysis be conducted of all the relevant facts and data including subcontractor cost or pricing data required to be submitted, results of the prime or higher tier subcontractor's analyses of subcontractor proposals, the field pricing support (if any), and historical pricing data. The fact that a contractor or higher tier subcontractor has an approved purchasing system or performs an analysis of subcontractor cost or pricing data does not in any way relieve the contracting officer or field pricing support team from the responsibility to analyze the prime contractor's submission, including the subcontractor cost or pricing data. However, the prime contractor or higher tier subcontractor is responsible for conducting appropriate price and cost analysis before awarding any subcontract.

(2) Subcontractors must submit to the contractor or higher tier subcontractor, cost or pricing data or claims for exemption from the requirement to submit them. The contractor and the higher tier subcontractor shall:

(i) Conduct price analyses and, when the subcontractor is required to submit cost or pricing data, or if the contractor or higher tier subcontractor is unable to perform an adequate price analysis, cost analyses for all subcontracts,

(ii) Include the results of these analyses as part of their own cost or pricing data submission, and

(iii) When required, in accordance with 15.806–2(a), submit the subcontractor cost or pricing data as part of their own cost or pricing data submission.

(b) Except when the subcontract prices are based on adequate price competition, on established catalog or market prices of commercial items sold in substantial quantities to the general public, or are set by law or regulation, any contractor required to submit certified cost or pricing data also shall obtain certified cost or pricing data before awarding any subcontract or purchase order expected to exceed $100,000, or issuing any modification involving a price adjustment expected to exceed $100,000 (see example of pricing adjustment at 15.804–2(a)(1)(ii)).

(c) The requirements in paragraphs (a) and (b) of this subsection, modified to relate to higher tier subcontractors rather than to the prime contractor, shall apply to lower tier subcontracts for which subcontractor cost or pricing data are required.

(d) If the prime contractor negotiates subcontract prices before negotiating the prime contract, such subcontract prices must nevertheless be reviewed and analyzed by the Government. In no instance should such negotiated subcontract prices be accepted as the sole evidence that these prices are fair and reasonable.

§ 15.806–2 Prospective subcontractor cost or pricing data.

(a) The contracting officer shall require a contractor that is required to submit certified cost or pricing data also to submit to the Government (or cause the submission of) accurate, complete, and current cost or pricing data from prospective subcontractors in support of each subcontract cost estimate that is (1) $1,000,000 or more, (2) both more than $100,000 and more than 10 percent of the prime contractor's proposed price, or (3) considered to be necessary for adequately pricing the prime contract. These subcontract cost or pricing data may be submitted using a Standard Form 1411 (SF 1411), Contract Pricing Proposal Cover Sheet.

(b) The contracting officer shall require the prospective contractor to support subcontractor cost estimates below the threshold in 15.806–1(b) with any data or information (including other subcontractor quotations) needed to establish a reasonable price.

(c) If the prospective contractor satisfies the contracting officer that a subcontract will be priced on the basis of one of the exemptions in 15.804–3, the contracting officer normally shall not require submission of subcontractor cost or pricing data to the Government in that case. If the subcontract estimate is based upon the cost or pricing data of the prospective subcontractor most likely to be awarded the subcontract, the contracting officer shall not require submission to the Government of data from more than one proposed subcontractor for that subcontract.

(d) Subcontractor cost or pricing data shall be accurate, complete, and current as of the date of final price agreement given on the contractor's Certificate of Current Cost of Pricing Data. The prospective contractor shall be responsible for updating a prospective subcontractor's data.

(e) In exceptional cases, the contracting officer may, with the approval of the chief of the contracting office, excuse a prospective contractor from submitting subcontractor cost or pricing data and the required related analyses before award of the prime contract. The prime contractor must, however, obtain this cost or pricing data before award of the subcontract in question. Any request from a prospective contractor to be excused from submitting subcontractor data before award of the prime contract must be supported by an explanation as to why the data and analyses cannot be submitted in a timely manner. If excusing the prospective contractor appears to be appropriate, the contracting officer shall provide the chief of the contracting office with the prospective contractor's explanation, the contracting officer's supporting rationale, and a discussion of how the subcontract price will be determined to be fair and reasonable. Moreover, if the chief of the contracting office approves excusing the prospective contractor from submitting the data and analyses before award of the prime contract, the contracting officer shall do one or more of the following to minimize risks to the Government:

(1) Allow additional time for submission of data up to the date of agreement upon the prime contract price;

(2) Withdraw the requirement for submission of subcontract cost or pricing data if the data already submitted or otherwise readily available are adequate to support the subcontract estimate;

(3) Consider another contract type; or

(4) Include a contract clause that provides for negotiating an adjustment to the prime contract amount after award based on the subcontractor's actual cost of pricing data, and the analysis of such data by the contractor and the contracting officer.

§ 15.806–3 Field pricing reports.

(a) The contracting officer should request audit or field pricing support to analyze and evaluate the proposal of a subcontractor at any tier (notwithstanding availability of data or analyses performed by the prime contractor) if the contracting officer believes that such support is necessary to ensure reasonableness of the total proposed price. This step may be appropriate when, for example—

(1) There is a business relationship between the contractor and subcontractor not conducive to independence and objectivity;

(2) The contractor is a sole source and the subcontract costs represent a substantial part of the contract cost;

(3) The contractor has been denied access to the subcontractor's records; or

(4) The contracting officer determines that, because of factors such as the size of the proposed subcontract price, audit or field pricing support for a subcontract or subcontracts at any tier is critical to a fully detailed analysis of the prime contract proposal.

(b) When the contracting officer requests the cognizant ACO or auditor to review a subcontractor's cost estimates, the request shall include, when available, a copy of any review prepared by the prime contractor or higher tier subcontractor, the subcontractor's proposal, cost or pricing data provided by the subcontractor, and the results of the prime contractor's cost or price analysis.

(c) When the Government performs the subcontract analysis, the Government shall furnish to the prime contractor or higher tier subcontractor, with the consent of the subcontractor reviewed, a summary of the analysis performed in determining any unacceptable costs, by element, included in the subcontract proposal. If the subcontractor withholds consent, the Government shall furnish a range of unacceptable costs for each element in such a way as to prevent disclosure of subcontractor proprietary data.

[FR Doc. 88-15086 Filed 7-6-88; 8:45 am]
BILLING CODE 6820-61-M

federal register

Thursday
July 7, 1988

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 125

Fair Housing Initiatives Program; Proposed Rule

Delegation of Authority Under Section 561 of the Housing and Community Act of 1987; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 125

[Docket No. R-88-1395; FR-2486]

Fair Housing Initiatives Program

AGENCY: Office of the Assistant Secretary for Fair Housing and Urban Development, HUD.

ACTION: Proposed rule.

SUMMARY: This rule announces the procedures HUD proposes to use to provide funding to State and local government agencies, to public and private nonprofit organizations and to other public and private entities formulating or carrying out programs to prevent or eliminate discriminatory housing practices under the Fair Housing Initiatives Program (FHIP). The rule would establish three categories of funding: (1) The Administrative Enforcement Initiative, (2) The Education and Outreach Initiative and (3) The Private Enforcement Initiative. The rule also contains the guidelines for the conduct of testing funded under FHIP within the Private Enforcement Initiative. The Fair Housing Initiatives program is authorized in section 561 of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988).

This program is designed to strengthen and enhance enforcement of and compliance with the Federal Fair Housing Law (Title VIII of the Civil Rights Act of 1968; 42 U.S.C. 3601-3619) and State and local laws recognized by the Secretary as providing substantially equivalent rights and remedies to those provided in the Federal Fair Housing Law. This notice announces the proposed rules to govern the program and seeks public comment on these rules.

DATE: Comments must be received by August 8, 1988.

ADDRESSES: Interested persons are invited to submit comments on the proposed rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500. Comments should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address. Comments on the information collection requirements contained in the proposal (which should include the docket number and title) should be submitted to the HUD Rules Docket Clerk at the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention, Desk Officer for HUD.

FOR FURTHER INFORMATION CONTACT: Maxine B. Cunningham, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410 telephone (202) 755-0455 (V and TDD). (This is not a Toll Free number)

SUPPLEMENTARY INFORMATION: The Federal Fair Housing Law (Title VIII of the Civil Rights Act of 1968; 42 U.S.C. 3601-3619) charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints of discrimination which are based on race, color, religion, sex or national origin in the sale, rental, or financing of most housing. In addition, the Federal Fair Housing Law directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and to render technical assistance to public or private entities carrying out programs to prevent or eliminate discriminatory housing practices.

The Fair Housing Initiatives Program (FHIP) contained in the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) authorizes the Secretary to provide funding to State and local governments or their agencies, public or private non-profit organizations or other public or private entities formulating or carrying out programs to prevent or eliminate discriminatory housing practices. These funds will enable the recipients to carry out activities designed to obtain enforcement of the rights granted by the Federal Fair Housing Law or by substantially equivalent State or local fair housing laws, and education and outreach activities designed to inform the public concerning rights and obligations under such Federal, State or local laws prohibiting discrimination. Funding for enforcement of fair housing laws includes activities involving use of judicial as well as administrative enforcement procedures.

The Department would provide funding in three distinct categories under the Fair Housing Initiatives Program:

1. The Administrative Enforcement Initiative,

2. The Education and Outreach Initiative, and

3. The Private Enforcement Initiative.

This proposed rule contains four subparts. Subpart A, provides information on the policy and purposes of FHIP and contains specific guidance on application requirements and selection criteria applicable to the program generally. Subparts B, C and D contain eligibility requirements for applicants and describe the types of activities which can be funded under each of the above three categories of FHIP.

Subpart A—General

In addition to describing the policy and purpose of FHIP and including definitions applicable to the regulation, Subpart A describes the method by which the Department will administer FHIP and make awards of funding in the program.

Section 125.104 indicates that the Department will announce the amount of funds available and the types of activities which will be given priority through periodic publication of Notices of Funding Availability.

This section also indicates all recipients of funds must conform to audit, reporting and record maintenance requirements established for FHIP which will be used by HUD to supervise and monitor funded activities. (Specific audit requirements for State and local governments are contained in 24 CFR Part 44). Each funding instrument executed would include provisions for the recapture of funds where the recipient does not comply with applicable reporting, recordkeeping or monitoring requirements.

Applicants seeking funding under the Fair Housing Initiatives Program will submit formal applications to the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development.

Section 125.105 sets forth in detail the general requirements for the submission of applications for the three components of FHIP. This section provides that applications must contain information relating to projects proposed for funding and to the geographic area in which activities would be undertaken. In part this section requires a description of the practice or practices adversely affecting fair housing, any existing data on the nature and extent of discriminatory conduct occurring in the general location where the applicant proposes to undertake activities, the applicant's experience in dealing with fair housing enforcement and an estimate of other public and private resources available to assist in the proposed project.

Applications must describe the specific activities to be conducted, the benefits which successful completion of the project will produce and the expected long term viability of project results.

In addition, applications must describe procedures to be used for monitoring conduct and evaluating results of the proposed activities.

Applications also must contain other information which is required by the Department pursuant to a Notice of Funding Availability published under § 125.104(d).

Section 125.106 describes the selection criteria which will be used in reviewing applications for funding. This section also indicates that HUD in issuing a Notice of Funding Availability can identify additional factors for award designed to encourage applications which are most likely to achieve results consistent with the objectives of FHIP. For example, in a given fiscal year HUD may determine that substantial FHIP resources should be allocated to particular activities within an initiative (e.g. testing). Similarly HUD may seek to achieve greater involvement of particular segments of the housing industry in fair housing activities such as education and outreach. In these cases HUD could include in the Notice of Funding Availability additional factors for award designed to provide a priority for funding for such activities or applicants. The relative weight to be assigned to each selection criteria also will be included in the Notice of Funding Availability.

Subpart B—Administrative Enforcement Initiative

Under the Administrative Enforcement Initiative the Department would provide funding to substantially equivalent State and local fair housing agencies in support of initiatives designed to broaden the range of enforcement and compliance activities that they conduct. Section 125.202 indicates that only substantially equivalent agencies which, pursuant to 24 CFR 115.6(c), have been recognized by the Department and have executed agreements with the Department are eligible for funding under this initiative.

Section 125.203 describes the projects for which funds will be available which include activities to implement fair housing testing programs and to conduct investigations of systemic discrimination. Funding in the Administrative Enforcement Initiative will compliment the Department's efforts to promote fair housing compliance activities by States and localities under the HUD Fair Housing Assistance Program (24 CFR Part 111).

Subpart C—The Education and Outreach Initiative

Under the Education and Outreach Initiative, the Department provides funding to develop, implement, carry out, or coordinate education and outreach programs designed to inform the public concerning their rights and obligations under the Federal Fair Housing Act and substantially equivalent State and local fair housing laws.

Currently, HUD provides limited support for outreach and education programs by State and local fair housing agencies under the Fair Housing Assistance Program 24 CFR Part 111 (Type II—Competitive Funding) and by Community Housing Resource Boards (CHRBs) under the Community Housing Resource Board Program 24 CFR Part 120. Funding for these entities can be made available under the Education and Outreach Initiative. Also other governmental and public and private entities as described in § 125.302 would be eligible for funding.

Funding will be provided for educational projects which advise the general public and housing industry groups about fair housing rights and responsibilities and outreach projects which promote specialized support and coordinated methods to provide for fair housing. Section 125.303 provides examples of the types of educational and outreach projects which may be funded under this element of FHIP.

Subpart D—The Private Enforcement Initiative

The Private Enforcement Initiative provides funding for projects designed to enhance efforts to enforce the provisions of the Federal Fair Housing Law and substantially equivalent State and local fair housing laws. Section 125.402 indicates that funding in this initiative will be provided to non-profit organizations and other private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices.

Section 125.403 states that projects eligible for funding include:

—Conducting investigations to document systemic discrimination in housing,

—Professionally conducting testing or other investigative support for administrative and judicial enforcement,

—Linking fair housing organizations regionally to address broader market discriminatory practices, and

—Establishing effective means of meeting legal expenses related to the litigation of fair housing cases.

Section 125.404 provides that no funding under this initiative may be used for the payment of expenses in connection with litigation against the United States.

Fair Housing Testing

Section 561(c)(2) of the Housing and Community Development Act of 1987 requires that the Secretary of Housing and Urban Development establish, within the Private Enforcement Initiative, requirements for the conduct of testing. The statute provides that testing procedures used be designed to ensure that testing conducted in support of fair housing enforcement efforts develops credible and objective evidence of discriminatory housing practices.

The requirements which the Department proposes to use for testing in the Private Enforcement Initiative are contained in § 125.405. These requirements will apply only to projects using Private Enforcement Initiative funds for the conduct of testing and will not affect the gathering or use of facts secured through testing not funded under this initiative.

Section 125.405 sets forth specific applicant eligibility and performance monitoring requirements applicable to fair housing testing activities proposed for funding during the two year testing demonstration period. This section also provides a detailed description of procedures which must be followed in the conduct of funded testing.

1. Applicants Eligible to Conduct Testing

Section 125.405(d) provides that an applicant must document that it has at least one year of fair housing enforcement experience in carrying out a program to prevent or eliminate discriminatory housing practices. The applicant must also describe its process for recruiting and training testers and include copies of forms used to document allegations of discriminatory conduct and to record testing results. Other forms may be required for monitoring progress and evaluating performance.

This provision also requires the applicant to certify that it will not solicit funds from or seek to provide fair housing educational services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing funded by the applicant under this initiative for a 12 month period following a test. This

requirement is not intended to preclude the provision of training to or the acceptance of funding from any person or organization. It merely prohibits solicitations for the receipt of funding or for the provision of training to assure that testing data would not be compromised based upon the provision of such funds or the acceptance of training.

2. Testing Eligible for Funding

Generally, the regulation provides that, upon receipt of a bona fide allegation, tests eligible for funding must consist of a visit by at least two paired testers. This section also provides for funding of tests in support of systemic discrimination investigations which result from bona fide allegations.

Under the regulation a "bona fide allegation" is an assertion of a discriminatory housing practice. The allegation must state specifically and in detail the facts and circumstances which are believed to constitute a discriminatory housing practice. The bona fide allegation is the basis for the selection of the target of testing and does not limit the scope of any investigation or any ensuing complaint. The allegation need not be a formal complaint; it is simply a source of reasonable belief of a violation. Further, once a foundation for the selection of a target has been established, an investigation using funded tests may be commenced.

While HUD will require documentation of bona fide allegations, this definition is not intended to impose the requirement that all such allegations be reduced to writing by the person making the assertion or include all specific information contained in § 125.405(b)(1) before the initiation of testing.

In addition, under this definition allegations by persons engaged as testers are not bona fide allegations for purposes of initiating testing funded in the Private Enforcement Testing Demonstration. However, this requirement does not prevent an organization or entity participating in the demonstration from using other information which is not the result of testing as a bona fide allegation for the purpose of commencing an investigation and conducting funded testing. In addition, as discussed later, this requirement does not compromise the rights of testers or the entities participating in testing activities in the demonstration to redress grievances under the Federal Fair Housing Act and the Supreme Court decision in *Havens Realty Corp.* v. *Coleman* 455 U.S. 363 (1982), 3 PHEOH ¶ 15,341.

In connection with the conduct of testing, § 125.405(b)(3) requires "one or more visits by at least two paired testers." This requirement is designed to require that testing eligible for FHIP funding consists of at least one visit by two matched testers. The regulation does not preclude a recipient of funds in the demonstration from conducting additional tests to complete a paired test or conducting further paired tests to obtain additional evidence in support of the investigation of a bona fide allegation. These tests would be eligible for funding.

3. Systemic Testing

Where investigation of a bona fide allegation discloses the existence of a pattern or practice of discriminatory housing practices, the regulation provides for the funding of systemic testing. In such cases the regulation envisions variances in the profiles of testers in order to facilitate the collection of data on policies, practices and procedures which appear to be discriminatory. As in the case of testing in non-systemic matters, there is no limit on the number of tests which can receive funding; the only requirement is that each test involve paired testers who are matched with each other with respect to housing needs (e.g., housing type, number of bedrooms, etc.) and demographic profiles (e.g., income, family size, etc.) which comprise the basis of the allegation.

4. Rights of Testers and Funded Organizations

Section 125.405 is not intended to restrict or limit the rights of testers or participating entities to pursue any right or remedy guaranteed by Federal law. Thus, the rights of testers and organizations including those under the Supreme Court decision in *Havens Realty Co.* v. *Coleman*, supra, remain available even where the testing activity is funded. Further, participation in the Private Enforcement Testing Demonstration does not effect or limit any other activities relating to the receipt and processing of complaints including testing by the organization using other funding.

Section 125.405(c)(3) provides that neither the tester or the testing organization may have "an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury." This provision is designed to prevent payments to testers based on the outcome of tests or similar arrangements that create or appear to create an inducement to solicit a discriminatory act. Such practices would have a sustantially adverse effect on the credibility and objectivity of the testing data gathered. Recovery of actual damages by an individual or organizational plaintiff in a Fair Housing Act suit is compensation for established injury. The recovery of such damages is not an economic interest in the outcome of the test within the meaning of this provision.

5. Penalties

Section 125.404(e) also provides that applicants failing to comply with requirements in the Private Enforcement Testing Demonstration in addition to making themselves liable to administrative sanctions may also be required to repay improperly used funds. The application of sanctions will be undertaken in accordance with procedural requirements applicable to Federal assistance activities. (See 24 CFR Part 24, 52 FR 37112, October 2, 1987)

Other Matters

Under the provisions in the FHIP authorizing legislation the Secretary, before providing any assistance under this program, is required to issue regulations governing applications for funding. Such regulations cannot be effective prior to the expiration of 90 calendar days from the date those regulations are submitted to the House and Senate Banking Committees.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environment Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street SW., Washington, DC 20410.

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

The information collection requirement contained in this rule has been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520).

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because the Department does not expect that the activities undertaken with funding under FHIP will result in a substantial number of cases involving smaller entities. In addition, this rule would not significantly increase or decrease the administrative burden on persons conducting activities relating to the sale, rental or financing of dwellings.

This rule was listed as item 1011 in the Department's semiannual agenda of regulations published on April 25, 1988, (53 FR 13854, 13888) under Executive Order No. 12991 and the Regulatory Flexibility Act.

The Catalogue of Federal Domestic Assistance Programs title and numbers are:

14.408 Fair Housing Initiatives Program—Administrative Enforcement Initiative
14.409 Fair Housing Initiatives Program—Education and Outreach Initiative
14.410 Fair Housing Initiatives Program—Private Enforcement Initiative

List of Subjects in 24 CFR Part 125

Fair housing, Grant programs, Housing and community development.

For the reasons set forth in the preamble, Title 24 of the Code of Federal Regulations would be amended to add Part 125, to read as follows:

PART 125—FAIR HOUSING INITIATIVES PROGRAM

Subpart A—General

Sec.
125.101 Policy.
125.102 Purpose.
125.103 Definitions.
125.104 Program administration.
125.105 Applications requirements.
125.106 Selection criteria.

Subpart B—Administrative Enforcement Initiative

125.201 Purpose.
125.202 Eligible agencies.
125.203 Eligible activities.

Subpart C—Education and Outreach Initiative

125.301 Purpose.
125.302 Eligible applicants.
125.303 Eligible activities.

Subpart D—Private Enforcement Initiative

125.401 Purpose.
125.402 Eligible applicants.
125.403 Eligible activities.
125.404 Use of funds for litigation.
125.405 Guidelines for Private Enforcement testing.

Authority: Sec. 561, Housing and Community Development Act of 1987 (Pub. L. 100–242); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

PART 125—FAIR HOUSING INITIATIVES PROGRAM

Subpart A—General

§ 125.101 Policy.

Section 561 of the Housing and Community Development Act of 1987 established the Fair Housing Initiatives Program to strengthen the Department's effort to enforce Title VIII of the Civil Rights Act of 1968 (Title VIII) and to further fair housing. This program is intended to assist projects and activities designed to enhance compliance with Title VIII and substantially equivalent State and local fair housing laws.

§ 125.102 Purpose.

Under the Fair Housing Initiatives Program, the Department is authorized to make grants to, or enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private non-profit organizations or institutions, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices.

§ 125.103 Definitions.

As used in this part—

(a) "Assistant Secretary" means the Assistant Secretary for Fair Housing and Equal Opportunity in the Department of Housing and Urban Development.

(b) "Department" means Department of Housing and Urban Development.

(c) "Discriminatory housing practice" means an act that is unlawful under sections 804, 805 and 806 of Title VIII.

(d) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

(e) "FHIP" means the Fair Housing Initiatives Program authorized by section 561 of the Housing and Community Development Act of 1987 (Pub. L. 100–242, approved February 5, 1988).

(f) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Title VIII" means Title VIII of the Civil Rights Act of 1986, as amended, 42 U.S.C. 3601–3619, commonly referred to as the Federal Fair Housing Law.

§ 125.104 Program administration.

(a) The Fair Housing Initiatives Program is administered by the Assistant Secretary for Fair Housing and Equal Opportunity.

(b) All funding in the Fair Housing Initiatives Program will be awarded on a competitive basis.

(c) The Department will provide funding in three separate areas:

(1) The Administrative Enforcement Initiative (Subpart B);

(2) The Education and Outreach Initiative (Subpart C); and

(3) The Private Enforcement Initiative (Subpart D).

(d) Notices of Funding Availability under this program will be published periodically in the **Federal Register.** Such notices will announce the amount of funds available, the funding available for any initiative and the maximum amounts to be awarded to applicants and may limit funding to one or more of the initiatives. The Notice of Funding Availability will include specific factors for award in addition to the specific criteria set forth in § 125.106 which the Assistant Secretary will use in selection of recipients to be funded and will indicate the relative weight of all selection criteria. The criteria for selection announced in Notices of Funding Availability will address the specific types of activities and projects to be solicited pursuant to the varied objectives of the three separate components of the FHIP, and will be designed to foster selections which are most likely to achieve results consistent with the objectives of each component of the program.

(e) All recipients of funds under this program must conform to reporting and record maintenance requirements determined appropriate by the Assistant Secretary. Procedures for monitoring program activities and funding will be established by the Assistant Secretary.

Each funding instrument will include provisions under which the Department may suspend, terminate or recapture funds if the recipient does not conform to these requirements.

(f) All recipients of funds under this program which are State or local governments or agencies of State or local governments must conduct audits in accordance with Part 44 of this Title.

§ 125.105 Applications requirements.

Each application for funding under the Fair Housing Initiatives Program must contain:

(a) A description of the practice (or practices) at the community, regional or national level which has affected adversely the achievement of the goal of fair housing. This description must include a discussion and analysis of the housing practice(s) identified, including available information and studies relating to discriminatory housing practices and their historical background, and relevant demographic data indicating the nature and extent of the impact of such practices on persons seeking dwellings or services related to the sale, rental and financing of dwellings in the general location where the applicant proposes to undertake activities;

(b) A description of the specific activities to be conducted with funds including the final product(s) and/or any reports to be produced; and the cost of each activity proposed and a schedule for completion of the funded activities;

(c) A description of the applicant's experience in formulating or carrying out programs to prevent or eliminate discriminatory housing practicies;

(d) A statement indicating the need for Federal funding in support of the proposed project; and an estimate of such other public or private resources as may be available to assist the proposed activities;

(e) A description of the procedures to be used for monitoring conduct and evaluating results of the proposed activities;

(f) A description of the benefits which successful completion of the project will produce to enhance fair housing and the concerns identified, and the indicators by which these benefits are to be measured;

(g) A description of the expected long term viability of project results;

(h) Any additional information which may be included in periodic Notices of Funding Availability for the Fair Housing Initiatives Program published in the **Federal Register**.

Effective Date Note.—Section 125.105 contains information collection requirements. Section 125.105 will become effective upon OMB approval and publication of notice in the **Federal Register**.

§ 125.106 Selection criteria.

(a) Projects proposed in applications will be ranked based on the following criteria for selection:

(1) The anticipated impact of the project proposed on the concerns identified in the application;

(2) The extent to which the project utilizes other public or private resources that may be available;

(3) The extent to which the applicant's professional and organizational experience will further the achievement of the project goal(s);

(4) The extent to which the project will provide the maximum impact on the concerns identified in a cost effective manner;

(5) The extent to which the project will provide benefits in support of fair housing after funded activities have been completed.

(b) The relative weight to be assigned to these selection criteria as well as additional factors which will be considered in reviewing applications will be included in the Notice of Funding Availability, together with a stated rationale, justifying the additional factors selected in terms of the specific goals of each initiative for which funds are being made available.

Subpart B—Administrative Enforcement Initiative

§ 125.201 Purpose.

The Administrative Enforcement Initiative provides funding to State and local fair housing agencies administering fair housing laws recognized by the Secretary as providing rights and remedies which are substantially equivalent to those provided in Title VIII.

§ 125.202 Eligible agencies.

State or local fair housing agency eligible to participate in the Administrative Enforcement Initiative, must be administering a State or local fair housing law which has been recognized by the Assistant Secretary (and such recognition must continue to be outstanding) under § 115.6 of this subchapter (or § 115.4 of this subchapter, as in effect prior to October 8, 1984) as providing rights and remedies which are substantially equivalent to those provided by Title VIII.

§ 125.203 Eligible activities.

(a) Funding will be available to support activities designed to strengthen and broaden the range of enforcement and compliance activities conducted by eligible State and local agencies. Such activities may include (but are not limited to) the following:

(1) Providing technical assistance to State and local government agencies administering housing and community development programs concerning applicable fair housing laws and regulations;

(2) Implementing fair housing testing programs; and

(3) Conducting investigations of systemic discrimination for further enforcement processing by State or local agencies, or for referral to HUD and the Department of Justice.

Subpart C—Education and Outreach Initiative

§ 125.301 Purpose.

The Education and Outreach Initiative of the Fair Housing Initiatives Program provides funding for the purpose of developing, implementing, carrying out, or coordinating education and outreach programs designed to inform members of the public concerning their rights and obligations under the provisions of fair housing laws. Funding is provided under this Initiative for the development of national, regional or local media campaigns (written or audio-visual materials) or other special efforts to educate the general public and housing industry groups about fair housing rights and obligations.

§ 125.302 Eligible applicants.

The following types of organizations are eligible to receive funding under the Education and Outreach Initiative:

(a) State or local governments;

(b) Public or private non-profit organizations or institutions, and other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices.

§ 125.303 Eligible activities.

(a) *Educational projects.* Educational projects that may be funded under the Educational and Outreach Initiative may include (but are not limited to) the following:

(1) Developing informative material on fair housing rights and responsibilities;

(2) Developing fair housing and affirmative marketing instructional material for education programs for national, regional and local housing industry groups;

(3) Providing educational seminars and working sessions for civic associations, community-based organizations, and other groups; and

(4) Developing educational material targeted at persons in need of specific or

additional information on their fair housing rights.

(b) *Outreach projects.* Outreach projects that may be funded under the Educational and Outreach Initiative may include (but are not limited to) the following:

(1) Developing national, regional or local media campaigns regarding fair housing;

(2) Bringing housing industry and civic or fair housing groups together to identify illegal real estate practices and to determine how to correct them;

(3) Designing specialized outreach projects to inform all persons of the availability of housing opportunities;

(4) Developing and implementing a response to new or more sophisticated practices that result in discriminatory housing practices; and

(5) Developing mechanisms for the identification of, and quick response to, housing discrimination cases involving the threat of physical harm.

(c) *Classes of competition.* The Notice of Funding Availability for the Educational and Outreach Initiative may be divided funding into classes based on the type of projects (e.g., educational or outreach projects) and the scope of projects (e.g., local, regional or national).

Subpart D—Private Enforcement Initiative

§ 125.401 Purpose.

The Private Enforcement Initiative of the Fair Housing Initiatives Program will provide funding to non-profit organizations and other private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices. The purpose of these awards is to assist in the developing, implementing, carrying out, or coordinating programs or activities designed to obtain enforcement of the rights granted by Title VIII or State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in Title VIII.

§ 125.402 Eligible applicants.

Organizations which are eligible to receive assistance under the Private Enforcement Initiatives are private non-profit organizations and other private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices. Organizations which can be eligible include, for example, private non-profit fair housing and civil rights groups.

§ 125.403 Eligible activities.

Projects that will be funded under the Private Enforcement Initiative may include (but are not limited to) the following:

(a) Conducting investigations of systemic housing discrimination;

(b) Professionally conducting testing or other investigative support for administrative and judicial enforcement;

(c) Linking fair housing organizations regionally in enforcement activities designed to combat broader housing market discriminatory practices; and

(d) Establishing effective means of meeting legal expenses in support of litigation of fair housing cases.

§ 125.404 Use of funds for litigation.

No recipient of assistance under the Private Enforcement Initiative may use any funds provided by the Department for the payment of expenses in connection with litigation against the United States.

§ 125.405 Guidelines for Private Enforcement testing.

(a) The guidelines contained in this section apply to testing activities funded under the Private Enforcement Initiative. These guidelines apply only to testing activities funded under this initiative and do not limit or restrict the use of facts secured through other testing activities in any legal proceeding under Federal fair housing laws. Nothing in the section restricts individuals or entities participating in the Fair Housing Initiatives Program from pursuing any right or remedy guaranteed by Federal law, or from the conduct of other testing or other investigative activities not funded under the Private Enforcement Initiative.

(b) *Definitions.* As used in this section:

(1) The term "bona fide allegation" means an assertion of a discriminatory housing practice unlawful under Federal fair housing law. For purposes of these guidelines, an allegation by a person engaged as a tester, whether or not compensated, or by any organization, employee, or agent engaged directly in the initiation, administration, evaluation, or conduct of tests is not a bona fide allegation. The allegation must state specifically and in detail the facts and circumstances which are believed to constitute the discriminatory housing practice, including, but not limited to, the date, time, and place of the alleged discrimination, and the name of each person or firm allegedly engaged in the discriminatory housing practice.

(2) The term "discriminatory housing practices" means any actions made unlawful by section 804, 805, or 806 of Title VIII (42 U.S.C. 3604, 3605, or 3606).

(3) The term "test" means a method of gathering credible and objective evidence of whether a discriminatory housing practice has occurred. For purposes of tests conducted under these guidelines:

(i) In the case of a test conducted in response to an allegation involving the rental or financing of a home or apartment, a test must include one or more visits by at least two individual testers to the lender, rental agent, management firm or owner alleged to have discriminated.

(ii) In the case of a test conducted in response to an allegation involving the purchase of a home, a test must include one or more visits by at least two individual testers to the individual sales agent or owner alleged to have discriminated; or if a firm is alleged to have engaged in discriminatory housing practices and if no sales agent of the firm has been identified as having discriminated, then the test must include one or more visits by at least two paired testers as defined in paragraph (c)(2)(iv) of this section to any sales agent identified by the testing program. The test requirements specified shall not excuse any employer, broker, firm, or owner from such liability as the law imposes on them for the conduct of their employees or licensees affiliated with them. Nothing here shall limit the number of test visits which can be made or funded.

(4) The term "testers" means individuals, who without an intent to rent, purchase, or finance a home or apartment, pose as renters, purchasers, or borrowers for the purpose of collecting evidence of discriminatory housing practices.

(c) *Eligible activities.* Eligible testing activities must be conducted in accordance with procedures contained in the application for assistance. These procedures shall include the following:

(1) A formal recruitment process designed to obtain a pool of credible and objective persons to serve as testers. Recruits must not have prior felony convictions or convictions of crimes involving fraud or perjury.

(2) A tester training program which will—

(i) Require the careful recordation of all relevant information on standardized forms following completion of the test;

(ii) Prohibit any contact or communication between pairs of testers until all information has been recorded and the testers debriefed by the testing coordinator;

(iii) Require that the same or substantially equivalent type of housing accommodations, financing, or service be requested; and

(iv) Require that testers identify themselves as having the same or substantially equivalent housing needs and demographic profile as the person who made the bona fide allegation, except for the race, creed, religion, sex, nationality, or other attribute which is the basis of the alleged discrimination. In cases of testing for systemic discrimination, demographic profiles may vary from that of the person who made bona fide allegation so long as the test of each agent or owner is a "paired" test. For the purpose of these guidelines, a "paired test" means that the two testers who will conduct the "paired test" shall—

(A) Have the same or substantially similar demographic profiles except for the race, creed, religion, sex, nationality, or other attribute which is the basis of the alleged discrimination;

(B) Have the same or substantially similar housing requirements;

(C) Conduct the test at the same office or in the same or substantially similar transactional conditions and circumstances; and

(D) Conduct the test in a timely manner.

(3) A tester assignment and control system which will assure that neither the tester, nor the organization conducting the test, including its employees and agents—

(i) Has an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury (n.b. *Havens Realty Corp.* v. *Coleman* 455 U.S. 363 (1982), 3 PHEOH ¶ 15,341); or

(ii) Has a specific bias toward either the person who made the bona fide allegation or the respondent; is a relative of one of the parties in the case; has any prior employment or affiliation with the person or organization to be tested; is a licensed competitor of such person or organization in the listing, rental, sale, or financing of real estate property; or has any other specific bias or conflict or interest which would prevent or limit his or her objectivity or fairness.

(d) *Application requirements.* Applications for funding of testing activities must include, in addition to the requirements set forth in § 125.105:

(1) Documentation that the applicant has at least one year of experience in carrying out a program to prevent or eliminate discriminatory housing practices;

(2) A certification providing that the applicant will not solicit funds from or seek to provide fair housing educational services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing by the applicant for a 12-month period following a test;

(3) A description of the process to be used to recruit testers;

(4) A description of the tester training program; and

(5) Copies of forms used to document allegations and to record the experience of testers.

(e) *Performance monitoring.* An applicant failing to comply with the testing requirements or the procedures set forth in its application for funding, shall be liable for such sanctions as may be authorized by law. These sanctions include repayment of improperly used funds, termination of further participation in the initiative, reduction or limitation of further funding for investigatory activities, recapture of improperly expended funds, and denial of further participation in programs of the Department or any Federal agency

Dated: May 21, 1988.

William E. Wynn,

General Deputy Assistant Secretary for Fair Housing and Equal Opportunity

[FR Doc. 88-15045 Filed 7-6-88; 8:45 am]

BILLING CODE 4210-28-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-88-874; FR-2486]

Delegation of Authority Under Section 561 of the Housing and Community Act of 1987

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: The Fair Housing Initiatives Program (FHIP) contained in section 561 of the Housing and Community Development Act of 1987 (Pub. L. 100–242, approved February 5, 1988) authorizes the Secretary of Housing and Urban Development to provide funding to State and local governments or their agencies, public or private non-profit organizations or other public or private entities formulating or carrying out programs to prevent or eliminate discriminatory housing practices. These funds will enable the recipients to carry out activities designed to obtain enforcement of the rights granted by the Federal Fair Housing Law or by substantially equivalent State or local fair housing laws, and education and outreach activities designed to inform the public concerning rights and obligations under such Federal, State or local laws prohibiting discrimination. The Secretary is delegating the authority to administer the Fair Housing Initiatives Program to the Assistant Secretary for Fair Housing and Equal Opportunity.

EFFECTIVE DATE: July 7, 1988.

FOR FURTHER INFORMATION CONTACT: Maxine B. Cunningham, Office of Fair Housing and Equal Opportunity, Room 5214, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 755–0455 (This is not a toll free number).

Authority Delegated

The Secretary of Housing and Urban Development delegates to the Assistant Secretary for Fair Housing and Equal Opportunity the authority to administer the Fair Housing Initiatives Program authorized under section 561 of the Housing and Community Development Act of 1987 (Pub. L. 100–242).

Dated: May 21, 1988.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 88–15054 Filed 7–6–88; 8:45 am]

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federal register

Thursday
July 7, 1988

Part IV

Environmental Protection Agency

Drinking Water Technical Assistance; Termination of the Federal Drinking Water Additives Program; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL-3410-1]

Drinking Water Technical Assistance; Termination of the Federal Drinking Water Additives Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA), Office of Drinking Water (ODW), has operated an advisory program that gives technical assistance to concerned parties on the use of drinking water additives. On May 17, 1984, EPA proposed to terminate major elements of this Federal program and to assist in the establishment of a private-sector program which would offer assistance in evaluating drinking water additives. 49 FR 21004. EPA solicited proposals from qualified nongovernmental, nonprofit organizations for assistance under a cooperative agreement to establish a credible and efficient program in the private sector.

On September 17, 1985, EPA selected a consortium consisting of the National Sanitation Foundation (NSF), the American Water Works Association Research Foundation (AWWARF), the Conference of State Health and Environmental Managers (COSHEM), and the Association of State Drinking Water Administrators (ASDWA) to receive funds under a cooperative agreement to develop the private-sector program. EPA believes that the NSF-led program has proceeded satisfactorily. NSF Standard 60, covering many direct additives, was adopted on December 7, 1987; and NSF Standard 61, covering indirect additives, was adopted on June 3, 1988. Other standards are forthcoming. The NSF-led program has begun offering testing, certification, and listing services, as described in 49 FR 21004, for certain classes of products covered by these standards. Accordingly, as the NSF-led program becomes operational, EPA will phase out its activities in this area, as described in this notice.

DATE: Any written comments on implementing this notice should be submitted to the address below by September 6, 1988.

ADDRESSES: Submit comments to: Mr. Arthur H. Perler, Chief, Science and Technology Branch, Office of Drinking Water (WH-550D), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A copy of all comments will be available for review during normal business hours at the U.S. Environmental Protection Agency, Criteria and Standards Division, Science and Technology Branch, Room 931ET, 401 M Street, SW., Washington, DC 20460. For further information on the NSF-led private-sector program, including standards development and testing, certification, and listing services, contact: Director, Drinking Water Additives Program, National Sanitation Foundation, P.O. Box 1468, Ann Arbor, MI 48106; or call (313) 769-8010. For information on alternative testing, certification, and listing programs, contact individual State regulatory authorities or the American Water Works Association, Technical and Professional Department, 6666 Quincy Avenue, Denver CO, 80235, or call (303) 794-7711. For information on the directory of products certified as meeting the criteria in a NSF standard, contact the American Water Works Association Research Foundation, 6666 Quincy Avenue, Denver CO, 80235, or call (303) 794-7711.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Perler, Chief, Science and Technology Branch, Office of Drinking Water (WH-550D), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or call (202) 382-2022.

I. Introduction

The Safe Drinking Water Act (SDWA) (42 U.S.C. 300f *et seq.*) provides for enhancement of the safety of public drinking water supplies through the establishment and enforcement of national drinking water regulations. The Environmental Protection Agency (EPA) has the primary responsibility for establishing the regulations, and the States have the primary responsibility for enforcing such regulations. The regulations control contaminants in drinking water which may have any adverse effect on public health. Section 1412, 42 U.S.C. 300g-1. The regulations include maximum contaminant levels (MCLs) or treatment techniques and monitoring requirements for these contaminants. Sections 1401 and 1412; 42 U.S.C. 300f and 300g-1. EPA also promulgates monitoring requirements for unregulated contaminants. Section 1445; 42 U.S.C. 300j-4. In addition, EPA has broad authorities to provide technical assistance and financial assistance (e.g., grants, cooperative agreements) to States and to conduct research. Sections 1442, 1443, 1444; 42 U.S.C. 300j-1, 300j-2, 300j-3.

The Agency has established MCLs for a number of harmful contaminants that occur naturally or pollute public drinking water supplies. In addition to such contaminants, there is a possibility that drinking water supplies may be contaminated by compounds "added" to drinking water, either directly or indirectly, in the course of treatment and transport of drinking water. Public water systems use a broad range of chemical products to treat water supplies and to maintain storage and distribution systems. For instance, systems may directly add chemicals such as chlorine, alum, lime, and coagulant aids in the process of treating water to make it suitable for public consumption. These are known as "direct additives." In addition, as a necessary function of maintaining a public water system, storage and distribution systems (including pipes, tanks, and other equipment) may be fabricated from or painted, coated, or treated with products which may leach into or otherwise enter the water. These products are known as "indirect additives." Except to the extent that direct or indirect additives consist of ingredients or contain contaminants for which EPA has promulgated MCLs, EPA does not currently regulate the levels of additives in drinking water.

In 1979, EPA executed a Memorandum of Understanding (MOU) with the U.S. Food and Drug Administration (FDA) to establish and clarify areas of authorities with respect to control of additives in drinking water. 44 FR 42775, July 20, 1979. FDA is authorized to regulate "food additives" pursuant to the Federal Food, Drug, and Cosmetic Act (FFDCA). (21 U.S.C. 301 *et seq.*). Both agencies acknowledged in the MOU that "passage of the SDWA in 1974 repealed FDA's authority under the FFDCA over water used for drinking water purposes." The MOU stated that FDA would continue to have authority for taking regulatory action under the FFDCA to control additives in bottled drinking water and in water used in food and for food processing. The MOU went on to say that EPA had authority to control additives in public drinking water supplies.

While the SDWA does not require EPA to control the use of specific additives in drinking water, EPA has provided technical assistance to States and public water systems on the use of additives through the issuance of advisory opinions on the acceptability of many additive products. EPA has provided this technical assistance pursuant to its discretionary authority in section 1442(b)(1) to "collect and make available information pertaining to research, investigations and demonstrations with respect to

providing a dependable safe supply of drinking water together with appropriate recommendations in connection therewith." EPA has additional authorities under the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 *et seq.*) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*) that could be used to control additives in drinking water. TSCA authorizes EPA to regulate a new chemical substance before it is manufactured or any existing chemical substance before it is manufactured or processed for a use that EPA has determined to be a "significant new use." Although an additive product might come within the jurisdiction of TSCA, EPA has never invoked this authority. EPA has used its authority under FIFRA to control the use of pesticides, disinfectants, and certain other additives. For a more complete discussion of these authorities, see the MOU. 44 FR 42776.

In 1980, EPA declared a moratorium on the issuance of new advisory opinions on additives pending a review of past advisory opinions and the establishment of uniform test protocols and decision criteria. However, between 1980 and 1984, EPA continued to issue advisory opinions in cases where the new additive products were virtually identical to products previously reviewed. Resource constraints and the need to implement mandatory provisions of the SDWA precluded the Agency from implementing the comprehensive program originally envisioned for the issuance of additives advisory opinions. Thus, the Agency was not able to review the technical data supporting previous submissions (approximately 2,300 products from 525 manufacturers) nor was it able to develop test protocols or decision criteria for the consistent evaluation of new products. The result has been long delays in processing manufacturer petitions, inability to review and accept completely new products, and acceptance of products simply because they were virtually identical to older products. Hence, few products have been thoroughly evaluated for the safety of their formulations based on the latest scientific information.

Recognizing the need for continuing technical assistance in evaluating additive products and for providing advice to States and public water systems on the toxicological aspects of additive products, the Agency proposed to terminate its attempts to institute a formal advisory program, and to solicit proposals from nongovernmental, nonprofit organizations to establish such a program in the private sector. The Agency believed that the proposal to assist in the establishment of a private-sector program was consistent with, and would best serve the goals of, the SDWA.

On May 17, 1984, EPA formally announced its intention to transfer the program to the private sector, which would function as to many other voluntary product-standard programs. 49 FR 21004. This was accomplished by requesting proposals from qualified organizations or consortia of organizations for the competitive award of a cooperative agreement designed to provide incentive for the establishment of a private-sector program. The 1984 notice stated that:

- EPA expected the activity to be self-supporting.
- EPA would maintain an active interest in the development of the program, without assuming responsibility for or directing its approach.
- EPA would continue to establish regulations under the SDWA, FIFRA, and/or TSCA, as needed, for chemicals in treated, distributed drinking water that may originate as additives.
- Establishment of such a program would be consistent with the Administration's initiatives in the area of regulatory reform and offered an opportunity for an innovative alternative to regulation.

The May 1984 notice requested public comments on the proposal and solicited applications from qualified nongovernmental, nonprofit organizations for partial funding of the developmental phase of the program under a cooperative agreement. The response to the solicitation for comments indicated strong public support for the proposed approach. EPA received 106 public comments on the proposal. All but six supported this "third-party" approach. However, despite the Agency's open competition, EPA received only one application for financial assistance. The applicant was a consortium, led by the National Sanitation Foundation, which included the American Water Works Association Research Foundation, the Conference of State Health and Environmental Managers, and the Association of State Drinking Water Administrators. This single proposal met all of the basic criteria articulated in the May 1984 notice. Furthermore, EPA believed that the single applicant was very likely to succeed, because it represented an organization experienced in private-sector consensus standard-setting, State regulators, and water utilities.

EPA awarded the cooperative agreement to the NSF consortium on September 17, 1985, and committed funding of $185,000 to NSF over a three-year period. The non-Federal (consortium and participating industry) contribution during the first three years of the program was projected to be approximately $1.4 million.

The NSF program has the following major objectives:

- To develop systematic, consistent, and comprehensive voluntary consensus standards for public health safety evaluation of all products (previously EPA-accepted as well as new) intended for use in drinking water systems.
- To obtain broad-based participation in the standard-setting program from industry, States, and utilities.
- To provide for regular periodic review, update, and revision of the standards.
- To undertake needed research, testing, evaluation, and inspections and to provide the followup necessary to maintain the program.
- To establish a separate program for testing, evaluation, certification, and listing of additive products.
- To widely disseminate information about the program, and to make information about conforming products available to users.
- To maintain the confidentiality of all proprietary information.
- To fully establish the third-party program on a self-supporting basis.

NSF's established standard-setting process utilizes a tiered structure. Each standard is drafted by a task group and then presented to a Joint Committee, which includes 12 industry, 12 user, and 12 regulatory members. Following successful Joint Committee balloting, standards are reviewed by the Council of Public Health Consultants, which is a high level advisory group consisting of technical and policy experts from regulatory agencies and academia.

NSF has established task groups to develop standards for the product categories listed below. Each task group includes a member representing the regulatory agencies and a member representing the utilities. All manufacturers expressing interest in a particular product task group may participate as members of that group. Therefore, task group membership is predominately manufacturers. In addition, a group of health effects consultants is addressing the toxicological and risk considerations for various product categories. NSF's role in the standard-setting process is administrative, that is, to bring together experts from government, industry,

utilities, users, and other relevant groups so that a standard which reflects a consensus of these interests can be developed. In addition, NSF staff provide technical leadership and laboratory support. Product categories and correspoding task groups are:

- Protective Materials.
- Chemicals for Corrosion and Scale Control, Softening, Precipitation, Sequestering, and pH Adjustment.
- Coagulation and Flocculation Chemicals.
- Miscellaneous Treatment Chemicals.
- Joining and Sealing materials.
- Process Media.
- Pipes and Related Products.
- Disinfection and Oxidation Chemicals.
- Mechanical Devices.

All of the task groups have made satisfactory progress during the term of the cooperative agreement. In addition, the health effects consultants have endorsed the bases of the standards. Standards have been drafted for all product categories, and final standards were published and implemented as follows:

Standard 60, December 1987

- Chemicals for Corrosion and Scale Control, Softening, Precipitation, Sequestering, and pH Adjustment.
- Disinfection and Oxidation Chemicals.
- Miscellaneous Treatment Chemicals (selected).

Standard 61, June 1988

- Process Media.

Development of the remaining standards is on schedule, and publication and implementation are expected on the following schedule:

Standards 60 and 61, expected October 1988

- Protective Materials.
- Coagulation and Flocculation Chemicals.
- Miscellaneous Treatment Chemicals (additional).
- Joining and Sealing Materials.
- Pipes and Related Products.
- Mechanical Devices.

EPA believes that the NSF program is successfully pursuing all of its objectives. Furthermore, the program is strongly supported by user and regulatory sectors. AWWARF, COSHEM, ASDWA, the Great Lakes Upper Mississippi River Board, the American Water Works Association (AWWA) (including the Utilities and Standards Councils and the Regulatory Agencies Division), and the Association of Metropolitan Water Agencies, among others, have voiced strong support for the third-party program. The AWWA recently joined the NSF-led consortium and urged EPA to support national uniform accreditation of certifying entities for additives products. To date, more than 60 manufacturers are full participants in the standard-setting program.

The cooperative agreement between EPA and the consortium requires NSF to establish both a standard-setting program and a service for testing, certification, and listing. These are completely separate activities. EPA's intent is to support the development of a widely accepted uniform standard for each category of products while encouraging the development of competing sources for testing, certification, and listing. The cooperative agreement assures that at least one sound and reliable product-evaluation service will be available to manufacturers, i.e., the consortium. However, the consortium's standards will allow for entities other than NSF to be evaluators of products.

EPA recognizes the authority and responsibility of the individual States to determine the acceptability of drinking water additives. Hence, it is up to the States and utilities to determine the suitability of any "third-party" certification. AWWARF will maintain a directory of products approved by all organizations claiming to conduct evaluations under Standards 60 and 61. However, AWWARF will not judge the competence or reliability of these organizations.

II. Announcement of Phase-Down of EPA's Additives Program

During the developmental phase of the NSF consortium's program, EPA has continued to review products and process requests for advisory opinions on a limited basis. The May 1984 notice stated that, "EPA does not intend to develop further interim administrative procedures, testing protocols or decision criteria for future evaluation of additive products. The use of existing informal criteria will continue until a third-party or alternative program is operational * * *. EPA may not be able to process all requests for opinions on additive products before the establishment of a cooperative agreement with a third party. The large volume of currently pending requests makes it unlikely that additional requests will be completely processed by that date." Likewise, EPA, in its acknowledgment letters to manufacturers requesting opinions on new products, explains that the Agency is, "* * * making a concerted effort to process petitions as quickly as possible. However, EPA may not be able to process your request for an opinion on an additive product before the establishment of an alternative program as described in the **Federal Register**, Vol. 49, No. 97, 21003–8, May 17, 1984." Product reviews and issuance of advisory opinions have been limited to:

- Products composed entirely of other products which EPA had previously determined to be acceptable;
- Products composed entirely of ingredients which have been determined to be acceptable by EPA or the FDA, or other Federal agencies, for addition to potable water or aqueous foods;
- Products composed entirely of ingredients listed in the "Water Chemicals Codex," National Academy of Sciences, November 1982, and in the "Water Chemicals Codex: Supplementary Recommendations for Direct Additives," National Academy of Sciences, 1984;
- Certain other products of particular interest to EPA or to other Federal agencies; and
- Products which, if effectively excluded from the marketplace by lack of approval, might jeopardize public health or safety.

Continued processing of petitions during the development of the private-sector program minimized disruption of the marketplace from the viewpoint of manufacturers whose business depended in part on EPA acceptance of products, users who required water treatment products for the production of safe drinking water, and State officials who rely on the advice of EPA.

EPA believes that NSF is moving expeditiously and on schedule toward the full establishment of a third-party program covering products intended for use in drinking water systems. Priorities for standards development and implementation of a testing, certification, and listing program for various product categories have been based upon need, interest, complexity, and availability of information for developing standards. Direct drinking water additives were assigned high priority for the following reasons: (1) Use of direct additives is widespread in drinking water systems, so there are large population exposures to these chemicals; (2) as direct additives to drinking water, they present greater potential for water contamination than indirect mechanisms (e.g., migration from protective paints in pipes and storage tanks); and (3) the National Academy of Sciences' *Water Chemicals Codex* provided a good starting point for development of standards.

As originally planned, EPA is beginning to phase out the Agency's additives evaluation program. Thus, EPA will not accept new petitions or requests for advisory options after the date of this notice. While EPA will continue to process requests which are pending and those received on or before July 7, 1988, petition evaluations not completed by October 4, 1988, will be returned to the submitter. After that date, EPA will no longer evaluate additive products.

Petitions which are completely evaluated by October 5, 1988, will be added to the quarterly list of acceptable products published shortly after that date. That quarterly list will be the last such list issued by EPA. On April 7, 1990, EPA will withdraw its list of acceptable products, and the list and the advisories on these additives will expire. This means that: (1) The various lists published by EPA under the titles *Report on Acceptable Drinking Water Additives, Report on Coagulant Aids for Water Treatment, Report on Concrete Coatings/Admixture for Water Treatment, Report on Detergents, Sanitizers and Joint Lubricants for Water Treatment, Report on Evaporative Suppressants for Water Treatment, Report on Liners/Grouts/Hoses and Tubings for Water Treatment, Report on Miscellaneous Chemicals for Water Treatment, Report on Protectivce Paints/Coatings for Water Treatment,* and any and all other lists of drinking water products issued by EPA or its predecessor agencies regarding drinking water additives will be invalid after April 7, 1990; and (2) advisory opinions on drinking water additives issued by EPA and predecessor agencies will be invalid after that date.

EPA believes that, while in the past every effort has been made to provide the best possible evaluations, all products should be evaluated against carefully developed and considered nationally uniform standards. Many of the currently listed products were evaluated and accepted up to 20 years ago and have not been reevaluated since that time. Numerous products have been accepted because they were virtually identical to or were repackagings of older products. The result is that few products have been completely evaluated for the safety of their original or current formulations vis-a-vis the latest toxicological, chemical, and engineering information. A uniform evaluation of all products, old and new, will result in consistent quality of products, and will assure fair and equitable treatment to all manufacturers and distributors.

Henceforth, parties desiring to have existing or new products evaluated against the NSF standards should contact NSF or other organizations offering such evaluations. To contact NSF about the drinking water additives program write to: David Gregorka, National Sanitation Foundation, P.O. Box 1468, Ann Arbor, MI 48106, or call (313) 769–8010. Information on alternatives to NSF evaluation may be obtained by contacting State regulatory agencies or the AWWA, Technical and Professional Department, 6666 Quincy Avenue, Denver Co, 80235, or call (303) 794–7711, which is addressing certifier accreditation.

EPA believes that the 21 months between today and the expiration date of EPA's last list is sufficient time for manufacturers to submit their products to NSF or other certification entities for evaluation. The first NSF list will be published prior to April 7, 1990, thereby preventing any disruption in the marketplace. Furthermore, NSF had indicated that it will consider current EPA and other regulatory evaluations when evaluating products in order to ensure a smooth transition. States may choose to rely on the last EPA quarterly list of products until their individual programs for accepting private-sector certification are fully implemented.

Parties desiring to market drinking water additive products are reminded that the individual States have the authority to regulate the sale and/or use of specific products as they see fit. Thus, reliance upon a particular standard or organization to certify that a product complies with a particular standard must be acceptable to the State in which the supplier wishes to do business.

Discontinuation of the additives program at EPA does not relieve the Agency of its statutory responsibilities. If contamination resulting from third-party sanctioned products occurs or seems likely, EPA will address that issue with appropriate drinking water regulations or other actions authorized under the SDWA. EPA is a permanent member of the NSF program Steering Committee, and senior EPA staff and management will continue to participate in this and other programs designed to assure that high-quality products are employed in the treatment of public drinking water. Also, the Agency will continue to sponsor research on contaminants introduced in public water supplies during water treatment, storage, and distribution.

III. Comments

Although this notice does not include a proposed or final regulation, EPA welcomes comments and suggestions that would assist the Agency in implementing the additives program phasedown. Please address all comments and suggestions to: Mr. Arthur H. Perler, Chief, Science and Technology Branch, Office of Drinking Water (WH–550D), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Date: June 16, 1988.

William Whittington,

Acting Assistant Administrator for Water.

[FR Doc. 88–15232 Filed 7–6–88; 8:45 am]

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Thursday, July 7, 1988

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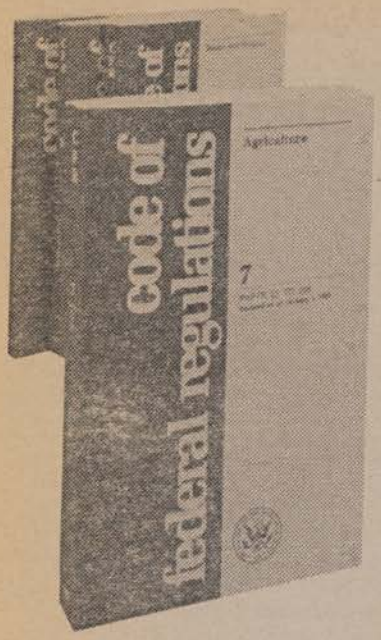

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